



January 27, 2014

**Vote “NO” on H.R. 7, the “No Taxpayer Funding for Abortion Act”**

Dear Representative:

On behalf of the American Civil Liberties Union (ACLU), a nonpartisan public interest organization dedicated to protecting the principles of freedom and equality set forth in the Constitution and in our nation’s civil rights laws, and its more than half a million members, countless additional activists and supporters, and 53 affiliates nationwide, we urge Members of the House of Representatives to vote against H.R. 7, the so-called “No Taxpayer Funding for Abortion Act.” The legislation is broad and deeply troubling and the ACLU opposes it for the reasons outlined below.

**This Bill Would Make Discriminatory Restrictions on Abortion Permanent**

H.R. 7 would make discriminatory restrictions that harm women’s health permanent law. The bill singles out and excludes abortion from a host of programs that fulfill the government’s obligation to provide health care to certain populations. In so doing, the bill would permanently deny millions of women, including Native Americans, Peace Corps volunteers, women eligible for Medicaid, and women in federal prisons, access to abortion care except in very limited circumstances.

As a result of the Hyde Amendment and its progeny, women who rely on the government for their health care do not have access to a health care service readily available to women of means and women with private insurance. A woman who does not have independent financial resources must scramble to raise the necessary funds, delay receiving abortion care (which can increase the medical risks and costs), and is often left with no choice but to carry to term in circumstances where she is physically, emotionally, mentally, and financially unprepared to or incapable of caring for a child.

If a woman chooses to carry to term, Medicaid (and other federal insurance programs) offers her assistance for the necessary medical care. But if the same woman needs to end her pregnancy, Medicaid (and other federal insurance programs) will not provide coverage for her abortion, even if continuing the pregnancy will harm her health. The government should not discriminate in this way. It should not use its power of the purse to intrude on a woman’s decision whether to carry to term or to terminate her pregnancy and selectively withhold benefits because she seeks to exercise her right of reproductive choice in a manner the government disfavors.

AMERICAN CIVIL  
LIBERTIES UNION  
WASHINGTON  
LEGISLATIVE OFFICE  
915 15th STREET, NW, 6<sup>TH</sup> FL  
WASHINGTON, DC 20005  
T/202.544.1681  
F/202.546.0738  
[WWW.ACLU.ORG](http://WWW.ACLU.ORG)

LAURA W. MURPHY  
DIRECTOR

NATIONAL OFFICE  
125 BROAD STREET, 18<sup>TH</sup> FL.  
NEW YORK, NY 10004-2400  
T/212.549.2500

OFFICERS AND DIRECTORS  
SUSAN N. HERMAN  
PRESIDENT

ANTHONY D. ROMERO  
EXECUTIVE DIRECTOR

ROBERT REMAR  
TREASURER

Justice Brennan’s words about the Hyde Amendment apply equally to H.R. 7:

The Hyde Amendment is a transparent attempt by the Legislative Branch to impose the political majority’s judgment of the morally acceptable and socially desirable preference on a sensitive and intimate decision that the Constitution entrusts to the individual. Worse yet, the Hyde Amendment does not foist that majoritarian viewpoint with equal measure upon everyone in our Nation, rich and poor alike; rather it imposes that viewpoint only upon that segment of our society which, because of its position of political powerlessness, is least able to defend its privacy rights from the encroachments of state-mandated morality.<sup>1</sup>

Congress should restore to women, not further deny, access to the full range of reproductive health care services, including coverage of abortion, in any health care program supported by the government.

### **H.R. 7 Infringes on the District of Columbia’s Autonomy, Disenfranchises D.C. Residents, and Denies Women Access to Basic Health Care**

Although current law forbids the use of federal funds to cover most abortions, states are free to include coverage for abortion in their medical assistance programs if they pay for it themselves. This is true under H.R. 7 as well. The only exception is the District of Columbia.

H.R. 7 would make permanent a provision—lifted by Congress in 2009 but reinstated in 2011—that violates the District’s autonomy and forbids it from choosing for itself whether to use its own locally raised non-federal dollars to provide coverage for abortion for its low-income residents.

Four decades ago, Senators and Representatives holding widely divergent political views recognized that the citizens of the District of Columbia had been denied the most basic privilege enjoyed by all other Americans—the right to elect the men and women who will control their local governments. They enacted the Home Rule Act to grant District citizens the power of local self-government and at the same time, relieve Congress of the burden of legislating on local District matters. The provision of services to pregnant women—including abortion care—is clearly a matter of local public health policy intended to be left to the District under home rule. As one member of Congress has explained, “[T]he government of the District of Columbia representing the wishes of its citizenry must . . . be able to choose how to spend its revenues collected through property and income taxes and other sources.”<sup>2</sup>

The D.C. abortion ban is antithetical to the spirit of the Home Rule Act. Measures such as the abortion ban serve only to disenfranchise the District’s leaders and residents. Through this provision, non-resident Members of Congress impose their own ideology upon the District’s residents and disregard the wishes of those directly impacted or the broader community. Most egregiously, those who seek to negate the will of the District’s residents and leaders are not accountable to the people of the District. That which they could not do in their own home districts, they do with impunity against the residents of the District.

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<sup>1</sup> Harris v. McRae, 448 U.S. 297, 331 (1980) (Brennan, J. dissenting).

<sup>2</sup> 132 Cong. Rec. H4872 (daily ed. July 24, 1986) (statement of Rep. Theodore Weiss (NY)).

## **H.R. 7 Rewrites Tax Law to Penalize Women Who Need Abortion Care**

H.R. 7 rewrites tax law to penalize a single, legal, medical procedure: abortion. In particular, it penalizes small businesses and middle-class families, taking away coverage that women already have. It would deny small businesses tax credits designed to make health insurance affordable to all Americans if the insurance they provide to their employees and their families includes abortion coverage. According to the Joint Committee on Taxation, that would lead employers to exclude abortion from their plans.<sup>3</sup> The bill would also deny millions and women and families premium tax credits if they purchase a health insurance plan that covers abortion. The bill would force these women to forgo comprehensive health insurance plans that include abortion in order to get the premium assistance they need.

This manipulation of the tax code is simply government interference in taxpayers' private, medical decisions and should be rejected.

## **H.R. 7 Imposes an Abortion Coverage Ban in the New Insurance Exchanges**

The Patient Protection and Affordable Care Act (ACA) created new state-based market places called exchanges for individuals and small businesses to buy health insurance. H.R. 7 would revive the so-called Stupak Amendment, rejected by the 111th Congress, which would bar anyone receiving a federal premium assistance credit from buying a private insurance policy that includes abortion coverage on those exchanges.

The Stupak Amendment was—and remains—deeply troubling and alarming for a variety of reasons. It effectively bans abortion coverage on the exchanges. Because the majority of individuals in the exchanges will receive some premium assistance, this provision would mean that no policy sold in these exchanges would include abortion. What is more, a ban on insurance coverage of abortion in the exchanges would have a ripple effect on plans outside the exchanges. This would jeopardize abortion coverage for millions of women.

H.R. 7 is a direct attack on a woman's ability to make personal, private medical decisions and it endangers women's health. The bill makes no exception for women to get the coverage they need even in cases when a woman faces severe and permanent health risks.

## **H.R. 7 Would Impose Inaccurate and Misleading Disclosure Requirements Regarding Abortion Coverage in Plans Offered in the Marketplace**

Although H.R. 7 purports to add disclosure requirements, the goal of this provision is to discourage insurance plans from covering abortion and mislead women about the cost of purchasing these plans. The bill overrides existing provisions of the ACA that provide consumers with information about their health plans, and instead adds new requirements intended to push insurance companies to drop abortion coverage and deter women from purchasing plans that include such coverage. Moreover, the bill wrongly asserts that there is a "surcharge" in plans that cover abortion and, as a result, misleads women with this falsehood.

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<sup>3</sup> *No Taxpayer Funding for Abortion Act: Hearing on the Tax-Related Provision of H.R. 3 Before the Subcomm. on Select Revenue Measures of the H. Comm. on Ways and Means, 112th Cong. (2011) (testimony of Thomas A. Barthold, Chief of Staff, Joint Comm. on Taxation).*

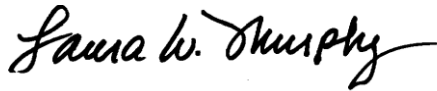
Women should have complete and accurate information about all of the health care services covered by their insurance plans.. However, what’s in H.R. 7 is simply inaccurate and stigmatizing and will not help women learn about their insurance options. Rather it will just mislead and discourage them.

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Abortion is a legal, medical procedure protected by the United States Constitution. It is also basic health care for women. Yet H.R. 7 attacks women’s fundamental right and access to abortion. It first targets women—many of whom are poor and women of color—who rely on the government for their health care and seeks to permanently deny them coverage for a pregnancy-related health care benefit to which they are entitled. Then, under the guise of “safeguarding” taxpayer dollars, H.R. 7 advances an aggressive campaign to destabilize the insurance market for abortion coverage. In sum, H.R. 7 intrudes in a woman’s private medical decisions and plays politics with women’s health.

The ACLU strongly opposes H.R. 7 and urges members of the House of Representatives to oppose passage of the bill. Should you have any questions, please contact Dena Sher at (202) 715-0829 or [dsher@aclu.org](mailto:dsher@aclu.org).

Sincerely,



Laura W. Murphy  
Director  
Washington Legislative Office



Dena Sher  
Legislative Counsel