



Written by [Raven Clabough](#) on March 1, 2012

Senate Blocks Effort to Counter Contraception Mandate

President Obama's controversial birth control mandate imposed by the Department of Health and Human Services was the subject of a fierce battle being fought in the Senate today as it pursued the first of what is likely to be several votes on the mandate. Today's vote was on the "conscience" amendment written by Senator Roy Blunt, (R-Mo., left), which would have countered Obama's mandate. The amendment failed, however, by a close vote of 51 to 48.



Blunt's "conscience amendment" would permit insurers and employers to opt out of the provisions of the President's health care law to which they may object as a result of moral or religious grounds, to include the provision that requires them to cover the cost of birth control.

The mandate in question forces religious institutions to pay for contraceptive drugs, including those that would bring about abortions. The mandate was issued in August 2011, prompting several lawsuits and over 100,000 complaints. Critics of the mandate asked President Obama to live up to his promise made at Notre Dame in 2009 to craft a "sensible conscience clause," but by January 20, 2012, all Obama could give religious institutions was an extra year to comply with the mandate.

Fox News explains, "Obama's policy decision was rewritten last month under pressure from Catholic bishops and others. It now requires health insurers to cover birth control for employees even of religiously affiliated institutions whose beliefs conflict with contraception. As part of his original health care overhaul, the previous policy required employers providing health care insurance to their workers to cover contraceptives."

The final rule of the Obama administration made no amendments to the mandate's limited religious exemption that protects solely religious organizations, such as churches and seminaries that employ members of their own faiths.

"A group health plan (and health insurance coverage provided in connection with such a plan) qualifies for the exemption if, among other qualifications, the plan is established and maintained by an employer that primarily employs persons who share the religious tenets of the organization," the final rule states. "With respect to certain non-exempted, non-profit organizations with religious objections to covering contraceptive services," the regulation explains, "guidance is being issued contemporaneous with these final regulations that provides a one-year safe harbor from enforcement by the Departments."

"Before the end of the temporary enforcement safe harbor, the Departments will work with stakeholders to develop alternative ways of providing contraceptive coverage without cost sharing with respect to non-exempted, non-profit religious organizations with religious objections to such coverage," reads the ObamaCare regulation.



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Regardless of Obama's so-called compromise proposal, however, religious institutions would still be required to fund contraceptive/abortifacient coverage for their employees, provoking organizations such as Florida's Ave Maria University to file [suit](#) against the proposal.

"This sleight-of-hand maneuver by the government fooled no one," said Ave Maria University president Jim Towey. "Ave Maria University pays 95 percent of the cost of the health plan we offer [to] our 129 employees. It's absurd for the federal government to suggest that these new pharmaceuticals will be free because they aren't free now and, in fact, the administration's own argument for free contraceptive drugs is that they place a financial burden on women."

Still, President Obama attempted to pass off the compromise as a fair trade-off on February 10: "Today, we've reached a decision on how to move forward. Under the rule, women will still have access to free preventive care that includes contraceptive services — no matter where they work. So that core principle remains. But if a woman's employer is a charity or a hospital that has a religious objection to providing contraceptive services as part of their health plan, the insurance company — not the hospital, not the charity — will be required to reach out and offer the woman contraceptive care free of charge, without co-pays and without hassles."

Despite Obama's rhetoric, most were not fooled. "On February 10, the mandate — the contraceptive mandate — actually became final without change," explained Kyle Duncan of the Becket Fund — the organization assisting Ave Maria, Belmont Abbey College, Colorado Christian University, and the [EWTN](#) network in its suit. "All of this talk of a compromise and an accommodation, all that is, is a promise in the future by the administration to maybe engage in some additional rulemaking."

Several lawmakers spoke on the floor today prior to the vote. Blunt ensured the Senate that the issue "will not go away unless the administration decides to take it away by giving people of faith these First Amendment protections."

Senate Majority Leader Harry Reid (D-Nev.) asserted that the amendment "would allow any employer or insurer to deny coverage for virtually any treatment for virtually any reason."

Debate on the mandate has been contentious on both sides and can prove to be significant in an election year. Republicans assert that the mandate is in violation of the freedom of religion because it forces organizations to cover contraception regardless of their faith, while Democrats claim that any change to the requirements found in the health care law would force women receiving coverage for preventative services to lose that coverage.

However, according to Richard M. Doerflinger, Deputy Director of the Secretariat for Pro-Life Activities at the U.S. Conference of Catholic Bishops, the Democrats claims are "preposterous." Doerflinger, a proponent of the Blunt amendment, stated:

The Blunt amendment does not modify state or federal laws that are now in effect. It only amends the new mandated benefits provisions in Title I of the [Health Care Reform](#) Act of 2010 (PPACA), supplying the respect for religious beliefs and moral convictions that is already part of other federal health programs, but is woefully missing from PPACA.

Democrats contend that the Republicans' efforts are merely a ploy to limit access to birth control, calling the bill a "wolf in sheep's clothing" by allowing employers to exclude coverage for conditions they find objectionable. They assert it could set a dangerous precedent, allowing employers to exclude coverage for HIV and AIDs, STDs, or mental health.



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The White House voiced disdain for the Blunt amendment in a press release yesterday, which attempted to rally Obama's supporters to stand up for women's rights. "This is an issue for everyone," the release declared. "We're not about to sit back and let the other side tear down access to better care."

Not every Republican is on board with the efforts at the moment, however, with some claiming that they are redirecting focus from more important matters such as the economy, particularly when surveys such as a February CBS News/*New York Times* poll indicate that 61 percent of Americans favor the mandate, while just 31 percent oppose it.

"It's much broader than I could support," Sen. Olympia Snowe (R-Maine) said on MSNBC just after announcing she was dropping her re-election bid. "I think we should focus on the issue of contraceptives and whether or not it should be included in a health insurance plan, and what requirements there should be."

The vote followed a controversial hearing of the House Democratic Steering and Policy Committee on Monday, wherein Georgetown Law School student Sandra Fluke [presented](#) strange testimony asserting her support of the contraceptive mandate.

According to Fluke, the mandate is necessary because there is a financial constraint on female students who wish to purchase birth control.

"Forty percent of the female students at Georgetown Law reported to us that they struggled financially as a result of this policy," Fluke said, referring to the fact that the university doesn't pay for contraception. "Without insurance coverage, contraception, as you know, can cost a woman over \$3,000 during law school." (Fluke did not mention more affordable contraceptive options. For example, [Planned Parenthood's](#) website indicates that non-prescription contraceptive spermicide costs only eight dollars per package. Using one package a month, therefore, would cost only \$288 throughout 36 months of law school.)

Fluke went on to indicate that a friend of hers had felt "powerless" upon learning that her insurance policy did not cover contraception at the pharmacy.

Fluke's testimony was so bizarre that it provoked a harsh [response](#) from several pundits, including Rush Limbaugh.

"What does it say about the college co-ed ... Fluke who goes before a Congressional committee and says she must be paid to have sex?" Rush thundered. "What does that make her? It makes her a slut, right? It makes her a prostitute. She wants to be paid to have sex. She's having so much sex, she can't afford the contraception. She wants you and me and the taxpayers to pay her to have sex. What does that make us? We're the pimps."

Meanwhile, a report by the Congressional Research Service [indicates](#) that insurers and employers who fail to comply with the contraception coverage rule could face federal fines of \$100 per day per employee.



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