
Abramson, Brown & Dugan

A T T O R N E Y S

February 3, 2025

House Judiciary Committee

Hon. Robert Lynn, Chair
Hon. Dennis Manion, Vice-Chair

RE: HBH 232-FN – Relative to the Rights of Conscience for Medical Professionals

Honorable Chair, Vice Chair, and Members of the Committee:

I am a member of the New Hampshire Association for Justice (NHAJ), and a lawyer who has represented many patients harmed by medical errors, including patients who have been harmed by medical errors relating to their reproductive choices, including the failure to provide prophylactic contraceptive care and failure to offer early termination of their pregnancies. I have also represented many patients harmed by failures to provide necessary medical treatment in emergency situations. I write in opposition of HB 232-FN, which gives health care providers the right to conscientiously object and decline to provide health care services including abortion, sterilization, or artificial contraception services. While part of the stated intention of this bill to protect the “dignity of individual health care providers” is good; the bill, as written, will not achieve the rest of its intended purpose of ensuring that “the citizens of New Hampshire have access to quality health care.”

In addition to supporting the objections to the bill submitted by my colleagues based on the blanket immunity it provides to health care providers if they cause harm to patients suffering medical emergencies and the lack of alternatives it provides for patients in need of medical care, this bill is flawed in many respects, unworkable in practice, and unnecessary because its stated intent is already provided under federal law.



Mark A. Abramson
Kevin F. Dugan
Eva H. Bleich
Jared R. Green
Holly B. Haines
Nick E. Abramson
Elie A. Maalouf

First, the law is overly broad in that it applies to every person who conceivably could be involved in a person's decision regarding contraception, sterilization or abortion, including a pharmacy clerk at a drug store who refuses to sell male or female contraception and a scheduling clerk at a physician's office. It is not limited to physicians exercising their "rights of conscience" while providing patient care. Nor is it limited to "medical providers" as implied by its title.

Second, the law provides no exceptions in the case of medical emergencies or for necessary treatment of medical conditions outside of the realm of family planning. Nor does it mandate an alternate provider be available to provide necessary medical care if a provider objects under their "right of conscience." This law presumes that all pregnancy terminations, sterilization, and contraception procedures or devices are being used to end or prevent conception of human life. Frequently, pregnancy terminations and early deliveries, sterilization procedures, and contraception (hormonal or by implantable device) are used for the health and safety of the mother or woman. Often it is hazardous to the life of a mother to carry a child to term, or to have another pregnancy, both scenarios that might result in termination or sterilization. Sterilization may be required due to cancer of reproductive organs or prophylactically if a patient carries a BRCA 1 or 2 gene. Contraception may be used to alleviate pain and blood loss in women with endometriosis or uncontrollable bleeding, rather than to prevent a pregnancy. Under this bill none of these medical conditions could be treated if a health care provider (or someone in that office) objects.

Of the 46 other states which have "Rights of Conscience Acts," many have carved out exceptions for medical emergencies and ectopic pregnancies. Several also provide a duty to provide a referral to another health care professional if a provider refuses under its right of conscience. In states which do not have these exceptions, there are numerous documented cases of women who have been injured or killed because they were denied pregnancy termination in violation of the obstetrical standard of care and then they or their estates are left without legal recourse because the provider denying care is immune from suit. Women have become septic, experienced life threatening or fatal hemorrhaging, contracted life-threatening infections, and suffered through days of excruciating physical and emotional pain and suffering.

This bill provides none of these exceptions and will hurt New Hampshire citizens, denying them quality medical care and leaving them with no legal recourse. The proponents of this bill presume that a variety of options for medical care are available when the reality is that patients refused care in New Hampshire will often have no alternatives due to a lack of medical providers in a geographic region and a lack of time or resources for patients to get alternative care.

This bill would also violate federal law. Under EMTALA, hospitals receiving federal Medicare and Medicaid funding are precluded from denying emergency care to patients, **including patients in active labor** (emphasis added), regardless of ability to pay. If a hospital cannot provide the care, it must stabilize the patient and transfer him or her to a facility that can provide care. Under this bill, hospitals could refuse to provide care in violation of federal law and avoid liability due to the blanket immunity the statute provides.

Third, this bill creates a very slippery slope because people's rights of conscience encompass many things - - Providers could choose not to give medical care for labor and delivery to an unwed mother if they object on moral grounds. They could choose not to provide opiates to chronic pain patients if they objected on moral grounds. They could ignore "do not resuscitate" orders if they objected on moral grounds. This bill, while targeted at reproductive healthcare choices, could easily be extended to any type of medical care in any health care setting.

Finally, this bill is unnecessary because the protections it seeks are already provided under Federal Law and the exceptions it lacks are in violation of federal law. Under the "Church Amendments" contained at 42 U.S.C. § 300a-7 et seq, no health care provider accepting federal funds (which is all encompassing because it includes anyone receiving federal Medicare or Medicaid funding) may discriminate against any physician or health care personnel who refuse to participate in or perform abortion or sterilization procedures on moral or religious grounds. If a provider feels discriminated against in any way – including personnel decisions – they can file a complaint with the United States Department of Health and Human Services Office of Civil Rights. There are additional anti-discrimination provisions based on rights of conscience in the Public Health Service Act, 42 U.S.C. § 238n; the Weldon Act, an appropriation

House Judiciary Committee
February 3, 2025
Page Four

bill for the Departments of Education, Labor, and Health and Human Services; and the Affordable Care Act.

While this bill seeks to protect the lives of unborn children and prevent discrimination against health care providers exercising their rights of conscience, it does so at the risk of the lives of women seeking reproductive and emergency medical care and it discriminates against those women by refusing to provide critical reproductive health care services, forcing the values of health care providers on people who may not share them. This bill, in effect, says the lives of the unborn are worth more than the lives of the living and the rights of conscience of pro-life health care providers are worth more than the rights of conscience of pro-choice or neutral patients. It is not the legislature's job to dictate morality or religious choices to patients and the House should deem this bill inexpedient to legislate.

Very truly yours,

Holly B. Haines

Holly B. Haines