



Cuccinelli and His Caucus Are Bad for Women's Health in Virginia

By Emma Shapiro, Charles Posner, and Anna Chu September 25, 2013

In the words of *The Washington Post's* editorial board, Virginia Attorney General Ken Cuccinelli is “the most overtly partisan attorney general in Virginia’s history.”¹ His partisanship is demonstrated in a number of ways:

- His conservative economic policies, including a tax plan that would benefit the rich far more than the middle class.²
- His record on energy and the environment, including his refusal to acknowledge the human role in climate change.³
- His stance on public safety, which has consistently undermined legal safeguards to keep guns out of criminals’ hands.⁴

Yet there is perhaps no better example of his extreme conservative leanings than his views on women’s health and reproductive rights.

Ken Cuccinelli’s vision for Virginian women becomes clear when analyzing his record as a state senator and attorney general. For more than a decade as an elected official, he has consistently fought to roll back women’s reproductive rights and make it harder for women to access health care. Cuccinelli has worked to defund Planned Parenthood’s preventive health services,⁵ backed bills that could lead to common forms of contraception being banned, and supported a law that forces women to undergo ultrasounds as part of their abortion treatment, whether or not one is medically necessary.⁶ He not only sued the federal government over the Affordable Care Act, or ACA, but he was the first attorney general to do so—just 34 minutes after the bill was signed into law. The ACA provides critical protections to women, and if it were repealed, insurance companies would once again be able to charge women more or deny them coverage simply for being a woman.⁷

Cuccinelli's anti-woman record does not end there. Cuccinelli was one of three state attorneys general who refused to sign a letter urging Congress to reauthorize the Violence Against Women Act,⁸ a law that has driven down violence against women by creating community programs for women, improving the prosecution of sex offenders, and assisting victims with legal costs and resources.⁹ Cuccinelli also has ties to a fringe "father's rights" movement, which advocates for policies such as an end to no-fault divorce and a minimum requirement for shared custody—policies that indicate a fundamental lack of trust in Virginia women.¹⁰

On numerous issues, Cuccinelli's positions would result in harmful impacts to women, and he is not alone. Many fellow Virginian conservative leaders agree with Cuccinelli's extreme views. This report focuses on Cuccinelli's record on women's health and reproductive rights.

How Virginia ranks

There is a lot at stake for women in Virginia. According to a new Center for American Progress Action Fund report that ranks states on numerous factors related to women's economic security, leadership, and health, Virginia received a "C+" grade. On issues of women's health in particular, the state earns a "D+," ranking 32nd in the country.¹¹

Women's overall access to health care in Virginia is at best average when compared to other states. More than 13 percent of nonelderly women lack health insurance coverage, including 32.1 percent of Hispanic women—among the highest rates in the nation.¹² Health care is an issue that is fundamentally tied to economic security. Medical bills are the number one cause of bankruptcy filings in America; this year, they will cause more than 1 million households to file for bankruptcy.¹³

Despite the economic impact of uninsurance, Virginia is not moving forward with Medicaid expansion under the Affordable Care Act—a decision that has deprived expanded health care access to 169,000 women in the state. Cuccinelli would not change this decision if elected.

When it comes to reproductive health and rights, Virginian women have it even worse: The state has implemented some of the harshest restrictions on access to reproductive health care for women in the nation. Virginia, for example, is one of only 10 states that force a woman to undergo an ultrasound as part of her abortion treatment, even when it is not medically necessary.¹⁴ The state also imposes a number of onerous counseling procedures and waiting period restrictions that complicate and lengthen the already distressing process of a woman attaining an abortion.¹⁵

Even though this report focuses on women's health, it is important to consider other challenges Virginian women face in the realms of economic security and leadership, where they see wide disparities compared to men:

- Almost 13 percent of women in the state are in poverty, compared to less than 10 percent of men.¹⁶
- Women earn 78 cents for every dollar a white male earns.¹⁷
- The state is among the worst in the nation for female representation in public office: Not a single one of Virginia's 13 members of Congress is female, and only 25 of its 140 state legislators are female.¹⁸

Virginia lags behind many other states in the nation in the ability for women to live healthy, economically secure lives. The next governor will have the chance to face these challenges head on or to continue to go down a path that restricts equality, health, and opportunity for women in the state.

Cuccinelli's anti-choice record

From his time as a state senator to his tenure as attorney general, Ken Cuccinelli has been relentless in his attacks on pro-choice policies. Despite the Supreme Court ruling that abortion is constitutional, he has said that his "ultimate goal" is to "make abortion disappear in America."¹⁹ The policies that Cuccinelli supports would indeed heavily restrict women's access to abortion or end it altogether.

Cuccinelli's endorsement of the personhood philosophy—the belief that life begins at conception—demonstrates that point. In 2007, only 5 out of the 40 Republican senators in Virginia signed onto a constitutional amendment stating that life begins at conception; Cuccinelli was among them.²⁰ His 2002 state Senate campaign website also touted his belief that "human life begins at conception, and that human beings should be respected and protected from conception to natural death."²¹ The impact of a personhood amendment, however, is to outlaw abortion.²² If fertilized eggs are given human rights, then a woman who finds out she is pregnant and wants to choose whether she carries it to term is already too late to make that decision.

Cuccinelli has also taken steps to restrict access to contraception. Cuccinelli has stated that he would vote "against a bill stating that contraception is not abortion."²³

Cuccinelli's stance could lead to the banning of all contraception. The American Congress of Obstetricians and Gynecologists "unequivocally opposes" such measures, noting that "some of the most common forms of contraception ... could be banned."²⁴ In recent weeks, Cuccinelli has attempted to hide these positions from his record, going as far as to say he has "never supported legislation that invades people's choices about contraception."²⁵ But as *The Washington Post* concluded, "the facts suggest otherwise."²⁶

Ken Cuccinelli has taken steps beyond severely restricting abortion and birth control access; he has supported policies that are invasive to women. As attorney general, Cuccinelli joined with conservative state legislators in support of H.B. 462, which would have forced all women seeking an abortion to undergo a transvaginal ultrasound.²⁷ These procedures are invasive, medically unnecessary, and expensive: They cost between \$200 and \$1,200.²⁸

Cuccinelli has also repeatedly sponsored targeted restrictions on abortion providers, or TRAP, laws. These laws aim to regulate women's health centers in such a burdensome fashion that many of them shut down.²⁹ Some call for requirements as specific as the width of hallways in the clinic. Four abortion clinics have closed since 2010 due to these laws.³⁰ Cuccinelli has taken this stance despite the fact that 58 percent of Virginian women oppose these back-channel ways to restrict abortions.³¹

As attorney general, Cuccinelli has also been accused of giving Virginia's supposedly nonpartisan health board false information about the regulations. Falls Church Healthcare Center—a center that was forced to shut their doors due to TRAP requirements—claims that Cuccinelli told the health board that they did not have the legal authority to exempt existing clinics from the new law, even though that was not the case. Other reports have suggested that Cuccinelli essentially threatened board members into approving the new rules.³²

In addition to supporting legislation that could lead to a complete ban on all abortions and a ban on contraception, Cuccinelli has supported several other measures that restrict women's access to reproductive health services. Below are some other measures that Cuccinelli has supported:

- **Defunding Planned Parenthood, H.B. 30:** As a state senator, Cuccinelli introduced a budget amendment in 2008 that would have cut funding to Planned Parenthood, which provides critical health care and family planning resources to women, especially those who are most at risk.³³
- **A ban on third-trimester abortions with no exceptions, H.B. 1541:** In the state Senate, Ken Cuccinelli pushed for a bill that would have banned third-trimester abortions even when the woman faces serious health risks.³⁴

- A “conscience” law: On his 2007 state Senate campaign website, Cuccinelli advocated for the “right of professionals to refuse to perform an action that is inconsistent with their moral convictions,” such as providing emergency contraception, “without losing their job.”³⁵

Women and the Affordable Care Act

The Affordable Care Act is crucial to improving women’s health in Virginia. Protections in place because of the ACA have already protected hundreds of thousands of women in Virginia, and many more stand to gain when the law goes into full effect in January 2014. Nationwide, women of reproductive age spend 68 percent more than men on health care expenses.³⁶ More than half of American women report delaying needed medical care because of cost, and one-third of women report giving up basic necessities to pay for health care expenses.³⁷

The health care law would help reduce the cost of health care coverage for women. Beginning in 2014, the health care law will prohibit insurance companies from denying women coverage for gender-related pre-existing conditions, such as breast cancer, a Cesarean section, domestic violence, or sexual assault. The ACA has already prohibited insurance companies from continuing to deny coverage to 116,500 Virginia children with pre-existing conditions.³⁸ The law would also prohibit insurance companies from charging women higher premiums than men for the same coverage.

Despite the benefits that women would receive from the Affordable Care Act, Ken Cuccinelli has been one of the law’s most zealous opponents since day one. Cuccinelli was the first attorney general in the nation to file a lawsuit challenging its constitutionality,³⁹ and even after the Supreme Court upheld the law, Cuccinelli continued to advocate for its repeal.

He has also attacked laws requiring insurers to cover certain kinds of care, comparing them to forced food purchases. “Imagine if you never ate kumquats or sweet potatoes, but the grocery store was required to include them in your grocery bag,” Cuccinelli said, “That’s what happens with coverage mandates.”⁴⁰ Though kumquat mandates are not up for debate, 49 states and the District of Columbia do have laws requiring health plans to cover reconstructive surgery after breast cancer.⁴¹ His stance would reverse this requirement.

The Affordable Care Act has made and will make many necessary changes on behalf of women, but if Cuccinelli and his caucus in the Virginia General Assembly have their way, these rights would be rolled back, insurance companies could charge women more than men, and 1,376,205 women would lose their preventive care.⁴²

Medicaid expansion and women

The Affordable Care Act would help states pay for an expansion of Medicaid coverage. In Virginia, Medicaid expansion would extend health insurance coverage to more than 400,000 working people at relatively little cost to the state: The federal government will pay for 100 percent of the expansion for the first three years, gradually transitioning to 90 percent by 2020. In addition to the obvious health benefits of this policy, it would also be an economic boon, since the lack of access to affordable health care is often the cause of economic instability for many low-income people.

But as a result of the Supreme Court decision that states do not have to expand Medicaid coverage, some states have decided not to do so. Ken Cuccinelli has stated that he opposes the Medicaid expansion in Virginia and said if he becomes governor, he “would not seek the expansion.”⁴³

This policy choice hurts Virginia women in a number of ways. Choosing to reject the expansion denies coverage to 169,000 women in Virginia, all of whom are among the most unlikely to be able to afford insurance on their own and have to live with the fear that their next medical bill could bankrupt them. Right now, a family of three in Virginia making more than \$5,744 a year makes too much to be eligible for Medicaid; Medicaid expansion in Virginia would change that.⁴⁴

Virginia is hurt economically by Cuccinelli’s decision as well. The estimated economic impact to Virginia’s economy from expanding Medicaid in just the first five years is \$3.9 billion.⁴⁵ In that time, 30,000 new jobs would be created as a result of the expanded coverage and economic growth.⁴⁶

Working-class women in Virginia stand to benefit immensely from Medicaid expansion. Cuccinelli would turn his back on these Virginians, leaving them with nowhere to turn for health care coverage, while their neighbors earning the same amount in other states join the rolls of the insured.

The Cuccinelli caucus

Cuccinelli is not alone in his views. Most of the other conservatives running for statewide office also favor rolling back women’s access to health care and reproductive rights. The Republican caucus running to retain their seats in the House of Delegates is no friendlier.

Mark Obenshain

There is almost no difference between Cuccinelli’s policies and those of Mark Obenshain, who is running to take Cuccinelli’s position as attorney general. Obenshain co-sponsored personhood legislation, voted for TRAP laws, and voted for Cuccinelli’s amendment to defund Planned Parenthood.

Obenshain, however, has gone to an even further extreme. In 2009, Obenshain introduced a bill that would criminalize the failure to report a miscarriage to the police by making it a class 1 misdemeanor.⁴⁷ A class 1 misdemeanor carries a maximum sentence of 12 months and a fine.

- In the House of Delegates, 59 Republicans voted both for the transvaginal ultrasound⁵¹ bill and the personhood bill.⁵²
- Del. Bob Marshall (R-Prince William) is the original sponsor of the personhood bill that would give rights to fertilized eggs and outlaw many forms of birth control. Marshall has a long track record of disregarding women's health: He has said that God punishes women who have had an abortion by giving them disabled children⁵³ and has compared the Affordable Care Act to rape.⁵⁴ The personhood bill that eventually passed the House of Delegates was Marshall's third attempt to advance the legislation.⁵⁵
- During the debate on transvaginal ultrasounds in the House of Delegates, Del. Todd Gilbert (R-Shenandoah County) claimed that most women who seek abortions are doing so for "lifestyle convenience"⁵⁶ and therefore should not be distraught over the invasiveness of a transvaginal ultrasound.

Earl W. Jackson

Earl W. Jackson, the Republican nominee for lieutenant governor, has repeatedly taken extreme positions on women's health and reproductive rights. He "wholeheartedly support[s] the comparison of abortion and slavery,"⁴⁸ and has accused Planned Parenthood of being "far more lethal to black lives than the KKK ever was."⁴⁹ He has gone beyond opposing the Affordable Care Act: He believes "Virginia is duty bound to defy not comply" with the law.⁵⁰

Conclusion

Over the years, women have made enormous progress in ensuring their rights to control their own reproduction. With the passage of the Affordable Care Act, women have seen their ability to access affordable health care expand greatly.

Ken Cuccinelli and his caucus have been and will continue to be a threat to that progress. They would roll back laws meant to ensure women's safety, health, and security; they would work to reduce women's access to health care; and they would increase women's costs for insurance coverage. As his record shows, Ken Cuccinelli has continually put politics over critical issues for Virginian women. There is no reason to suspect he and his caucus will stop.

Acknowledgements

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