

HR 361 – Abortion Non-Discrimination Act of 2011

Strengthening the Weldon Conscience-Rights Amendment



Bill Summary

Amends Section 245 of the Public Health Service Act (also known as the Coats-Snowe Amendment of 1996) to codify the provisions under the Weldon Amendment, which prohibits a federal agency or program, or any state or local government, from receiving certain federal funds if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

“Health care entity” is defined to include “an individual physician, or other health care professional, a postgraduate physician training program, a participant in a program of training in the health professions, a hospital, a provider-sponsored organization, a health maintenance organization, an accountable care organization, a health insurance plan, or any other kind of health facility, organization, or plan.”

This bill also gives the U.S. Attorney General *or* any health care entity that has standing to complain of an actual or threatened violation of the Act. It designates the Director of the Office for Civil Rights of the Department of Health and Human Services to receive complaints and pursue the investigation of complaints in coordination with the Attorney General.

HR 361 provides that the U.S. courts have jurisdiction to prevent and redress actual or threatened violations of the Act by issuing any form of legal or equitable relief, including injunctive relief to prohibit conduct that violates the Act and orders preventing the disbursement of all or a portion of federal financial assistance to the offending state or local government, agency or program.

Background

The Weldon Amendment was enacted in December 2004 as part of the FY 2005 Consolidated Appropriations Act, and has been readopted in each subsequent HHS/Labor/Education Appropriations bill. The Weldon Amendment is not permanent legislation. It must be reenacted each year as a rider to the HHS/Labor/Education appropriations bill. HR 361 makes permanent the provisions under Weldon.

Under Weldon, health care and other entities are dependent on the U.S. Justice Department (and/or the HHS Office of Civil Rights) to investigate their complaints of discrimination and take other appropriate action. If Justice and HHS refuse to act, victims would have to sue them in federal court in an effort to get them to act. HR 361 creates a “right of private action,” which would permit any health care entity (individual or institutional) that believes its civil rights under the Act are being violated by a state or other political jurisdiction to initiate action for injunctive relief in federal district court.