



Written by [Joe Wolverton, II, J.D.](#) on March 22, 2010

Stupak Caves on Abortion Language

Satisfying the simultaneous desires to be a member of the winning team and yet be worthy of individual attention, self-described “pro-life” Congressman Bart Stupak of Michigan finagled a feting by President Obama hours before the vote on the healthcare “reform” bill. To the surprise of no one familiar with President Obama’s ability to attract allies, Representative Stupak emerged from the meeting and anti-climatically declared his intent to support the bill.



Despite months of declamations against the loose legislative language of the Senate bill that, according to his reckoning, allowed federal dollars to be used for the purchase of abortions, Representative Stupak saw the light on Sunday and united with the rest of his party in presenting to their leader a full-scale socialized medical care system on a silver charger.

What brought this fearless defender of the unborn to this propitious change of heart? A promise by President Obama to forthwith sign an executive order explicitly outlawing the federal funding of abortion within the healthcare exchange created by the bill passed Sunday by the House of Representatives.

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Before the final patronizing pat had landed on Stupak’s back, the White House had released a draft version of the executive order that was the catalyst of the compromise. In language that is purposely diffuse and difficult, the executive order decidedly does not outlaw abortion funding by federal agencies. As a matter of fact, such a proscription is not clearly enunciated in the letter of the order, at all.

According to the proposed order published by the White House, the President will order federal agencies to “segregate” funds from the various insurance policies offered in the exchange or marketplace established by the act. These dense (and inadequate) accounting procedures are designed to prevent insurance companies operating within the exchange from subsidizing abortions.

Apparently in order to protect the loopholes through which requests for abortion funding can pass, the President’s proffered protective order is at once specific enough and vague enough to give comfort to congressional mugwumps who fancy themselves the frontline of defense for the millions of unborn killed annually, who will now, thanks in prodigious measure to the acquiescence of this gang of compromisers, be executed with the imprimatur of the state.



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Joining Stupak in his midnight conversion to the cause of capitulation were Representatives Kaptur and Driehaus of Ohio; Kathy Dahlkemper of Pennsylvania; and Representatives Rahall and Mollohan of West Virginia. These six lawmakers were crucial to the passage of the bill and there is little doubt that they were swayed by the skillful ego stroking of President Obama.

There is little more than sound and fury signifying nothing in the provisional defiance of Stupak and the others. In the end, all their rhetoric of protecting the lives of the innocent unborn was drowned under the raucous din of victory as the law of the land now unquestionably authorizes the forced funding of abortion using money collected under penalty of law from every citizen of the United States, regardless of his or her personal position on the morality of abortion.

Remarkably, even Representative Stupak himself recognized the inevitability of the measure being put before Congress. "This bill was going to go through," Stupak told reporters at a press conference on Sunday. In other words, Stupak and the others were willing to sell their piety in exchange for a piece of paper that is about as durable as their own defense of the unborn.

As Congress John Boehner (R-Ohio) rightly remarked, "The law of the land trumps any executive order, which can be reversed or altered at the stroke of a pen by this or any subsequent president without any congressional approval or notice."

The provisions contained within the four corners of the draft of the executive order in no appreciable manner eliminate the numerous cataracts in the legislation through which abortion subsidies can surreptitiously pass. As I wrote in an [earlier article](#), Section 10503 of H.R. 3590, \$7 billion dollars in taxpayer money is appropriated over five years for the maintenance of Community Health Centers (also called Federally Qualified Health Centers, or FQHCs). There are presently over 1,200 such facilities. Because the bill directly apports this money, these funds will bypass the annual approval process through which appropriations for the Department of Health and Human Services typically must pass. Therefore, these funds would not be covered by the Hyde Amendment. The Hyde Amendment prohibits most federal funding of abortion.

In a ceremonial nod to the current restrictions, President Obama references the Hyde Amendment in the executive order he has promised to issue. "Following the recent passage of the Patient Protection and Affordable Care Act ('the Act'), it is necessary to establish an adequate enforcement mechanism to ensure that Federal funds are not used for abortion services (except in cases of rape or incest, or when the life of the woman would be endangered), consistent with a longstanding Federal statutory restriction that is commonly known as the Hyde Amendment."

While on the face of it, this clause explicitly forbids the use of federal funds in the purchase of abortion services, the devil, as they say, is in the details. Within the fourth section of the order, the President gives himself and the bureaucrats that serve him a "get out of promise free" card. Section 4 provides that none of the provisions contained in the text of the order is meant to "impair or otherwise affect: (i) authority granted by law or presidential directive to an agency, or the head thereof; or (ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals." In other less weasely words: if this bill (or any other federal law or code) empowers a department or agency apparatchik to shift money around so as to bypass the protections against federal funding of abortion, then that existing law trumps anything promised in the President's parchment barrier.

There is little doubt that the President intends to make good on his promise to sign the executive order



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that midwifed the healthcare plan whose birth he has foretold since his days as a candidate. The benefit to the President is that he can promise anything knowing that custom and connivance have graciously provided him with a handy pretext for any “necessary” violations of his vows.

In the traditional manner of dictators throughout history, President Obama has bound his followers to him by rewards and his adversaries by cloying demonstrations of clemency and compromise. In brief, in just over a year he has brought to the elected officials of this once proud and free Republic — partly by fear and partly by endurance — a habit of servitude and submission that has forever cracked the moral bedrock of our nation.

Photo of Bart Stupak: AP Images



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