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August 1, 2007

RE: Vote "Yes" on Allard Amendment No. 2535 on "Unborn Child" rule

Dear Senator:

The National Right to Life Committee (NRLC) urges you to support an amendment to be offered to the SCHIP reauthorization bill by Senator Allard (amendment no. 2535), which would codify a 2002 regulation that recognizes an "unborn child" as a "child" eligible to receive SCHIP coverage.

NRLC intends to include the roll call on the Allard Amendment No. 2535 in its scorecard of key pro-life roll call votes for the 110th Congress.

The original SCHIP statute allowed states to provide coverage to "children," defined as "individuals who have not attained age 19." On October 2, 2002, the Department of Health and Human Services issued a Final Rule (42 CFR Part 457) that clarified that the term "child" included "the period from conception to birth." Thus, since 2002, states have had the option of providing SCHIP coverage to unborn children. Eleven states have exercised this option: AR, CA, IL, LA, MA, MI, MN, RI, TX, WA, and WI.

The reauthorization bill approved by the Senate Finance Committee (now pending as Baucus Substitute Amendment No. 2530 to H.R. 976) amends the SCHIP statute to allow states to cover "pregnant women" of any age. It also contains language that asserts that the bill does not affirm either the legality or illegality of the 2002 "unborn child" rule. This agnostic language leaves the rule vulnerable to possible nullification by a future Administration. Senator Allard's amendment would codify the principle of the rule, by amending the SCHIP law to clarify that a covered child "includes, at the option of a State, an unborn child." The amendment further defines "unborn child" as "a member of the species homo sapiens, at any stage of development, who is carried in the womb." This definition is drawn verbatim from Public Law 108-212, the Unborn Victims of Violence Act, which applied the definition to the federal criminal code (Title 18 of the U.S. Code). The Unborn Victims of Violence Act was approved by the Senate on March 25, 2004, on a vote of 61-38 (roll call no. 63).

The Allard Amendment would also clarify that the coverage for the unborn child may include provision of "services to benefit either the mother or unborn child consistent with the health of both." This is intended to address reports that some states may have denied coverage to mothers for injuries or disorders that did not directly affect the unborn child (e.g., a broken arm).

In addition, the Allard Amendment clarifies that states may provide mothers with postpartum services for 60 days after they give birth.

National Right to Life urges your support for the Allard Amendment, and intends to include the roll call on the amendment in its scorecard of key pro-life votes of the 110th Congress.

Sincerely,

A handwritten signature in blue ink that reads "Douglas Johnson".

Douglas Johnson
Legislative Director
National Right to Life Committee
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