

The Blunt Amendment Takes Away Access to Critical Health Insurance Coverage for Millions of Americans

The Blunt Amendment gives virtually limitless and unprecedented license to any employer or insurance plan, religious or not, to exclude any health service, no matter how essential, in the health services they cover.

The Blunt Amendment Creates a Huge Loophole, Allowing Employers and Plans to Use Religious or Moral Convictions to Eliminate Critical Health Care Services

The Blunt Amendment allows employers and insurance companies to refuse coverage of *any* health care service required under the new health care law based on undefined “religious beliefs or moral convictions.” This creates a huge loophole in the new health care law’s coverage requirements. For example, any corporation whose CEO opposes contraception based on his “moral convictions” could deny all coverage of contraception or any other service to the company’s employees. Even more disturbing, a CEO’s view of “morality” could potentially include concern for the cost of a particular benefit. Such broad, undefined refusals (without any protections for the insured) would result in millions of individuals losing vital health service coverage.

The Blunt Amendment Undermines the Affordable Care Act’s Guarantee that All Insurance Plans Cover Preventive Services

The new health care law requires that all new health plans cover certain “preventive services” without cost-sharing, including some that are specific to women. The Blunt Amendment would allow plans or an employer offering a plan to avoid this critical requirement, which is meant to ensure that cost-sharing is no longer a barrier to preventive care. For example:

- A plan could claim a moral or religious basis in order to refuse to cover HIV/AIDS screenings or counseling.
- An employer could refuse to cover screening for Type 2 Diabetes in its plan because of a religious or moral objection to a perceived unhealthy lifestyle.

The Blunt Amendment Undermines the Affordable Care Act’s Guarantee that Insurance Plans Cover a Comprehensive Package of Health Care Services Known as the Essential Health Benefits

The new health care law guarantees that all plans offered in the individual market or to small businesses will cover a minimum set of “essential health benefits,” including mental health services and maternity care. Yet, the Blunt Amendment would allow plans or employers to refuse coverage of any of these essential benefits if they object on religious or moral grounds. For example:

- A health plan in the individual market could refuse to cover mental health care on the grounds that the plan believes that psychiatric problems should be treated with prayer.

- A small employer could offer a plan that does not cover maternity care for unmarried women in its plan, claiming that such coverage violates its belief that sex and procreation are permissible only within the marital relationship.

The Blunt Amendment Allows States to Deny Health Services to the Newly Eligible Medicaid Population

The new health care law requires states to provide, at a minimum, the essential health benefits to the newly eligible Medicaid population. If an “entity,” as provided for in the Blunt Amendment, includes a state, then a state could refuse to cover any of the essential health benefits for being contrary to the state’s “moral convictions.” The impact would be devastating to this vulnerable population.

The Blunt Amendment Undermines the Basic Principle of Insurance

In addition to allowing plans and entities offering plans to undermine the new coverage guarantees, the Blunt Amendment allows individuals who purchase insurance in the individual market to do the same. If one individual claims a particular service is contrary to his or her religious or moral beliefs, the plan does not have to cover it, even if required to by the new health care law.

By allowing each individual to pick and choose specific medical services to be covered in a plan, the Blunt Amendment radically undermines the basic principle of insurance, which involves pooling the risks for all possible medical needs of all enrollees. The language is vague enough that insurers may be able to sell plans that do not cover services required by the new health care law to an entire market because one individual objects, so all consumers in a market lose their right to coverage of the full range of critical health services. For example:

- A man purchasing an insurance plan offered to women and men could object to maternity coverage, so the plan would not have to cover it, even though such coverage is required as part of the essential health benefits.
- An individual could object to coverage of vaccines for children, so the plan could then not be required to do so.

The Blunt Amendment Allows Plans to Discriminate Against Individuals

The Blunt Amendment would exempt health plans from fulfilling the critical non-discrimination protections contained in Section 1557 of the new health care law, which prohibits discrimination against individuals in health care based on sex, race, color, national origin, age, and disability. For example, under the Blunt Amendment:

- An insurer could refuse to provide coverage of any health care service to an interracial couple because of a religious or moral objection to such relationships.
- An insurer could refuse to cover routine sonograms during the course of a pregnancy for a single woman even if routine dental X-rays or PAP smears are covered, due to a religious or moral objection to pregnancies out of wedlock.

The Blunt Amendment Creates a Private Right of Action for “Threatened” Violations

The Blunt Amendment allows “any person or entity” protected by the refusal provisions to file a lawsuit in federal court for “actual or threatened violations.” The ability to sue for “threatened” violations is a troubling addition to private cause of action language, and is not found in any civil

rights law. Even more troubling is that the bill provides no definition of what constitutes “threatened.”

Additionally, this language could be interpreted to allow anyone, including a health plan or a potential beneficiary, to sue a state official for even establishing an essential health benefits benchmark plan that includes coverage of services to which the plan or individual has a moral or religious objection. This could have a chilling effect if state officials fear that any enforcement could be perceived as a threat and lead to costly litigation.

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