



ACLU statement for January 12, 2011, Institute of Medicine hearing on Preventive Services Under the Patient Protection and Affordable Care Act

Thank you for this opportunity to speak. On behalf of the American Civil Liberties Union, I offer the following comments on the importance of covering birth control as a preventive service under the Patient Protection and Affordable Care Act. In addition to the proven health benefits of ensuring access to contraception, we believe that birth control is a personal, private decision that should be made by a woman in consultation with her doctor.

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Put simply, contraception is a matter of health and individual conscience. Whether the new health guidelines should mandate contraceptive coverage is not a religious question, as the United States Conference of Catholic Bishops has argued. It is critical that the guidelines that the Department of Health and Human Services issues later this year recognize the importance of birth control as preventive care and put an end to politicians and faith leaders imposing their religious beliefs on women and their families. We ask this body to recommend that HHS include family planning in the final list of preventive services.

In addition to being good medicine, requiring insurance policies to cover contraception is perfectly consistent with the Federal Constitution. Courts

that have considered this question have consistently upheld contraceptive mandates—including those that apply to religiously affiliated insurers. They have upheld these mandates as they are generally applicable and neutral; in other words, their main purpose is to ensure gender equality rather than to suppress or burden conduct based on religious belief. Covering contraception as a preventive service under the new health care law serves a compelling public interest in ensuring that women can get the birth control they need while respecting private decision making.

Access to safe and effective contraception is a critical component of basic health care for women. Without contraception, women have more unplanned pregnancies and are less likely to obtain adequate prenatal care in a timely manner. Access to contraception also helps women and couples decide based on their own religious beliefs and personal circumstances whether and when to have children. Currently publicly funded programs such as Medicaid and the Federal Employees Health Benefits Program and nearly 90 percent of employer-purchased insurance plans cover contraception. It is imperative that the new health insurance program recognize the obvious importance of contraception as a preventive service.

In America, we are all free to decide, based on our own moral and religious beliefs, whether and when to have children. For many of us, religious beliefs influence the decisions we make. These beliefs, however, cannot be mandated by law; they are a matter of personal conscience and individual choice. Religious leaders are free to express their belief that birth control is immoral, but they cannot interfere in our personal decision making by turning their religious beliefs into federal law and taking away access to critical health care.