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Obama Flatly Refuses to Enforce US Law Protecting the Civil Right of Conscience

*Excerpts of remarks by Rep. Chris Smith (NJ-04)
During debate on the Conscience Protection Act
In the House of Representatives—July 13, 2016*

In an unconscionable abuse of power, for almost two years the state of California has forced all insurance plans under its purview—and the people and institutions that pay the premiums—to subsidize abortion on demand.

In good faith, numerous faith based entities filed complaints pursuant to law with the HHS Office of Civil Rights seeking—and fully expecting—relief. Effective June 21st, however, the Obama Administration flatly refused to enforce U.S. law protecting the civil right of conscience.

Cardinal Timothy Dolan said: “It is shocking that HHS has allowed the State of California to force all employers—even churches—to fund and facilitate elective abortions in their health insurance plans.”

(This isn’t about Obamacare and the massive taxpayer funding for abortion embedded, according to GAO, in over a thousand insurance plans on the exchanges—which was contrary to what the President had promised in a joint session of Congress in 2009.)

This is about private health insurance plans of Catholic dioceses, religious schools and others who have been ordered to violate their deeply held convictions and pay for abortion—the killing of unborn children by hideous dismemberment procedures, toxic compounds or chemical poisoning.

The Weldon federal conscience law authored Congressman Dave Weldon of Florida and continuously in effect for over a decade—is explicit and comprehensive. But unenforced by the Obama administration.

It says in pertinent part that it is illegal for any “discrimination” against any health care entity “on the basis that the health care entity does not provide, pay for, provide coverage of or refer for abortions.” The laws definition of health care entity explicitly includes “a health insurance plan.”

Enforcement however is vested in the HHS Office of Civil Rights (OCR) and that's the Achilles heel that needs to be fixed.

Despite the absolute clarity of Weldon in extending Federal conscience protection to health insurance plans, HHS' Burwell and Samuels insisted at our meeting that health insurance plans weren't covered by Weldon—they said the insurance companies were covered but weren't objecting, which is irrelevant—and concluded that the injured parties including the Catholic Church lacked standing to obtain relief.

The Obama Administration's refusal to enforce the civil right of conscience is not only unfair and unjustified—it grossly violates the rule of law. It makes a mockery of President Obama's 2009 Notre Dame speech in which he said "Let's honor the conscience of those who disagree with abortion." But he has not.

The Conscience Protection Act of 2016 authored by Congresswomen Diane Black seeks to end discrimination against people, plans and providers for refusing to be involved in abortion.

The bill says that the Federal Government or any state or local government that receives federal assistance may not penalize, retaliate against or otherwise discriminate against those who refuse to perform, refer for, pay for or otherwise participate in abortion.

The Conscience Protection Act protects women and men from being forced to participate in abortion by providing a private right of action in the court.

In May of 2009, nurse Cathy DeCarlo was ordered by Mount Sinai Hospital in New York to assist in the abortion of a 22 week old unborn child.

She tried to assert her federal conscience rights but was told by the Federal District Court that she had no standing. So she appealed to HHS Office of Civil Rights (OCR) to protect her civil rights. Her pleas to OCR fell on deaf ears.

Speaking about the abortion procedure Cathy said she "felt violated and betrayed." She said the hospital required her to be "present for the bloody dismemberment and accounting for body parts afterwards." She says she still remembers the 22 week old baby's twisted and torn arms, fingers, legs and feet. She says "It was like a horror film unfolding."

Cathy said this coercion caused her intense emotional pain, she said she had "nightmares about babies crying in the dark, engulfed in pools of blood."

Cathy noted, "this coercion was illegal. The hospital receives hundreds of millions of dollars in federal taxpayer funding every year. But I felt violated all over again when the courts told me that even if the hospital broke the law, I had no right to have my day in court."

The Conscience Protection Act establishes a private right of action in the courts, which is urgent and necessary, because the Obama Administration has demonstrated its profound unwillingness to enforce U.S. law protecting the civil right of conscience.