

Issue Snapshot:

Intentionally Vague Legislative Language Exploited in Obamacare

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Take away: Even specific language can be dramatically re-framed through regulation. Bigger governments entail bigger bureaucracies. The solution is not *even more specific* language, but scaling back the size of government itself. If the language isn't there in the first place, it can't be manipulated.

Barack Obama signed the "Affordable Care Act" into law in March, 2011. In this 2,000+ page bill, there is a section (2713) titled "Coverage of Preventive Health Services." It includes this line:

(4) with respect to women, such additional preventive care and screenings not described in paragraph

One tiny phrase from this tiny section in this massive bill, "additional preventive care and screenings", was turned into a study *250 pages long* titled "Closing the Gaps." Written by the 'Committee on Preventive Services for Women', it was funded by Contract HHSP23337013T, which was billed as funding for "Developing Quality Measures for Schizophrenia in Medicaid."¹ There is no hint within the synopsis for this grant request that 'preventive services for women' was in view.

"Closing the Gaps" contains innumerable perspectives that would offend someone concerned about life issues. While it does not recommend that insurance companies pay for elective abortions, it says that this is because it is outside the scope of their study due to limitations placed on the bill against subsidizing them. Since study participants most likely believe that abortion is a 'preventive service,' this is of little comfort. It just means the timing wasn't right for them, yet. Of note for this snapshot, consider recommendation 5.5.

Recommendation 5.5: The committee recommends for consideration as a preventive service for women: the full range of Food and Drug Administration-approved contraceptive methods, sterilization procedures, and patient education and counseling for [all²] women with reproductive capacity.

The study specifies which women their recommendations apply to as "women with reproductive capacity, that is, from time of menarche to menopause."³ In other words, 'women' as young as twelve years old should be provided the "full range" of contraceptive methods—including sterilization procedures. Depending on which state in question is administering these provisions, this means that a girl as young as twelve years old could avail herself of a sterilization procedure without parental notification or consent, and on the taxpayer's dime.⁴

This possibility may seem outrageous to many decent people, and some might chalk it up as a matter of 'unintended consequences,' but there are many reasons to believe that this may in fact be entirely intended. Concerns about 'over-population' abound within the US Government, and sterilizations, with their permanent nature, address those concerns nicely. "Closing the Gaps" alludes to such concerns frequently, but always implicitly, such as by favorably referring to Title X of the Public Health Services Act which created legislation titled "Population Research and Voluntary Family Planning Programs" or by referring to the high economic costs of 'unintended pregnancies' in the US.^{5,6}

¹ <https://www.fbo.gov/spg/HHS/PSC/DAM/RFP-OS36575/listing.html> [accessed 10/24/12]

² The recommendation was accepted almost verbatim by HHS. The only difference was the addition of the word 'all.'

³ "Closing the Gaps" page 102.

⁴ It depends on each state's respective 'age of consent' and where the health insurance is derived--from an employer or from the government.

⁵ Ibid. 107-108.

⁶ This legislation was pushed by Richard Nixon, who in a speech titled *Message to the Congress on Problems of Population Growth* (July 18, 1969) said, "Unwanted or untimely childbearing is one of several forces which are driving many families into poverty or keeping them in that condition. Its threat helps to produce the dangerous incidence of illegal abortion. And finally, of course, it needlessly adds to the burdens placed on all our resources by increasing population." Evidently, "Closing the Gaps" agrees.

It is outside the scope of this brief, but if anyone needs a reason to suspect that an agenda beyond a woman's 'choice' and welfare is in play, consider what HHS Secretary Kathleen Sebelius said about how these programs would be paid for:

"The reduction in the number of pregnancies compensates for the cost of contraception," she said in response to Republican Tim Murphy in an April 2012 sub-committee meeting. When pressed, she then said, " Providing contraception is a critical preventive health benefit for women and for their children."⁷

One may reasonably wonder how contraception can be a 'critical preventive health benefit' *for children*, since contraception, by definition, prevents those children from coming into existence in the first place. The incoherency can be explained on the hypothesis that their true agenda is related to their concerns about overpopulation, but proponents know that it is politically impossible to be honest about that fact; for this reason, they know they must sell it on an entirely different basis, for example, as 'family planning.'

One can be justifiably suspicious about the true agendas driving this issue. What started as an ambiguous short phrase in a 2,000 page bill was transformed into 250 pages of recommendations, reflecting a mentality and implicit agenda that many Americans would find abhorrent. Many legislators, in fact, would be stunned, or even repulsed, to learn that their vote led to the possibility of girls as young as twelve seeking and obtaining irreversible sterilization procedures, without their parent's knowledge or consent.⁸ Naturally, the HHS adopted the committee's recommendations.

SOLUTION

It would be tempting to suggest that such issues can be headed off by adding another 2,000 pages of legislative clarification to the previous 2,000 pages. These additional clarifications, of course, would likewise need clarifying. All of the language eventually ends up in the hands of regulators who then, at tax-payer expense, interpret and apply it. Even if such agendas were countered by additional legislation, this new legislation would be passed through the same bureaucracy that was part of the problem in the first place.

The more expansive the legislation, the greater the ability to inject other agendas into it. Forcing the Democrats to exclude tax-subsidized abortions from the Affordable Care Act did not prevent Planned Parenthood and other 'population research' organizations from advancing their goals and ensuring they enjoyed continued access to Federal dollars. It only altered the shape of their efforts, and drove them even further from the light of day and public accountability.

In short, the solution is to work for a Federal government exercising only the powers delegated to it by the Constitution. Solutions that do not reflect the principles of a 'limited government', that fight bureaucracy with more bureaucracy, only create more places for people to pursue their agendas without being discovered. Indeed, from their point of view, the more intermediaries, the better—all the better for cloaking their work and soaking the American tax-payer... even the ones who are stridently opposed to that which they are paying for.

Let Planned Parenthood pay their own way out of their own funds, and take their hands out of the public purse.

⁷ Video: <http://cnsnews.com/news/article/sebelius-decrease-human-beings-will-cover-cost-contraception-mandate> [accessed 10/24/12]

⁸ Several were confronted about it and seemed totally unaware of the results of their votes. Steny Hoyer, for example, Hoyer expressed surprise, stating, "Free sterilization? I don't know anything about free sterilization. I don't know anything about that. I'm sorry. The answer is, I don't. But I don't think anybody is proposing that." For her part, Nancy Pelosi dismissed it as a 'religious' matter. <http://cnsnews.com/news/article/obamacare-mandate-sterilize-15-year-old-girls-free-without-parental-consent> [accessed 10/24/12]