

JAMES BOPP, JR.
jboppjr@aol.com

THE BOPP LAW FIRM, PC
ATTORNEYS AT LAW

COURTNEY TURNER MILBANK
cmilbank@bopplaw.com

THE NATIONAL BUILDING
1 South Sixth Street
TERRE HAUTE, INDIANA 47807-3510
Telephone 812/232-2434 Facsimile 812/235-3685
www.bopplaw.com

Memorandum

To: Oregon Organizations
From: James Bopp, Jr., Courtney Turner Milbank
Date: June 18, 2020
Re: Complaint Against Oregon's Mandated Coverage for Abortion and Abortifacients

Oregon Right to Life, Inc. ("ORTL") has filed a complaint against Oregon with the Office for Civil Rights at the Department of Health and Human Services ("OCR"). In doing so, ORTL complained that the abortion-related health-insurance coverage mandated by Oregon Enrolled House Bill 3391 (codified at ORS 743A.067) violates ORTL's rights and the Weldon Amendment.

As a like-minded organization, you may also be interested in filing a complaint against this unlawful Mandate. This memorandum provides a brief outline of the Mandate and the violation.

The Mandate: Section 2 of Enrolled House Bill 3391, called the Reproductive Health Equity Act, requires a health benefit plan in Oregon to provide coverage for "services, drugs, devices, products, and procedures," related to abortion and "[a]ny contraceptive drug, device or product" approved by the FDA, which includes abortifacients.

In short, it requires that all insurance plans provide coverage for abortion and abortifacients.

The Weldon Amendment: The Weldon Amendment provides that:

None of the funds made available in this Act may be made available to a Federal agency or program, or to a *State* or local government, if such agency, program, or government subjects any institutional or individual health care entity to *discrimination* on the basis that the health care entity does not provide, pay for, *provide coverage of*, or refer for *abortions*.

Oregon discriminates against ORTL, and other like-minded organizations, on the basis that such organizations do not want to provide coverage for abortions and abortifacients. As a result, the Mandate violates the Weldon Amendment and puts Oregon's federal funds at risk.

Requested Relief: The Mandate provides that an exemption may be granted if enforcement "may adversely affect the allocation of federal funds" to Oregon. As shown, the violation of the Weldon Amendment puts federal funds at risk, so ORTL is requesting an exemption.

The requested exemption would authorize (i) insurers to offer and (ii) employers to obtain health benefit plans excluding contraceptive and abortion coverage to which ORTL objects. Thereby, allowing ORTL to provide insurance that does not include abortion and abortifacients.

To File a Complaint: If you would like to file a complaint, please do so at <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>. Here are some helpful tips for filing your complaint:

- (1) you will need to file a religious/conscience complaint;
- (2) the government agency discriminating against you is the Oregon Department of Consumer and Business Services;
- (3) the violation started as early as 08/15/2017 and is ongoing; and
- (4) we suggest that you indicate that the abortion-related health-insurance coverage mandated by Oregon Enrolled House Bill 3391 violates your rights and the Weldon Amendment, and that the violation is ongoing.

Once you file your complaint, please send us a copy so that we can forward it to our contacts at the OCR, who have asked us about other organizations that are being harmed by this Mandate.

Questions: If you have any questions about the Mandate or OCR complaint process, please contact Courtney Turner Milbank at cmilbank@bopplaw.com or 812-232-2434.