

Telling the Truth about Abortion Funding in Obamacare

Posted on **March 24, 2014** by **Staff**

People care about keeping tax dollars out of the hands of the abortion industry, but in the future will they be able to talk about how their legislators voted on this topic? Life Legal Defense Foundation joined the Bioethics Defense Fund and the Alliance Defending Freedom in filing an amicus brief on this very question.

As the Affordable Care Act (ACA) has been implemented, it has become painfully clear that it increases federal funding of abortion in unprecedented ways. For example, consider the following: the ACA authorizes taxpayer funded



LLDF President Dana Cody

abortion in newly created High Risk Pool and Community Health Center funding. It authorizes taxpayer subsidies for insurance exchange plans that cover elective abortion, and in fact applies an “abortion premium surcharge” to some of the plans offered on the exchanges.

Despite this clear evidence of expanded taxpayer funding of abortion, the outcome of two lawsuits turns on the issue of whether the ACA does in fact expand taxpayer funded abortion.

In 2009 when Congress was debating the ACA, a group of 20 Pro-Life Congressmen were set to support an amendment to the law that would provide permanent bill-wide prohibitions on taxpayer funding for elective abortion. Among this group were Congressmen Bart Stupak (D-MI) and Steve Driehaus (D-OH). Caving to political pressure from within their party, and the promise of an executive order on the topic, most of these Congressmen abandoned their resistance and voted to send the bill to the President for signature without limiting language.

Pro-life groups made it very clear that, in the absence of significant limiting language, a vote for the ACA equaled a vote for taxpayer funded abortion. During the 2010 midterm elections, the Susan B. Anthony List—a pro-life group dedicated to electing pro-life candidates—launched its *Votes*

Have Consequences program to hold these so-called “pro-life” Democrats accountable for their votes, votes that opened the flood gates for unprecedented taxpayer funding of abortion. SBA’s efforts helped defeat 15 out of 20 of the Democrats who failed to hold firm on their pro-life principles during the vote on the ACA.

Congressman Steve Driehaus (D-Ohio) cited SBA’s efforts as the reason for his defeat, and went so far as to sue SBA for defamation. In the lawsuit, Driehaus alleges that the SBA cost him his job and a “loss of livelihood” by educating constituents about his vote in favor of the ACA. One of their efforts consisted of erecting billboards in his district in 2010 stating that by voting for the ACA, Driehaus voted for taxpayer funded abortion. Currently this suit is at the Sixth Circuit Court of Appeals on the issue of whether SBA’s actions constitute defamation.

LLDF’s **Amicus brief** filed Friday, March 21, 2014 argues that SBA’s statements were truthful and were protected speech and thus should not be censored by any application of the law.

“This brief lays out the numerous ways in which the ACA provides taxpayer funding for abortion,” states Dana Cody, LLDF’s President and Executive Director. “As such, SBA’s political advertisements were objectively true, and this lawsuit is exposed for what it really is—an attack on pro-life speech.”

In a related case, SBA has gone on the offensive challenging an Ohio election law that allows the Ohio Elections Commission to decide the truth or falsity of some political advertisements. The law makes it a crime to publish false statements. Here again, the truth of the statements that SBA sought to publish can be objectively established both by the legislative record and by the events that have transpired since the passage of the ACA. This case is currently being appealed by writ of Certiorari to the United States Supreme Court.

“It violates the law for a pro-life political organization to speak the truth about a Congressman’s voting record?” questions Dana Cody. “What has happened to free speech and the marketplace of ideas? We trust that this misguided Ohio law will be overturned and that SBA and others will be free to speak the truth without fear.”