



April 28, 2010

The Honorable Phil Bredesen
State Capitol
First Floor
Nashville, TN 37243

Dear Governor Bredesen,

We are writing to express our strong opposition to SB2686/HB 2681 and to urge you to veto this harmful legislation. The American Civil Liberties Union of Tennessee (ACLU-TN) has a long history of protecting the civil liberties of all Tennesseans, including the right to privacy, religious liberty, and the right to equal protection under the law. ACLU-TN has consistently advocated for policies that advance women's good health and well-being, support women's decision-making, maintain good health practices, and ensure strong healthy families. Because SB2686/HB2681 run afoul of these principles, we request your veto of this dangerous legislation.

While Tennesseans may not all feel the same way about abortion, we can all agree that health care reform should improve the health and lives of Tennessee women. Abortion is part of basic health care for women; it's just common sense. No woman plans an unplanned pregnancy. No woman wants to hear that carrying her pregnancy to term will seriously threaten her health, or endanger her own life. No woman wants to hear that the baby she's been looking forward to holding will likely not survive the pregnancy. Everyone's circumstances and health care needs are different. A woman facing an unintended or difficult pregnancy should have the opportunity to make the best decision for herself and her family, whether her decision is raising a child, adoption, or abortion. It is not the place of politicians to interfere in a woman's ability to make personal, private health care decisions.

However, our Legislature has failed to respect a woman's privacy and to ensure that every woman has the opportunity to make the best decision for herself and her family. Under current law, Tennessee residents and employers are free to use their own dollars to purchase the insurance that best meets their medical needs. But SB2686/HB2681 would prevent any woman purchasing a qualified health plan through a state exchange from obtaining coverage for abortion, a safe and common medical procedure. Singling out one type of medical service for exclusion defeats the purpose of insurance coverage and shared risk. As a result, women and their families will be exposed to significant financial risk, amounting to thousands of dollars, should, for example, the woman need to terminate a pregnancy because of a severe fetal anomaly, because the fetus is not viable, or because her life or health is jeopardized by the pregnancy. Some women will be forced to continue a dangerous or nonviable pregnancy because they do not have insurance coverage and cannot afford the high out-of-pocket costs to pay for an abortion. Others will be forced to postpone abortion care while attempting to raise the necessary funds – a delay that can

AMERICAN CIVIL
LIBERTIES UNION
OF TENNESSEE

P. O. BOX 120160
NASHVILLE, TN 37212

Phone: (615) 320-7142
Fax: (615) 320-7260
www.aclu-tn.org

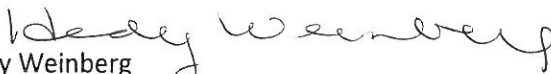
exacerbate both the costs and the health risks of the procedure. With so many people in need of comprehensive health insurance coverage in these difficult economic times, legislators should be finding ways to increase access to health care, not cutting coverage many women already have.

By banning coverage for abortion in any qualified health plans offered through a state exchange, SB2686/HB2681 go significantly further than longstanding rules against federal funding for abortion. Those federal funding restrictions have traditionally permitted exceptions in cases of life endangerment, rape or incest. However, SB2686/HB2681 would not permit coverage even under those extreme circumstances. Thus, women who receive health care coverage through the TennCare program – which (as it must) reimburses for abortions in the case of life endangerment, rape or incest – would have more comprehensive coverage than the thousands of women who would use their own private dollars (or whose employers use their private dollars) to purchase health care plans from private insurers within the exchange. It is simply unacceptable for politicians to interfere with the insurance market in this way by dictating to private insurance companies what benefits and coverage they can offer to their customers.

The federal Patient Protection and Affordable Health Care and Education Reconciliation Act of 2010 (“PPACA”) unequivocally prohibits the use of federal funds, including taxpayer credits and cost-sharing reductions, to pay for abortions. PPACA, Public Law 111-148, §§ 1303(b)(1)-(2). Moreover, there are stringent accounting requirements mandated by the Act to ensure the strict segregation of federal funds by any insurers offering qualified health plans that cover abortion within the state exchanges. *Id.* at § 1303(b)(2)(B)-(C) (requiring insurers to collect “separate payments” for abortion coverage from each enrollee and to “deposit all such separate payments into separate allocation accounts . . . used exclusively to pay for [abortion] services”). By prohibiting insurers from offering qualified health plans that include coverage for abortion within the state exchange, Tennessee would not simply be maintaining the status quo of ensuring there is no public funding of abortion. Rather, Tennessee would be imposing ideologically-based restrictions in a new insurance market that will affect thousands of women in the state.

A woman should be able to choose the coverage she needs from an insurance plan in consultation with her family and medical professionals, and without political interference. Instead of passing unnecessary legislation that does nothing to promote the health of Tennessee women or prevent a single unintended pregnancy in the state, our Legislature should devote time and resources to supporting women and their families. On behalf of Tennesseans committed to comprehensive health care options, ACLU-TN urges you to veto SB2686/HB2681, which severely restrict the ability of women to make private health care decisions and to access the care they need.

Many thanks for your consideration,


Hedy Weinberg
Executive Director