

House Concurrent Resolution No. 41

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CURTMAN (Sponsor), SMITH (150), COX, RICHARDSON,
DIEHL, JONES (89), DAVIS, KOENIG AND FREDERICK (Co-sponsors).

5818L.02I

2 **WHEREAS**, under Section 2713 of the federal Patient Protection and Affordable Care
3 Act of 2010 health insurers must cover "preventive services" for women without charging a co-
4 pay beginning August 1, 2012; and

4

5 **WHEREAS**, Health and Human Services Secretary Kathleen Sebelius defined these
6 preventive services to include "all FDA-approved forms of contraception, sterilization
7 procedures and patient education and counseling"; and

8

9 **WHEREAS**, regulations announced last year (Interim Final Rule 76 FR 46621, August
10 3, 2011) provided an exemption for certain religious employers regarding contraception. At that
11 time, it was unclear if the religious exemption applied to entities operated by religious
12 organizations that employed or served people from a variety of faiths or had no religious
13 affiliation at all; and

14

15 **WHEREAS**, on January 20, 2012, Secretary Sebelius said this mandate would take effect
16 in August for most employers. Churches would be exempted from the rule, but not religious
17 affiliated hospitals, colleges, or charities, though they would be given an extra year to comply;
18 and

19

20 **WHEREAS**, Obama administration officials said that 28 states, including California and
21 New York, already have similar rules for health insurance; and

22

23 **WHEREAS**, on Friday, February 10, 2012, President Obama announced a compromise
24 that would exempt churches, other houses of worship, and similar organizations from covering
25 contraception on the basis of their religious objections, and would provide a one-year transition
26 period for religious organizations while this policy is being implemented; and

27 **WHEREAS**, the Obama administration also announced that sometime in the upcoming
28 year it will propose and finalize a new regulation to address the religious objections of the non-
29 exempted religious organizations. The new regulation will require insurance companies to cover
30 contraception if the non-exempted religious organization chooses not to. Under the compromise:

31

32 (1) Religious organizations would not have to provide contraception coverage or refer
33 their employees to organizations that provide contraception;

34

35 (2) Religious organizations would not be required to subsidize the cost of contraception;

36

37 (3) Contraception coverage would be offered to women by their employers' insurance
38 companies directly, with no role for religious employers who oppose contraception;

39

40 (4) Insurance companies would be required to provide contraception coverage to these
41 women free of charge; and

42

43 **WHEREAS**, the Missouri General Assembly has a solemn duty and obligation to uphold
44 the laws of the State of Missouri, and to take all steps necessary and legal to stop any
45 infringement upon the protected rights of Missouri citizens; and

46

47 **WHEREAS**, the people of the State of Missouri adopted Section 1.330, RSMo, by
48 referendum, Proposition C, on August 3, 2010, which states in part:

49

50 "1.330. 1. No law or rule shall compel, directly or indirectly, any person, employer, or
51 health care provider to participate in any health care system."; and

52

53 **WHEREAS**, in accordance with Section 1.330:

54

55 (1) No employee, self-employed person, or any other person should be compelled to
56 obtain coverage for, or be discriminated against or penalized for declining or refusing coverage
57 for, abortion, contraception, or sterilization in a health plan if such items or procedures are
58 contrary to the religious beliefs or moral convictions of such employee or person; and

59 (2) No employer, health plan provider, health plan sponsor, health care provider, or any
60 other entity should be compelled to provide coverage for, or be discriminated against or
61 penalized for declining or refusing coverage for, abortion, contraception, or sterilization in a
62 health plan if such items or procedures are contrary to the religious beliefs or moral convictions
63 of such employer, health plan provider, health plan sponsor, health care provider, or entity; and

64

65 (3) No governmental entity, public official, or entity acting in a governmental capacity
66 should be permitted to discriminate against or penalize a health plan, plan sponsor, health care
67 provider, employer, employee, or other entity or person because of such plan's, sponsor's,
68 provider's, employer's, employee's, entity's, or person's unwillingness, based on religious beliefs
69 or moral convictions, to provide or obtain coverage for, participate in, or refer for, abortion,
70 contraception, or sterilization in a health plan; and

71

72 **WHEREAS**, the most recent regulation under the federal Patient Protection and
73 Affordable Care Act (PPACA) will require religious hospitals and institutions to choose between
74 offering insurance coverage to their employees which provide birth control, sterilization
75 procedures, and abortifacients, such as the "morning after pill", services which are contrary to
76 the religious tenets and beliefs of the Catholic Church, other churches, and religious
77 organizations who operate such hospitals and institutions, or decide not to provide health
78 insurance coverage to their employees and pay the penalty imposed under PPACA; and

79

80 **WHEREAS**, the compromise announced by President Barack Obama on February 10,
81 2012, does not resolve the issue for the Catholic Church, other churches, and many religious
82 organizations because it failed to address several important issues, such as self insurers,
83 conscience objections of individuals, and states' rights; and

84

85 **WHEREAS**, in many religious hospitals and institutions, the Catholic Church, other
86 churches, or religious organizations are self insured, which once again forces them to make an
87 unnecessary choice in violation of their religious liberties; and

88

89 **WHEREAS**, even if the Catholic Church, other churches, or religious organizations do
90 not self insure, the transfer of responsibility to the insurer of providing these services free of
91 charge under the announced compromise will likely be passed on to employers in the form of
92 higher premiums to cover the cost to the insurer, which forces these churches and institutions to
93 indirectly pay for these mandates through their premiums in violation of their religious liberties;
94 and

95 **WHEREAS**, religious liberty is a fundamental principle in our nation and state that must
96 be protected. The intrusion of the federal government into our health care choices by creating
97 a health care mandate which forces not only the Catholic Church, other churches, and religious
98 organizations, but also any person with deeply held religious beliefs to violate their conscience
99 or be subject to a penalty is unacceptable in a free society; and

100

101 **WHEREAS**, under the Tenth Amendment to the United States Constitution, the State
102 of Missouri and every other state in the nation has the right to enact laws which prohibit the
103 infringement of the federal government into the lives and affairs of its citizens in areas which are
104 not expressly provided to the federal government under the United States Constitution; and

105

106 **WHEREAS**, Missouri has enacted legislation which directly contradicts the mandates
107 contained in the federal Patient Protection and Affordable Care Act of 2010; and

108

109 **WHEREAS**, the Missouri General Assembly takes a firm and unwavering stand against
110 an unconstitutional infringement on the right of the State of Missouri and its citizens not to be
111 forced to participate in any health care system which is contrary to the laws of the State of
112 Missouri:

113

114 **NOW, THEREFORE, BE IT RESOLVED** that the members of the House of
115 Representatives of the Ninety-sixth General Assembly, Second Regular Session, the Senate
116 concurring therein, hereby declare the firm and unwavering stand of the Missouri General
117 Assembly to strongly oppose the federal health care mandates contained in the Patient Protection
118 and Affordable Care Act of 2010, including the most recent regulation requiring the provision
119 of preventive services, as an infringement of the rights of the State of Missouri and a violation
120 of state law; and

121

122 **BE IT FURTHER RESOLVED** that the Missouri General Assembly strongly affirms
123 the right of each state under the Tenth Amendment of the United States Constitution to enact
124 laws which prohibit the unconstitutional infringement of the federal government into the lives
125 and affairs of the states in areas which are not expressly provided to the federal government; and

126

127 **BE IT FURTHER RESOLVED** that the Missouri General Assembly strongly urges and
128 encourages the members of the Missouri Congressional delegation to write letters to Secretary
129 Sebelius to express opposition to this new regulation; and

130 **BE IT FURTHER RESOLVED** that the Chief Clerk of the Missouri House of
131 Representatives be instructed to prepare properly inscribed copies of this resolution for Kathleen
132 Sebelius, Secretary of the Department of Health and Human Services, and each member of the
133 Missouri Congressional delegation.

✓