



NARAL
Pro-Choice America

Refusal Laws: Another Front in the War on Women

Testimony Presented by

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Subcommittee on Health

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Members of the Energy and Commerce Subcommittee on Health: I am honored to submit this testimony.

The question before the panel today is whether corporations or employers that oppose birth control should be allowed to impose those beliefs on their employees. NARAL Pro-Choice America strongly believes that all women should have access to reproductive-health care, regardless of their employer.

Family Planning is Basic Health Care for Women

Access to family planning is essential to women's health. The average woman wants only two children and will spend five years of her life pregnant or trying to get pregnant and nearly three decades trying to avoid pregnancy.¹ If a woman does not have access to contraception, she could have between 12 and 15 pregnancies, endangering her health and the health of her children.²

And family-planning services reduce the negative health outcomes strongly associated with unplanned pregnancy. These outcomes include delayed or inadequate prenatal care, increased fetal exposure to tobacco and alcohol, increased likelihood of low birth weight and death in the first year of life, and higher risk of abuse and failure to receive sufficient resources for healthy development.³ When women have access to affordable family-planning services, rates of low-birth-weight births, infant deaths, and neonatal deaths considerably decrease.⁴

Yet despite contraception's many health benefits, the current U.S. family-planning "system," such as it is, is expensive, uncoordinated, and, frankly, patchwork at best. In particular, for many women, contraception is simply too expensive.⁵ One in three women has struggled with the cost of prescription birth control at some point, and research shows that even small cost-sharing requirements can put contraception out of reach.⁶ Consequently, the United States has a far higher unintended-pregnancy rate than other industrialized countries.⁷

Paying out of pocket for contraception can result in annual fees of more than \$700.⁸ Over the span of a woman's reproductive years (15-44),⁹ the cost of contraception can amount to more than \$20,000. Given that studies have shown a link between lack of insurance and decreased use of prescription birth control,¹⁰ coverage is critical for promoting women's health.

Additionally, cost has an overwhelming effect on whether women are able to use contraception consistently. Financial barriers to birth control have a significant, documented effect: women who are concerned with cost are twice as likely to use less effective birth-control methods as women who do not worry about the cost.¹¹ Moreover, research shows that when women cannot afford highly effective contraceptive methods, such as intrauterine contraceptives (IUCs), they use methods with higher failure rates.¹²

And in our current economic climate, the situation has become more acute. A 2009 Guttmacher Institute survey found that because of the economic recession, 23 percent of women reported having trouble paying for birth control and 24 percent put off a gynecological or birth-control exam due to cost.¹³ This study underscores the difficulty women face affording contraception and meeting basic health-care needs. Providing universal no-cost birth-control coverage is essential to increasing access to critical preventive-health care.

The Affordable Care Act Offers an Historic Opportunity to Expand Women’s Access to Contraception

The federal health-reform law presents an unprecedented opportunity to improve women’s access to comprehensive, preventive health care by ensuring the affordability of family-planning services for almost all U.S. women. In particular, Section 2713(a)(4), known as the Women’s Health Amendment, removes significant financial obstacles for women seeking preventive reproductive-health care.¹⁴

As part of its work to implement this section of the law, in August the Obama administration accepted an Institute of Medicine panel’s recommendation that family planning be considered preventive-health care. With this groundbreaking decision, newly issued insurance plans must cover the full range of Food and Drug Administration-approved contraception at no additional cost. If allowed to go into effect fully, this historic policy will represent a tremendous step forward for women’s reproductive health.

Do Employers and Corporations Have Consciences?

Birth control is entirely noncontroversial. Ninety-nine percent of sexually active women have used contraception.¹⁵ Despite this, some still attempt to block women’s access to family-planning services. Their latest tactic is to try to undermine the Affordable Care Act’s new family-planning benefit by claiming corporations and employers have “consciences” that override women’s rights.

Make no mistake: in most cases, the debate around employer “conscience” is a proxy for opposition to birth control, one of the many fronts in the War on Women. Rep. Steve King (R-IA) took to the House floor in August in protest against the contraception benefit, claiming that preventive medicine like birth control could lead to a dying civilization.¹⁶ In discussing whether birth control should be considered preventive care, American Life League President Judie Brown railed, “Providing free birth control may, sadly, prevent a life of a child; yet it also causes more promiscuous activity which leads to more cases of sexually transmitted disease and more opportunities for the users to experience stroke, heart attack and even death — not to mention the pill’s potential effect as the silent killer of preborn children.”¹⁷ Sandy Rios, president of Family-Pac Federal, mocked the benefit: “We’re \$14 trillion in debt and now we’re

going to cover birth control, breast pumps, counseling for abuse,” she challenged. “Are we going to do pedicures and manicures as well?”¹⁸

These elected officials, organizations, and their allies’ comments appear in the context of employer “conscience” – but their baseline position is opposition to contraception altogether. In this view, they are far out of the mainstream. And precisely because Americans correctly see birth control as noncontroversial, the public strongly opposes refusal laws. Nearly nine out of 10 Americans oppose refusal laws that allow certain institutions to refuse to provide health-care payment or services.¹⁹ Eighty-nine percent oppose allowing insurance companies to deny coverage for medical services.²⁰ Eighty-six percent oppose allowing employers to exclude coverage for medical services from their employees’ health plans.²¹ Simply put, the public does not agree that a corporation or an employer has a “conscience” that overrules an individual’s.

NARAL Pro-Choice America believes that persons have consciences, which they may exercise in an individual capacity. We do not believe that it is appropriate for institutions at large to claim a “conscience,” thereby denying others medical care that is safe, legal, and medically indicated. Carefully crafted refusal laws may be appropriate in some circumstances to protect individuals. But an individual who is also an employer is in that capacity effectively acting as a corporate entity; she retains an individual right of conscience that governs her own behavior, but does not have the right to impose her views on employees.

Moreover, institutions that operate in the public sphere and serve the public should not be allowed to impose one particular religious view on the general public, including their employees. Some of the most vocal opposition to the regulation requiring contraceptive coverage comes from the Catholic Health Association. Currently, Catholic hospitals employ more than 750,000 individuals,²² many of whom may not share the same religious beliefs as their employer. The mission of Catholic hospitals is to serve the general public; they do not limit their services strictly to adherents.²³ These institutions accept federal funds and participate in federal health-care programs. Given these facts, it would be unwarranted to allow these entities to choose which public standards with which to comply.

Finally, some claim that employers and corporations should not be forced to pay for a service they oppose on religious grounds. We live in a pluralistic society; such a claim is at least impractical, if not entirely untenable. The Church of Jesus Christ of Latter-Day Saints opposes tobacco use; may a Mormon employer deny his employees smoking-cessation benefits? Is every corporation and employer to be allowed to force its view on its employees – even if the employees do not share the same beliefs? That in essence is what those requesting a broad refusal right from contraception are demanding.

All Women Should Have Access to Family-Planning Care

A key promise of the health-care law is that women will no longer be subject to extra charges for necessary preventive care. This benefit has the potential to help millions of women and will

be one of the most impactful provisions of the Affordable Care Act. Denying benefits to large populations of women undermines one of the most important public-health goals of the Women's Health Amendment. Those who wish to block their employees' access to a full range of contraceptive services are not required to prescribe or take birth control against their beliefs, nor are they being asked to endorse it. They are free to continue opposing the use of contraception in their personal capacity. But they may not deny others their right of conscience to use birth control, should they so choose.

On behalf of NARAL Pro-Choice America and its more than one million member activists around the country, we urge the subcommittee to ensure that all women, regardless of where they work, are able to realize the full benefits of comprehensive reproductive-health care.

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- ¹ Guttmacher Institute, *In Brief: Facts on Contraceptive Use in the United States*, June 2010, at http://www.guttmacher.org/pubs/fb_contr_use.html (last visited Oct. 31, 2011); Rachel Benson Gold, *The Need for and Cost of Mandating Private Insurance Coverage of Contraception*, ALAN GUTTMACHER REP. ON PUB. POL'Y, Aug. 1998, at 5; Abigail Trafford, *Viagra and the Other Sex Pill*, WASH. POST, May 19, 1998, at Z6.
- ² Abigail Trafford, *Viagra and the Other Sex Pill*, WASH. POST, May 19, 1998, at Z6.
- ³ Committee on Unintended Pregnancy, Institute of Medicine, *THE BEST INTENTIONS: UNINTENDED PREGNANCY AND THE WELL-BEING OF CHILDREN AND FAMILIES* (Sarah S. Brown & Leon Eisenberg, eds. 1995).
- ⁴ Guttmacher Institute, *Issues in Brief: The U.S. Family Planning Program Faces Challenges and Change*, at <http://www.guttmacher.org/pubs/ib3.html> (last visited Oct. 31, 2011).
- ⁵ Guttmacher Institute, *Contraceptive Needs and Services: National and State Data, 2008 Update* (May 2010), at <http://www.guttmacher.org/pubs/win/contraceptive-needs-2008.pdf> (last visited Oct. 31, 2011).
- ⁶ Adam Sonfield, *Contraception: An Integral Component of Preventive Care for Women*, 13 GUTTMACHER POLICY REVIEW (2010) at <http://www.guttmacher.org/pubs/gpr/13/2/gpr130202.html> (last visited Sept. 27, 2011).
- ⁷ Lawrence B. Finer, and Mia R. Zolna, *Unintended Pregnancy in the United States: Incidence and Disparities, 2006*, CONTRACEPTION, Jul. 28 2011.
- ⁸ Adam Sonfield, *The Case for Insurance Coverage of Contraceptive Services And Supplies Without Cost-Sharing*, 14 GUTTMACHER POLICY REVIEW (2011), at <http://www.guttmacher.org/pubs/gpr/14/1/gpr140107.html> (last visited Oct. 26, 2011).
- ⁹ Guttmacher Institute, *In Brief: Facts on Contraceptive Use in the United States*, June 2010, at http://www.guttmacher.org/pubs/fb_contr_use.html (last visited Oct. 31, 2011).
- ¹⁰ Adam Sonfield, *The Case for Insurance Coverage of Contraceptive Services And Supplies Without Cost-Sharing*, 14 GUTTMACHER POLICY REVIEW (2011), at <http://www.guttmacher.org/pubs/gpr/14/1/gpr140107.html> (last visited Oct. 26, 2011).
- ¹¹ Adam Sonfield, *The Case for Insurance Coverage of Contraceptive Services And Supplies Without Cost-Sharing*, 14 GUTTMACHER POLICY REVIEW (2011), at <http://www.guttmacher.org/pubs/gpr/14/1/gpr140107.html> (last visited Oct. 26, 2011).
- ¹² Kelly Cleland, et al., *Family Planning as a Cost-Saving Preventive Health Service*, THE NEW ENGLAND JOURNAL OF MEDICINE (2011), at <http://healthpolicyandreform.nejm.org/?p=14266&query=TOC> (last visited Sept. 27, 2011).
- ¹³ Guttmacher Institute, *A Real Time Look at the Impact of the Recession on Women's Family Planning and Pregnancy Decisions*, (Sept. 2009), at <http://www.guttmacher.org/pubs/RecessionFP.pdf> (last visited Oct. 28, 2011).
- ¹⁴ P.L. 111-148, 111th Cong. (2010) § 2713(a)(4).
- ¹⁵ Rachel K. Jones and Joerg Dreweke, *Countering Conventional Wisdom: New Evidence on Religion and Contraceptive Use*, Guttmacher Institute 4 (Apr. 2011), at <http://www.guttmacher.org/pubs/Religion-and-Contraceptive-Use.pdf> (last visited Oct. 31, 2011).
- ¹⁶ 157 CONG. REC. H5879 (daily ed. Aug. 2, 2011) (statement of Rep. King).

¹⁷ Judie Brown, *Villains, Vultures, and 'Preventive Services,'* RenewAmerica.com, at <http://www.renewamerica.com/columns/brown/101109> (last visited Oct. 28, 2011).

¹⁸ Tanya Somanader, *Fox 'Expert' Blasts Expanding Access To Birth Control: 'Are We Going To Do Pedicures And Manicures As Well?'*, ThinkProgress.com, Aug. 2, 2011 at <http://thinkprogress.org/health/2011/08/02/285620/fox-expert-blasts-expanding-access-to-birth-control-are-we-going-to-do-pedicures-and-manicures-as-well/> (last visited Oct. 31, 2011).

¹⁹ ACLU Reproductive Freedom Project, *American Civil Liberties Union (ACLU), Religious Refusals and Reproductive Rights*, at 20 (2002).

²⁰ ACLU Reproductive Freedom Project, *American Civil Liberties Union (ACLU), Religious Refusals and Reproductive Rights*, at 20 (2002).

²¹ ACLU Reproductive Freedom Project, *American Civil Liberties Union (ACLU), Religious Refusals and Reproductive Rights*, at 20 (2002).

²² The Catholic Health Association of the United States, *Catholic Health Care in the United States*, January 2011, at <http://www.chausa.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2147489259> (last visited Oct. 28, 2011).

²³ The Catholic Health Association of the United States, *Catholic Health Care in the United States*, January 2011, at <http://www.chausa.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2147489259> (last visited Oct. 28, 2011).