AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

I

113TH CONGRESS
2D SESSION

H. R. 5051

To ensure that employers cannot interfere in their employees' birth control and other health care decisions.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2014

Ms. SLAUGHTER (for herself, Ms. DEGETTE, Mr. NADLER, Mr. BERA of California, Mr. BISHOP of New York, Mr. BLUMENAUER, Ms. BONAMICI, Mr. BRADY of Pennsylvania, Mr. BRALEY of Iowa, Ms. BROWNLEY of California, Mrs. CAPPS, Ms. CASTOR of Florida, Ms. CHU, Mr. CICILLINE, Ms. CLARK of Massachusetts, Ms. CLARKE of New York, Mr. CLAY, Mr. COHEN, Mr. CONNOLLY, Mr. CONYERS, Mr. CUMMINGS, Mr. DANNY K. DAVIS of Illinois, Mr. DEFAZIO, Ms. DELAURO, Ms. DELBENE, Mr. DOGGETT, Ms. DUCKWORTH, Ms. EDWARDS, Mr. ELLISON, Ms. ESTY, Mr. FARR, Mr. FATTAH, Ms. FRANKEL of Florida, Ms. FUDGE, Mr. GRAYSON, Ms. HAHN, Mr. HASTINGS of Florida, Mr. HONDA, Mr. HOYER, Mr. HUFFMAN, Mr. ISRAEL, Ms. JACKSON LEE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Mr. KEATING, Mr. KENNEDY, Mr. KILMER, Mrs. KIRKPATRICK, Ms. KUSTER, Ms. LEE of California, Mr. LEVIN, Mr. LEWIS, Ms. LOFGREN, Mr. LOWENTHAL, Mrs. LOWEY, Mr. BEN RAY LUJÁN of New Mexico, Ms. MICHELLE LUJAN GRISHAM of New Mexico, Mr. MAFFEI, Mrs. CAROLYN B. MALONEY of New York, Ms. MATSUI, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Ms. MENG, Mr. MICHAUD, Mr. GEORGE MILLER of California, Ms. MOORE, Mr. MORAN, Mr. MURPHY of Florida, Ms. NORTON, Mr. PALLONE, Ms. PELOSI, Mr. PERLMUTTER, Mr. PETERS of Michigan, Mr. PETERS of California, Ms. PINGREE of Maine, Mr. POCAN, Mr. POLIS, Mr. PRICE of North Carolina, Mr. QUIGLEY, Mr. RANGEL, Ms. ROYBAL-ALLARD, Mr. RUIZ, Mr. RYAN of Ohio, Ms. LINDA T. SÁNCHEZ of California, Mr. SARBANES, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCHNEIDER, Ms. SCHWARTZ, Mr. SCOTT of Virginia, Ms. SHEA-PORTER, Mr. SIRES, Mr. SMITH of Washington, Ms. SPEIER, Mr. SWALWELL of California, Mr. TAKANO, Mr. THOMPSON of California, Mr. TIERNEY, Ms. TITUS, Mr. TONKO, Ms. TSONGAS, Mr. VAN HOLLEN, Ms. WASSERMAN SCHULTZ, Mr. WAXMAN, Mr. WELCH, Ms. WILSON of Florida, Mr. YARMUTH, Ms. BASS, Ms. BROWN of Florida, Mr. BUTTERFIELD, Mr. CLEAVER, Mr. CROWLEY, Ms. ESHOO, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. GUTIÉRREZ, Mr. KILDEE, Mrs. NAPOLITANO, Mr. PASTOR of Arizona, Mr. PAYNE, Mr. VEASEY,

Ms. WATERS, Mr. MCNERNEY, Mr. HIGGINS, Ms. SINEMA, Mr. HORSFORD, and Mr. BECERRA) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To ensure that employers cannot interfere in their employees' birth control and other health care decisions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protect Women's Health From Corporate Interference Act of 2014''.

SEC. 2. PURPOSE.

The purpose of this Act is to ensure that employers that provide health benefits to their employees cannot deny any specific health benefits, including contraception coverage, to any of their employees or the covered dependents of such employees entitled by Federal law to receive such coverage.

SEC. 3. FINDINGS.

Congress finds as follows:

(1) Access to the full range of health benefits and preventive services, as guaranteed under Federal law or through Federal regulations, provides all

Americans with the opportunity to lead healthier and more productive lives.

(2) Birth control is a critical health care service for women. Ninety-nine percent of sexually active women use birth control at least once in their lifetimes, and the Centers for Disease Control and Prevention declared it one of the Ten Great Public Health Achievements of the 20th Century. While the most common reason women use contraception is to prevent pregnancy, 58 percent of oral contraceptive users cite noncontraceptive health benefits as reasons for using the method. Fourteen percent of birth control pill users, more than 1,500,000 women, rely on birth control pills for noncontraceptive purposes only.

(3) In addition to providing health benefits for women, access to birth control has been directly connected to women's economic success and ability to participate in society equally. Women with access to birth control are more likely to have higher educational achievement and career achievement, and to be paid higher wages.

(4) The independent, nonprofit Institute of Medicine recommends, as part of its recommended preventive health measures, that women's preventive

health be covered by health plans with no cost-sharing to promote optimal health of women. The Institute of Medicine noted that the contraceptive methods recommendation was one of the most important recommendations for women.

(5) Affordability has long been a barrier to women being able to use birth control and other preventive health services effectively. A national survey of women who were currently using some form of contraception found that one-third would switch to a different method of contraception if they did not have to worry about cost. Women citing cost concerns were twice as likely as other women to rely on less effective methods of contraception.

(6) Three separate studies have found that lack of health coverage is significantly associated with reduced use of prescription contraceptives.

(7) Cost-sharing requirements can dramatically reduce the use of preventive health care measures, particularly among lower-income women. Studies have shown that eliminating cost-sharing for the most effective forms of contraception (intrauterine devices, implants, and injectables) leads to sizable increases in the use of these methods.

(8) The Patient Protection and Affordable Care Act (Public Law 111–148) sought to remove the barrier to care by requiring all new health plans to cover recommended preventive services without cost-sharing, which include women's preventative services. These services include all methods of contraception and sterilization approved by the Food and Drug Administration and related education and counseling, as prescribed by a health care provider.

(9) The contraceptive coverage provision has been a success in increasing access to this critical health service for women. As of 2013, 47,000,000 women were covered by this requirement. Women have saved $483,000,000 in out-of-pocket costs for oral contraceptives with no copayments in 2013 compared to 2012.

(10) The Journal of the American Medical Association reports that 7 out of 10 people in the United States support coverage of contraception, with significantly higher support among women, Hispanic Americans, and Black Americans.

(11) An estimated 76,000,000 people in the United States, including 30,000,000 women, are newly eligible for expanded preventive services coverage under the Patient Protection and Affordable

Care Act. A total of 48,500,000 women are estimated to benefit from preventive services coverage without cost-sharing.

(12) The most appropriate method of contraception varies according to each individual woman's needs and medical history. Women may have medical contraindications and thus not be able to use certain types of contraceptive methods. It is therefore vital that the full range of contraceptive methods approved by the Food and Drug Administration be available in order to ensure that each woman, in consultation with her medical provider, can make appropriate decisions about her health care.

(13) Covering proven preventative services like contraception lowers health care spending as it improves health. The Federal Government experienced no increase in costs at all after it began covering contraceptives for Federal employees. A study by the National Business Group on Health estimated that it costs employers 15 to 17 percent more to not provide contraceptive coverage in employee health plans, accounting for the employer's direct medical costs of pregnancy and indirect costs related to employee absence and reduced productivity.

(14) Dozens of cases have been filed in Federal court by employers that want to take this benefit away from their employees and the covered dependents of such employees.

(15) On June 30, 2014, the Supreme Court held, in Burwell v. Hobby Lobby Stores, Inc. and Conestoga Wood Specialties Corp. v. Burwell, that some for-profit corporations can take away the birth control coverage guaranteed to their employees and the covered dependents of such employees through their group health plan.

(16) In a dissent in those cases, Justice Ruth Bader Ginsburg states that in this ''decision of startling breadth . . . the exemption sought by Hobby Lobby and Conestoga . . . would deny legions of women who do not hold their employers' beliefs access to contraceptive coverage that the ACA would otherwise secure.'' Justice Ginsburg also notes that the decision opens up the door to religiously grounded employer objections to a whole host of health care services like ''blood transfusions . . .. antidepressants . . . medications derived from pigs, including anesthesia . . . and vaccinations.''.

(17) The Supreme Court's decision in those cases allows employers, that otherwise provide cov-

erage of preventive health services, to deny their employees and the covered dependents of such employees contraceptive coverage and to treat a critical women's health service differently than other comparable services. Legislation is needed to clarify that employers may not discriminate against their employees and dependents.

(18) It is imperative that Congress act to reinstate contraception coverage and to protect employees and the covered dependents of such employees from other attempts to take away coverage for other health benefits to which such employees and dependents are entitled under Federal law.

SEC. 4. ENSURING COVERAGE OF SPECIFIC BENEFITS.

(a) IN GENERAL.—An employer that establishes or maintains a group health plan for its employees (and any covered dependents of such employees) shall not deny coverage of a specific health care item or service with respect to such employees (or dependents) where the coverage of such item or service is required under any provision of Federal law or the regulations promulgated thereunder. A group health plan, as defined in section 733(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(a)), sponsored by an employer, employee organization, or both, and any health insurance coverage,

as defined in section 2791(b) of the Public Health Service Act (42 U.S.C. 300gg–91) is required to provide coverage required under the Public Health Service Act, including section 2713 of such Act (42 U.S.C. 300gg–13), in addition to other applicable requirements.

(b) APPLICATION.—Subsection (a) shall apply notwithstanding any other provision of Federal law, including Public Law 103–141.

(c) REGULATIONS.—The regulations contained in sections 54.9815-2713A of title 26, 2590.715-2713A of title 29, and 147.131 of title 45, Code of Federal Regulations, shall apply with respect to this section. The Departments of Labor, Health and Human Services, and the Treasury may modify such regulations consistent with the purpose and findings of this Act.

(d) ENFORCEMENT.—The provisions of this Act shall apply to plan sponsors, group health plans, and health insurance issuers as if enacted in the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), the Public Health Service Act (42 U.S.C. 201 et seq.), and the Internal Revenue Code of 1986. Any failure by a plan sponsor, group health plan, or health insurance issuer to comply with the provisions of this Act shall be subject to enforcement through part 5 of subtitle B of title I of the Employee Retirement Income Security Act of

1974 (29 U.S.C. 1131 et seq.), section 2723 of the Public Health Service Act (42 U.S.C. 300gg–22), and section 4980D of the Internal Revenue Code of 1986.

○