E-FILED
Wednesday, 17 May, 2017 02:58:33 PM
Clerk, U.S. District Court, ILCD

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

DR. RONALD L. SCHROEDER, et al.,	)	
	)	
Plaintiffs,	)	Case No. 17-cv-3076
	)	
v.	)	Judge Sue E. Myerscough
	)	Magistrate Judge Tom Schanzle-Haskins
BRUCE RAUNER, et al.,	)	
	)	
Defendants.	)	

UNCONTESTED MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE* AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, ILLINOIS ACADEMY OF FAMILY PHYSICIANS, *ET AL.*, IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Proposed *amici curiae* American College of Obstetricians and Gynecologists, Illinois Academy of Family Physicians, and leading medical ethicists and professionals, respectfully move this Court for leave to file Brief of *Amici Curiae* in Opposition to Plaintiffs' Motion for Preliminary Injunction. A copy of the Brief of *Amici Curiae* is attached hereto as Exhibit A, and a full list of the proposed *amici* is attached to the Brief as Exhibit 1. In support of this Motion, proposed *amici* submit their brief and state as follows:

1. Proposed *amici* seek to provide the Court with the medical, ethical, and legal context for the patient protections enacted in the 2017 amendments to the Illinois Health Care Right of Conscience Act ("HCRCA"), 745 ILCS 70/1, *et seq.*, which Plaintiffs' seek to enjoin. Pub. Act 990-690 ("2017 Amendments"). Counsel for plaintiffs and defendants have authorized proposed *amici* to represent to the Court that there is no opposition to the filing of proposed *amici*'s brief.

2. District courts have broad discretion to decide whether to accept *amicus* briefs. *See Chamberlain Grp., Inc. v. Interlogix, Inc.*, No. 01 C 6157, 2004 WL 1197258, at *1 (N.D.

Ill. May 28, 2004), *citing Nat'l Org. for Women, Inc.*, 223 F.3d 615, 616-17 (7th Cir. 2000). Some of the factors to be considered in deciding whether to accept such briefs include whether it will "assist the judge . . . by presenting ideas, arguments, theories, insights, facts, or data" not presented by the parties and whether "the *amicus* has a unique perspective or specific information that can assist the court. . ." *Id.*; *see also United States v. Bd. of Educ. of City of Chicago*, No. 80 C 5124, 1993 WL 408356, at *3, 4 (N.D. Ill. Oct. 12, 1993) (exercising its discretion to grant *amicus* status to organizations that presented "information and concerns [that] may be useful in the resolution of the matter.")

3. Proposed *amici* include leading professional medical organizations that promote quality health care and informed, autonomous medical decision making by patients through the creation and implementation of evidence based practice guidelines and ethical standards for the practice of medicine. Proposed *amici* also include medical ethicists and physicians who have treated patients harmed as a result of the denial of standard of care medical information by other health care providers based on religious objections. When medical professionals withhold information necessary for a patient to make autonomous medical decisions, they violate the most basic ethical principles governing the patient provider relationship and medical practice. The 2017 Amendments were enacted to ensure that when health care providers assert religious objections to care, they fulfill their ethical obligations of ensuring that patients have the information they need to make informed medical decisions and access care.

4. Proposed *amici* offer an important perspective on the ethical guidelines relevant to the issue before the Court and offer ideas, arguments, insights, and information that will be helpful to the resolution of this case beyond those offered by the parties. *See id*. The information

and perspective that proposed *amici* offer is critical to an understanding of the medical, ethical, and legal context that compelled the Illinois General Assembly to amend the HCRCA.

WHEREFORE, proposed *amici* respectfully request that this Court grant them leave to file their brief attached hereto as Exhibit A, to assist in the resolution of this matter.

Dated: May 17, 2017

Respectfully Submitted,

s/ Lorie A. Chaiten
Lead counsel for proposed *Amici Curiae*

LORIE CHAITEN
JENNA PROCHASKA
Roger Baldwin Foundation of ACLU, Inc.
180 N. Michigan Ave., Suite 2300
Chicago, IL 60601
T: (312) 201-9740
F: (312) 288-5225
lchaiten@aclu-il.org
jprochaska@aclu-il.org

CERTIFICATE OF SERVICE

I, Lorie Chaiten, an attorney, hereby certify that I caused true and correct copies of the foregoing UNCONTESTED MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE* AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, ILLINOIS ACADEMY OF FAMILY PHYSICIANS, *ET AL.*, IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION to be served upon all counsel of record via the ECF system of the U.S. District Court, Central District of Illinois on this 17th day of May 2017.

s/ Lorie A. Chaiten

E-FILED
Wednesday, 17 May, 2017 02:58:33 PM
Clerk, U.S. District Court, ILCD

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

DR. RONALD L. SCHROEDER, et al.,	)	
	)	
	)	
Plaintiffs,	)	Case No. 17-cv-3076
	)	
v.	)	Judge Sue E. Myerscough
	)	Magistrate Judge Tom Schanzle-Haskins
BRUCE RAUNER, et al.,	)	
	)	
Defendants.	)	

BRIEF OF *AMICI CURIAE* AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, ILLINOIS ACADEMY OF FAMILY PHYSICIANS, *ET AL.*, IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Amici curiae[1] include leading organizations of medical professionals that promote evidence-based, quality health care; medical ethicists; and physicians who have treated patients harmed when their health care providers denied them medical information on religious grounds. *Amici* file this brief to assist the Court in understanding the medical, ethical, and legal principles underlying the critical patient protections the Illinois General Assembly enacted in Pub. Act 99-690 (eff. Jan 1, 2017) ("2017 Amendments"), which Plaintiffs challenge.

Under Illinois law, health care providers must adhere to a professional standard of care that requires them to give patients all relevant information about their medical circumstances and treatment options – including the risks, benefits, and alternatives associated with such options. Health care professionals who fail to provide information within the current standards of medical practice may be subject to malpractice suits and professional discipline. In 1977, Illinois adopted the Illinois Health Care Right of Conscience Act, 745 ILCS 70/1, *et seq.* ("HCRCA"), which

[1] Exhibit 1 includes a complete list and descriptions of *amici curaie.*

exempted one category of provider – those with religious objections – from such liability and discipline. It allowed some individuals and institutions that hold themselves out as health care providers to withhold standard of care treatment and information from their patients.

After hearing from patients and providers about the harm the HCRCA had caused, the Illinois legislature passed the 2017 Amendments to ensure that, when health care providers deny standard medical treatment to their patients on religious grounds, patients will nevertheless receive information about their condition, prognosis, and treatment options. The 2017 Amendments recalibrate Illinois law, adding patient protections that are in full accord with the medical, ethical, and legal duties health care providers owe their patients.

ARGUMENT

I. THE 2017 AMENDMENTS ALIGN WITH THE ETHICAL AND LEGAL OBLIGATIONS OF ALL HEALTH CARE PROFESSIONALS.

A. Health Care Professionals Have Ethical Duties to Provide Patients Information Relevant to their Medical Circumstances and Treatment Options.

The expectation of trust that lies at the center of the relationship between health care providers and patients gives rise to a range of duties, including the duty to give patients the information needed to understand their medical circumstances and make informed medical decisions. Under the ethical concepts of informed consent and informed decision making, "[p]atients who have the capacity to make decisions about their care must be permitted to do so voluntarily and must have all relevant information regarding their condition and alternative treatments, including possible benefits, risks, costs, [and] other consequences . . . ."[2]

[2] U.S. President's Comm'n for the Study of Ethical Problems in Medical and Biomedical Behavioral Research, *Making Health Care Decisions: The Ethical and Legal Implications of Informed Consent in the Patient-Practitioner Relationship*, 2 (1982), http://repository.library.georgetown.edu/bitstream/handle/10822/559354/making_health_care_decisions.pdf ("President's Comm'n Report").

These principles are reflected in the standards set by the leading medical professional organizations – including the American Medical Association ("AMA"), American College of Obstetricians and Gynecologists ("ACOG"), American Nurses Association ("ANA"), American Academy of Physician Assistants ("AAPA"), American College of Nurse-Midwives ("ACNM"), and American Academy of Pediatrics ("AAP") – all of which affirm that health care professionals are required to give patients full, accurate, and relevant medical information.[3] This information must include treatment options to which the provider objects on conscience grounds, if such options are relevant to the patient's medical circumstances and decision making.[4]

B. Illinois Law Creates Legal Duties Consistent the Ethical Principles that Govern Informed Decision Making.

Illinois statutory and common law impose duties on medical professionals to comply with their ethical and professional obligations to provide complete, accurate medical counseling to patients. For example, the Medical Practice Act and Nurse Practice Act both obligate providers to comport with the current standards of ethical medical practice. *See, e.g.*, 225 ILCS

[3] Am. Med. Ass'n, *Code of Med. Ethics*, 2.1.1 (2016), https://www.ama-assn.org/about-us/code-medical-ethics ("AMA Code of Ethics"); Am. Coll. of Obstetricians and Gynecologists, *Code of Professional Ethics*, 2 (2011), http://www.acog.org/-/media/Departments/National-Officer-Nominations-Process/ACOGcode.pdf; Am. Nurses Ass'n , *Code of Ethics for Nurses*, 1.4, 2.1 (2015), http://nursingworld.org/DocumentVault/Ethics-1/Code-of-Ethics-for-Nurses.html; Am. Acad. of Physician Assistants, *Guidelines for Ethical Conduct for the Physician Assistant Profession*, 6-7 (2013), https://www.aapa.org/wp-content/uploads/2017/02/16-Ethical Conduct.pdf ("AAPA Guidelines"); Am. Coll. of Nurse-Midwives, *Code of Ethics* (2013), http://www.midwife.org/ACNM/files/ACNMLibraryData/uploadfilename/000000000048/Code-of-Ethics.pdf; Am. Acad. of Pediatrics, Comm. on Bioethics; *Physician Refusal to Provide Information or Treatment on the Basis of Claims of Conscience*, 124 Pediatrics 1689 (2009), http://pediatrics.aappublications.org/content/124/6/1689 ("AAP Statement").

[4] *See* AMA Code of Ethics, 1.1.7; Am. Coll. Of Obstetricians and Gynecologists, *Comm. Op. 385: The Limits of Conscientious Refusal in Reproductive Medicine* (2016) ("ACOG Comm. Op. 385"), http://www.acog.org/-/media/Committee-Opinions/Committee-on-ethics/co385.pdf. *See also* Lori Freedman, *et al.*, *When There's a Heartbeat: Miscarriage Management in Catholic-Owed Hospitals*, 98 Am. J. of Public Health 1774, 1775 (2008), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2636458.

60/22(A)(1); 225 ILCS 65/70-5(b)(7).[5] The Medical Patient Rights Act, 410 ILCS 50/0.01, *et seq.*, also codifies the rights of patients to obtain care that is consistent with current standards of medical practice, including the right "to receive information concerning his or her condition and proposed treatment." 410 ILCS 50/3(a).

Illinois common law similarly incorporates these principles, recognizing that physicians are "learned, skilled and experienced in subjects of vital importance to the patient but about which the patient knows little or nothing." *Goldberg ex rel. Goldberg v. Ruskin*, 128 Ill. App. 3d 1029, 1040 (1st Dist. 1984) (internal quotation marks omitted). Physicians thus take on an affirmative duty to "advise the patient in accordance with proper medical practice," *id*. at 1040, with "the same degree of knowledge, skill and ability as an ordinarily careful professional would exercise under similar circumstances." *Jones v. Chi. HMO Ltd. of Ill.*, 191 Ill. 2d 278, 295 (2000). This includes upholding the legal duty to give patients the information they need to make informed decisions about which, if any, treatment to accept – including information about the foreseeable risks and benefits of a recommended intervention, as well as any reasonable alternatives. *See Guebard v. Jabaay*, 117 Ill. App. 3d 1, 6 (2d Dist. 1983); *In re Estate of Longeway*, 133 Ill. 2d 33, 44 (1989).

C. Prior to the 2017 Amendments, the HCRCA Afforded Health Care Providers with Religious Objections a Broad Exemption from Liability for their Failure to Give Medically Relevant Information to Their Patients.

Before it was amended, the HCRCA permitted health care providers to refuse to "assist, counsel, suggest, recommend, refer, or participate in any way in any form of medical practice or

[5] *See also* 68 Ill. Admin. Code 1285.240(a)(1)(A); *Id.* at (a)(2)(E) (unprofessional conduct includes activities that are "violative of ethical standards of the profession"); 68 Ill. Admin. Code 1300.90(c) (incorporating the Code for Nurses of the American Nurses Association in defining what constitutes unethical or unprofessional conduct under the Nurse Practice Act).

health care service that is contrary to his or her conscience." 745 ILCS 70/6.[6] *See also* 745 ILCS 70/4 (shielding individual providers from civil or criminal liability for such refusals); 70/9 (shielding health care facilities from liability). These exemptions applied to all health care services, defined broadly to include testing, diagnosis, prognosis, counseling, referrals, medication, surgery, or any other care or treatment "intended for the physical, emotional, and mental well-being of persons." 745 ILCS 70/3(a). The law thus gave providers with religious objections broad protection from liability and professional discipline even for withholding standard of care information material to a patient's medical decision making process.

The amended HCRCA still affords extensive protections to providers with religious objections, but it now ensures that patients will receive the information they need to make informed medical decisions. Objecting providers may take advantage of the protections of the HCRCA *only* when they follow protocols designed to ensure that patients are not harmed as a result. *See* Pub. Act 99-690 at § 6.1. Even when a provider has religious objections, the patient must be informed of their "condition, prognosis, legal treatment options, and risks and benefits of the treatment options in a timely manner, consistent with current standards of medical practice or care." *Id.* at § 6.1(1). If a patient requests a service that no one in the facility will provide, the patient must either be referred or transferred elsewhere, or given written information about other providers who the objecting provider reasonably believes may offer the service – someone else who can counsel the patient and facilitate access to care. *Id*. at § 6.1(2), (3).

Plaintiffs incorrectly contend that the amended HCRCA imposes a new set of obligations applicable only to religious objectors. *See* Complaint, Doc. No. 1 ("Compl.") ¶ 40; Plaintiffs'

[6] The HCRCA defines conscience as "a sincerely held set of moral convictions arising from belief in and relation to God, or which though not so derived, arises from a place in the life of its possessor parallel to that filled by God among adherents to religious faiths. . ." 745 ILCS 70/3(e).

Memorandum in Support of Motion for Preliminary Injunction, Doc. No. 3 ("Pls. Br.") at 7. In fact, under Illinois law, *all* health care providers who fail to comply with their ethical and legal duties to give patients standard of care information risk facing a malpractice action or disciplinary proceeding. The 2017 Amendments do not create new duties for religious objectors; they simply make clear that when such providers take advantage of the broad accommodations afforded under the HCRCA, their patients will get the information they need.

II. PATIENTS SUFFERED HARM WHEN HEALTH CARE PROVIDERS WITHELD INFORMATION ABOUT RELEVANT TREATMENT OPTIONS.

Prior to the 2017 Amendments, the only patient protection in the HCRCA was the requirement that health care providers treat patients in emergency situations. 745 ILCS 70/6, 9. The emergency exception had been narrowly interpreted to cover only those situations involving "'an element of urgency and the need for immediate action,' such as 'a ruptured appendix or surgical shock.'" *Morr-Fitz, Inc. v. Quinn*, 2012 IL App (4th) 110398, ¶ 76 (quoting *Gaffney v. Bd. of Trs. of Orland Fire Prot. Dist.*, 2012 IL 110012, ¶ 62). In practice, many patients face medical circumstances that do not fall within these parameters but that nevertheless require immediate disclosure of standard of care treatment options to prevent an emergency from arising. Patients who are denied timely information on religious grounds face the risk of a worsening condition that might be avoided with prompt disclosure and access to care.

The 99th General Assembly heard from patients and providers about the harms of such denials of care and information. *See, e.g.*, Ill. 99th Gen. Assemb., *H.R. Human Services Comm. Hearing on Sen. Bill 1564*, 13:8-16:12 (May 13, 2015) ("SB 1564 H.R. Comm. Tr.") (attached as Exhibit 2). Mindy Swank sought care after her water broke early in her pregnancy. Although she was told that the fetus she was carrying suffered from severe anomalies, and that her preterm membrane rupture could lead to infection that would threaten her health and fertility, she

struggled to obtain the information and services necessary to end her pregnancy to avoid such risk because of religious restrictions imposed by the facilities at which she sought care. *Id.*[7] She urged the legislature to "ensure that other couples will get the information that they need to make informed health care decisions and to access the care that they need." SB 1564 H.R. Comm. Tr. 16:8-12; *see also* Ill. 99th Gen. Assemb., *Sen. Floor Debate* 183 (Apr. 22, 2015), http://www.ilga.gov/senate/transcripts/strans99/09900031.pdf ("SB 1564 Sen. Deb. Tr.") (Statement of Sponsor, Sen. Daniel Biss) (The purpose of the bill was to ensure that patients receive information about their treatment options, so as to avoid experiences like Ms. Swank's). Dr. Maura Quinlan, a board-certified obstetrician-gynecologist ("Ob-Gyn") and Chair of the Illinois Section of ACOG, testified, based on professional experience, that the HCRCA needed to be amended to ensure that that "[p]atients seeking health care [do] not have to wonder if they're receiving information about all of their treatment options." SB 1564 H.R. Comm. Tr. 16:17-20:8.

The physician members of *amici* ACOG and the Illinois Academy of Family Physicians, as well as individual *amici* and their colleagues, regularly treated patients suffering harm because health care providers practicing in religious institutions denied them standard treatment and information. Dr. Sabrina Holmquist treated a patient who was 14 weeks pregnant and had been transferred to the University of Chicago Medical Center after actively bleeding and contracting for days in a nearby Catholic hospital.[8] The doctors in the Catholic hospital had told the patient

---

[7] *See also* Am. Civil Liberties Union, *Health Care Denied: Patients and Physicians Speak Out About Catholic Hospitals and the Threat to Women's Health and Lives*, 8-9 (2016), http://www.aclu.org/sites/default/files/field_document/healthcaredenied.pdf ("Health Care Denied").

[8] The hospital adhered to the Ethical and Religious Directives for Catholic Health Care Services, imposed on all Catholic health care facilities. *See* U.S. Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services* (5th ed. 2009) ("ERDs"), http://www.usccb.org/issues-and-action/human-life-and-dignity/health-care/upload/Ethical-Religious-Directives-Catholic-Health-Care-Services-fifth-edition-2009.pdf. The ERDs prohibit a

that they could keep her baby alive with repeated blood transfusions but did not tell her that it would be impossible to keep a 14 week fetus alive for the months necessary for it to be able to survive outside the womb. They did not tell her that standard treatment included quickly ending the pregnancy to stop the serious risk to the patient. By the time this patient was transferred for an emergency abortion, she was unstable and at risk for dying in transit.

In the spring of 2015, Dr. AuTumn Davidson was called to the University of Illinois Hospital in the middle of the night to perform an emergency abortion for a patient who was 19 weeks pregnant and bleeding heavily as a result of a pregnancy complication called sub-chorionic hemorrhage. She had sought care at two Catholic hospitals, both of which sent her away without telling her that standard of care treatment options included ending the pregnancy, as the odds of continuing the pregnancy long enough to deliver a viable baby were very low and the continued bleeding created a serious risk for the patient. At the second hospital, someone whispered that they were not supposed to talk about abortion, but that if she wanted one, she could go elsewhere. By the time Dr. Davidson saw her, her life and health were in jeopardy because she had not been timely informed about her options. *See* Health Care Denied at 5.

Patients seeking contraception and sterilization were also denied care and information before the HCRCA was amended. Angela Valavanis, a 39 year-old mother of three, had given her Ob-Gyn a written birth plan, which stated that she wanted a procedure to have her tubes tied – a tubal ligation – if she had to have a cesarean section ("c-section"). No one told Ms. Valavanis that, because her Ob-Gyn delivered in a religious hospital, she could not have the procedure she

---

wide range services. *See, e.g., id*. at Directives 24, 41, 45, 52, 53, and 60. Some providers interpret them to require withholding not just care, but also information about prohibited services. *See, e.g., id*. at Directives 27 and 28 (limiting information that may be provided to patients to that which is considered "morally legitimate").

requested. *Id*. at 23-24. They did not tell her this until she had been in labor for days and was being wheeled in for the c-section – too late to arrange to deliver elsewhere. *Id*.

Individuals seeking services in other realms of health care were also at risk of being denied treatment and information. For example, a reproductive endocrinologist (specializing in infertility treatment) who is a member of the Illinois Section of ACOG had seen multiple patients who had been treated by providers that rejected the use of *in vitro* fertilization ("IVF") on religious grounds. These patients had been subjected to medical procedures that were not the standard of care for someone their age and in their circumstances, and were never told about available treatment options, such as IVF, that would have had a much greater chance of resulting in pregnancy. In one case, by the time the patient learned the information she had been denied by the religious practice, she had virtually no chance of conceiving with her own eggs.

Patients treated at the end of life by providers with religious objections to withdrawing life sustaining treatment were also at risk of being turned away without the information needed to make informed decisions about their options. *See, e.g.*, ERDs, Directive 55 (limiting the information relating to end-of-life care to "morally legitimate choices"). *See also* Ill. 99th Gen. Assemb., *H.R. Floor Debate* 76 (May 25, 2016) ("SB 1564 H.R. Deb. Tr."), http://www.ilga.gov/house/transcripts/htrans99/09900136.pdf (Statement of Sponsor, Rep. Robin Gabel) (Before the 2017 Amendments, the HCRCA allowed providers with conscience objections to "refuse to provide any health care tests or procedures and even information" such that patients were "denied many kinds of health care including miscarriage management, tubal ligation, birth control, and end of life care. . . ")

III. PLAINTIFFS' ARGUMENTS DO NOT EXCUSE THEM FROM THEIR ETHICAL AND LEGAL OBLIGATIONS TO PATIENTS.

A. Contrary to Plaintiffs' Contention, the Obligation to Provide Complete Information to Patients Cannot Be Disregarded in the Realm of Reproductive Health Care.

Plaintiffs assert that they do not believe contraception, sterilization, and abortion are treatment options and thus should not be required to discuss them as options with patients. *See, e.g.*, Compl. ¶¶ 1, 15, 18, 37. However, medical science and patient experience make clear that these services are not only legal treatment options, but essential health care for many women. Preventing unplanned pregnancy through the use of contraception and sterilization leads to a wide range of benefits, including reduced maternal mortality and the health benefits of pregnancy spacing.[9] Unintended pregnancy is associated with delays in initiating prenatal care and lower birth weight, among other significant health risks, while planned pregnancy improves health and economic outcomes for women and children.[10] Contraceptive medications also offer non-contraceptive health benefits, including decreased bleeding and pain with menstrual periods and reduced risk of gynecologic disorders, such as endometrial and ovarian cancer.[11]

Abortion is also a legal treatment option with a range of health and other benefits. *See Planned Parenthood v. Casey*, 505 U.S. 833, 852, 871 (1992), *citing Roe v. Wade*, 410 U.S. 113 (1973). Access to abortion services permits women to control their reproductive lives regardless

---

[9] *See* Am. Coll. Of Obstetricians and Gynecologists, *Comm. Op. No. 615*: *Access to Contraception*, 2 (2015), http://www.acog.org/-/media/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/co615.pdf ("ACOG Comm. Op. 615").

[10] *See* U.S. Dep't of Health and Human Servs., Office of Disease Prevention and Health Promotion, *Healthy People 2020: Family Planning*, https://www.healthypeople.gov/2020/topics-objectives/topic/family-planning; Megan L. Kavanaugh & Ragnar M. Anderson, Guttmacher Institute, *Contraception and Beyond: The Health Benefits of Services Provided at Family Planning Centers*, 5-9 (2013), https://www.guttmacher.org/sites/default/files/report_pdf/health-benefits.pdf ("Guttmacher Report").

[11] *See* ACOG Comm. Op. 615 at 2; Guttmacher Report at 11-13.

of contraceptive failure, and thus to "participate equally in the economic and social life of the Nation." *Id.* at 856. Women who choose to carry a pregnancy to term face significant health risks,[12] as well as physical constraints and pain. *Casey,* 505 U.S. at 852. Some women who become pregnant also encounter medical circumstances that could lead to "illness with substantial and irreversible consequences" without access to abortion. *Id.* at 880. For example, patients with certain cardiac conditions such as aortic stenosis[13] and pulmonary hypertension,[14] and blood disorders such as leukemia[15] should be advised that early pregnancy termination can help to avoid serious health risks. Abortion may be also necessary to preserve the health of a woman experiencing pregnancy complications, such as an incomplete miscarriage, that could cause deadly infections if the uterus is not evacuated.[16]

---

[12] *See* Am. Coll. Of Obstetricians and Gynecologists, *FAQ No. 43: Induced Abortion*, 2 (2015), http://www.acog.org/-/media/For-Patients/faq043.pdf ("ACOG FAQ No. 43") ("[T]he risk of dying from giving birth is 14 times greater than the risk of dying from an early abortion.").

[13] *See, e.g.*, Lorna Swan, *Congenital heart disease in pregnancy,* 28 Best Practice and Research Clinical Obstetrics and Gynaecology, 495, 501 (2014) ("If a woman with significant aortic stenosis . . . become[s] pregnant, then an attempt to stratify the risks associated with continuing with the pregnancy should be made. Women with high-risk features may wish to consider termination of pregnancy.").

[14] *See, e.g.*, Petronella G. Pieper, *et al.*, *Pregnancy and pulmonary hypertension*, 28 Best Practice and Research Clinical Obstetrics and Gynaecology 579, 588 (2014) ("Pulmonary hypertension during pregnancy is associated with considerable risks of maternal mortality and morbidity. . . When women with pulmonary hypertension become pregnant, termination of pregnancy is recommended.").

[15] *See, e.g.*, Irit Avivi and Benjamin Brenner, *Management of acute myeloid leukemia during pregnancy*, 10 Future Oncology 1407 (2014) ("[T]he recommended approach in case[s] of leukemia occurring very early during gestation is pregnancy termination and prompt employment of full conventional therapy.").

[16] *See, e.g.*, Anthony Sciscione and Gwendolyn Grant, *Patient counseling following periviable premature rupture of the membranes*, Contemporary OB/GYN (2014), http://contemporaryobgyn.modernmedicine.com/contemporary-obgyn/news/patient-counseling-following-periviable-premature-rupture-membranes-3 (In the setting of periviable premature rupture of the membranes pregnancy termination "should be discussed as an option given the neonatal prognosis and maternal risks.").

In addition, a women who learns from her health care provider that her fetus would be unlikely to survive or thrive after delivery because of severe anomalies, may decide that the risk to her health of carrying the pregnancy to term[17] is unacceptable under the circumstances. Of course, a woman might decide to continue a pregnancy despite the presence of severe, even fatal fetal anomalies and the significant risk to her health; however, law and ethics require that risks be taken on voluntarily; the informed consent process should, therefore, contain "safeguards against limits to voluntariness, ranging from undue influence to coercion."[18]

Given the range of factors to be considered in making decisions related to reproductive health care services, it is essential that health care providers offering these services "impart accurate and unbiased information," including all "scientifically accurate and professionally accepted characterizations of reproductive health services," tailored to the patient's needs.[19] Withholding such information can lead to delay in obtaining reproductive health care that can increase risk, *see, e.g. Planned Parenthood of Wis., Inc. v. Van Hollen*, 94 F. Supp. 3d 949, 990 (W.D. Wis.), *aff'd sub nom. Planned Parenthood of Wis., Inc. v. Schimel*, 806 F.3d 908 (7th Cir. 2015), *cert. denied*, 136 S. Ct. 2545 (2016) (delays in accessing abortion services "obviously . . . mean that women are receiving abortions later in gestation, which in turn increases health risk."), decrease effectiveness, or, in the case of time-sensitive treatments such as emergency

[17] ACOG FAQ No. 43 at 2.

[18] Am. Coll. Of Obstetricians and Gynecologists and Am. Acad. of Pediatrics Comm. on Bioethics, *Comm. Op. 501: Maternal-Fetal Intervention and Fetal Care Centers*, 2 (2014), http://www.acog.org/-/media/Committee-Opinions/Committee-on-Ethics/co501.pdf.

[19] ACOG Comm. Op. 385 at 3-5. Contrary to Plaintiffs contention, *see* Compl. ¶ 43; Pls. Br at 9, neither the amended HCRCA nor the doctrine of informed consent forces health care providers to talk about abortion, contraception, or any health care service with patients who do not want or need such information. Consistent with the current standards of medical practice, providers must tailor the dialogue to the needs and wishes of a given patient. *See* 745 ILCS 70/6.1(1); President's Comm'n Report at 71.

contraception and abortion, deprive a patient of the treatment altogether.[20]

B. Plaintiffs Hold Themselves Out at Health Care Providers and Thus Must Uphold Their Duties to Patients.

Plaintiffs represent themselves as medical providers, *see, e.g.*, Compl. ¶ 1; Pls. Br. at 1-3, that offer services relating to pregnancy including options counseling to pregnant women.[21] Although they encourage women to come to them for "accurate information about abortion" and other options, *see* PASS Website, they admit here that their personnel are prohibited from actually providing such information. *See* Compl. ¶¶ 1, 37. Plaintiffs also admit that they do not provide information about or referrals for contraception and sterilization. *See* Compl. ¶ 1. It appears that, as a result, patients in need of accurate, unbiased information about these services have been misled.[22] Denying patients standard of care medical information about reproductive health care services erodes the trust underlying the patient-provider relationship, which is essential to the ethical practice of medicine, and places patients at significant risk of harm.

In *Nat'l Inst. of Family & Life Advocates v. Harris*, the United States Court of Appels for

[20] Mark R Wicclair, *Conscientious Objection in Health Care: An Ethical Analysis* 105 (2011). For example, if a rape victim seeks care at an emergency room, she may not know that emergency contraception ("EC") could substantially reduce her risk of becoming pregnant. *Id.* at 104. The longer she waits to use the EC, the less effective it becomes, and in a short time, the patient might miss the "opportunity to decide whether or not to take EC." *Id.*; s*ee also* ACOG Comm. Op. 385 at 1-2.

[21] PASS states that it offers "Pregnancy Options Information" and "accurate information about abortion, adoption, and parenting." PASS Website, *Intervention*, http://helppass.org/intervention (last visited May 15, 2017). *See also* 1st Way Website, http://www.1stwaymchenry.com/?page_id=42 (last visited May 15, 2017) (listing "private counseling sessions" for "women and couples with unexpected pregnancies" under "Services").

[22] *See, e.g.* Yelp, *PASS Pregnancy Care Center*, http://www.yelp.com/biz/pass-pregnancy-care-center-tinley-park (last visited on May 15, 2017). As one patient explains, PASS "falsely presents [itself] as an outlet for information and care related to pregnancy," and does not make its religious viewpoint apparent. *Id.* This patient reports going to PASS "looking for information on choosing a birth-control pill," but being given "a handful of pamphlets on birth defects caused by the use of contraception." *Id.* Another review states that PASS gives false information and tries to "scare" patients out of using contraceptives. *Id.*

the Ninth Circuit expressed concern about the risks posed by health care providers like the Plaintiffs, explaining that crisis pregnancy centers ("CPCs") often "pose as full-service women's health clinics, but aim to discourage and prevent women from seeking abortions" in order to fulfill their goal of "interfer[ing] with women's ability to be fully informed and exercise their reproductive rights." 839 F.3d 823, 829 (9th Cir. 2016), *citing* California Assemb. Comm. on Health, *Analysis of Assemb. Bill No. 775*, 3 (CPCs often employ "intentionally deceptive advertising and counseling practices [that] often confuse, misinform, and even intimidate women from making fully-informed, time-sensitive decisions about critical health care.")

Similar concerns were raised by the Illinois General Assembly. *See, e.g.*, SB 1564 H.R. Deb. Tr. 54, 87. Bill Sponsor, Representative Robin Gabel explained that many CPCs hold themselves out as providers of health care services for pregnant women, posting signs that state "[A]re you pregnant, concerned? Call us." *Id.* at 54. Many young women "don't know where to go," use Google to find their options, and "end up going to a crisis pregnancy center where they are not given full information." *Id.* at 87. An opponent of the legislation responded that, in her opinion, receiving incomplete information from a CPC would "not [be] such a bad option" for a young women. *Id*. (Statement of Rep. Sheri Jesiel); *see also* SB 1564 Sen. Deb. Tr. 188 (Statement of Sen. Dale Righter) (CPCs "exist for the purpose of providing care, but also, quite frankly, avoiding abortion.").

The amended HCRCA would not affect the practices of an entity that advanced a mission like the plaintiffs' – "motivat[ing] women" to "choose life for their unborn babies," Pls. Br. at 1 – without holding itself out as a health care provider. *See* 745 ILCS 70/3; 6; 6.1. However, once an entity chooses to provide medical services, it takes on the same obligations of all medical services providers, and may not withhold medically relevant information. *Id*.; *see also* SB 1564

H.R. Comm. Tr. 12:9-15 (explaining that "[i]f a [CPC] holds itself out as a healthcare provider, the medical standard of care applies. That means that they have to accurately discuss a patient's treatment options with her. If they don't and the patient suffers harm, they won't be able to use the [amended HCRCA] to shield themselves from liability."); H.R. Deb. Tr. 53, 73-74 (same).

Plaintiffs are wrong in asserting that the 2017 Amendments alter the standard of care. *See* Compl. ¶ 15; Pls. Br. at 12. To the contrary, the amended law "simply makes clear that [the] basic standard of care still applies where health care providers object" to providing certain services on religious grounds and "ensures that patients are not left in the dark" about their circumstances and options. SB 1564 H.R. Deb. Tr. 51 (Statement of Sponsor, Rep. Gabel).

Plaintiffs also suggest, incorrectly, that providing limited health care services and relying on unlicensed volunteers to provide patient counseling absolves the risk of liability for misleading or incomplete information provided to patients. *See* Pls. Br. 2-3. In fact, Illinois law holds medical services providers liable for the actions of their agents and apparent agents, *see York v. Rush-Presbyterian-St. Luke's Med. Ctr*., 854 N.E.2d 635, 661 (Ill. 2006); *Wilson v. Edward Hosp.*, 981 N.E.2d 971, 978 (Ill. 2012), such that the use of volunteers for patient counseling cannot absolve a licensed professional from his or her obligation to uphold the autonomous decision making rights of the patients who come to them seeking health care and accurate information about their treatment options.

C. The Requirements of the Amended HCRCA Are Narrowly Crafted to Protect Patients, and Cannot Be Replaced by Websites, Billboards, or Phonebooks in Bars.

Plaintiffs contend that the 2017 Amendments were unnecessary, as patients could obtain the relevant medical information from independent sources, such as websites, flyers, billboards, or telephone books in bars. *See* Compl. ¶¶ 35, 42; Pls. Br. at 8. This argument overlooks the important role of health care professionals – both as counselors and in facilitating patient access

to services. Patients do not suspect that their health care providers will withhold information about standard treatments. In the face of provider silence, many patients will not know that a treatment option exists or to look on the internet for it. *See, e.g.* Wicclair, *supra* note 22, at 103. ("Despite the Internet and various other resources available to the general public, patients often are dependent on health care professionals for reliable information about a good or service that will meet their health needs and interests.") Patients denied care are also unlikely to know their options or how to identify a willing professional from which they may be able to obtain the needed services. AAP Statement at 1692. For this reason, many ethical guidelines require more than the amended HCRCA – ensuring that objecting providers make direct referrals for care.[23]

The amended HCRCA was carefully crafted to conform with the dictates of ethical medical practice. Each of the requirements of the amended law is necessary to ensure that patients are equipped to make informed medical decisions and are not harmed as a result of their providers' religious objections. They cannot be replaced by websites or phonebooks in bars.

CONCLUSION

Amici curiae respectfully urge this Court to consider the full medical and ethical context for the protections enacted in the 2017 Amendments and, accordingly, deny Plaintiffs' Motion for Preliminary Injunction.

[23] *See e.g.* ACOG Comm. Op. 385 at 1 (describing the duty of providers with conscience objections to refer patients in a timely manner to other providers); AAPA Guidelines at 4-5 (same); AAP Statement at 1692 (same).

DATED: May 17, 2017

Respectfully submitted,

s/ Lorie Chaiten
Lead counsel for *Amici Curaie*

LORIE CHAITEN
JENNA PROCHASKA
Roger Baldwin Foundation of ACLU, Inc.
180 N. Michigan Ave., Suite 2300
Chicago, IL 60601
T: (312) 201-9740
F: (312) 288-5225
lchaiten@aclu-il.org
jprochaska@aclu-il.org

CERTIFICATE OF COMPLIANCE PURSUANT TO RULE 7.1(B)(4)(b)(1)

Counsel for *Amici Curaie* hereby certify that the foregoing BRIEF OF *AMICI CURIAE* AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, ILLINOIS ACADEMY OF FAMILY PHYSICIANS, *ET AL.*, IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION complies with the type volume limitation of Local Rule 7.1(B)(4)(b)(1). It was prepared using Microsoft Word 2013 and contains 5,184 words and 35,251 characters as measured by the Word Count feature on that software.

s/ Lorie A. Chaiten

Exhibit 1

AMICI CURIAE

The American College of Obstetricians and Gynecologists ("ACOG" or the "College") is a non-profit educational and professional organization founded in 1951. The College's objectives are to foster improvements in all aspects of the health care of women; to establish and maintain the highest possible standards for education; to publish evidence based practice guidelines; to promote high ethical standards; and to encourage contributions to medical and scientific literature. The College's companion organization, the American Congress of Obstetricians and Gynecologists (the "Congress"), is a professional organization dedicated to the advancement of women's health and the professional interests of its members. Sharing more than 57,000 members, including 2373 obstetrician-gynecologists in Illinois, the College and the Congress are the leading professional associations of physicians who specialize in the health care of women.

The Illinois Academy of Family Physicians ("IAFP") is a professional medical society dedicated to maintaining high standards of family medicine representing more than 4,900 family physicians, residents and medical students in Illinois. IAFP provides continuing medical education programming, advocacy through all levels of government, and opportunities for member engagement and interaction. The IAFP is a constituent chapter of the American Academy of Family Physicians, which represents more than 129,000 members nationwide and promotes and maintains high standards for medical practice among physicians who practice family medicine.

Julie Chor, MD, MPH, is an Assistant Professor of Obstetrics and Gynecology and Assistant Director of the MacLean Center for Clinical Medical Ethics at the University of Chicago. Dr. Chor is Board Certified in Obstetrics and Gynecology. She serves on the Advisory

Committee of the Illinois Section of the American Congress of Obstetricians and Gynecologists. Dr. Chor received her medical degree from the University of Chicago and subsequently completed her residency training in Obstetrics and Gynecology, a Fellowship in Family Planning, and a Master's Degree in Public Health at the University of Illinois at Chicago. After spending two years as the Assistant Director of Family Planning at the John H. Stroger, Jr. Hospital of Cook County, Dr. Chor returned to the University of Chicago where she completed fellowship training in Clinical Medical Ethics at the MacLean Center. Dr. Chor is a clinician-researcher, whose clinical work focuses on Family Planning, Obstetric care, and Adolescent Gynecology.

AuTumn Davidson, MD, MS, is an Obstetrician and Gynecologist at Kaiser Permanente in Portland, Oregon. She is Board Certified in Obstetrics and Gynecology and an active member of the American Congress of Obstetricians and Gynecologists. Following her residency in Obstetrics and Gynecology at the University of Massachusetts, Dr. Davidson completed a Fellowship in Family Planning at the University of Chicago. She was on faculty at the University of Illinois at Chicago, where she served as the Director of the Kenneth J. Ryan Residency Training Program and the Director of the Center for Reproductive Health from 2014 through March, 2017. She currently provides abortion care at Kaiser. In addition to general Obstetrics and Gynecology, Dr. Davidson's clinical interests include family planning and contraceptive provision for medically complicated women.

Sabrina Holmquist, MD, MPH, is an Associate Professor of Obstetrics and Gynecology in the Section of Family Planning at the University of Chicago. She is Board Certified in Obstetrics and Gynecology and holds a Master's Degree in Public Health and Epidemiology from the University of Illinois at Chicago. Dr. Holmquist completed her residency in Obstetrics

and Gynecology at Albert Einstein College of Medicine/Montefiore Medical Center. She completed a Fellowships in Family Planning at the University of Illinois at Chicago/University of Chicago. Dr. Holmquist cares for women with complicated contraceptive and other reproductive health needs. She serves as the medical student Clerkship Director in OB/GYN for the Pritzker School of Medicine, as well as Fellowship Director for the Fellowship in Family Planning at the University of Chicago. Dr. Holmquist has been teaching gynecologic care to medical students, residents and fellows for more for more than 10 years.

Scott Moses, MD, is Board Certified in Obstetrics and Gynecology. He is a faculty member with a primary appointment at the Feinberg School of Medicine of Northwestern University Department of Obstetrics and Gynecology as a Clinical Assistant Professor. He has a secondary appointment as an Assistant Professor of Bioethics and Medical Humanities. He holds a B.S. from Columbia University and a B.A. from the Jewish Theological Seminary. Dr. Moses attended medical school at the University of Illinois and completed residency training at Northwestern University. He completed a Fellowship in Medical Ethics at the University of Chicago and another Fellowship in Medical Humanities at Northwestern University. Dr. Moses is interested in medical education, reproductive ethics, and the nexus between religion, culture, and medicine.

Maura Quinlan, MD, MPH, is a Board Certified Obstetrician Gynecologist and an Assistant Professor of Obstetrics and Gynecology at Northwestern University. Dr. Quinlan is the Chair of the Illinois Section of the American Congress of Obstetricians and Gynecologists. Dr. Quinlan received her medical degree from Loyola University's Stritch School of Medicine. She completed a Master's Degree in Public Health, with an emphasis on maternal and child health policy, at Yale University. Dr. Quinlan completed her residency in Obstetrics and Gynecology at

the University of Chicago where she served as Chief Resident, and later as an Assistant Professor and as the Director of Undergraduate Medical Education for the Department of Obstetrics and Gynecology.

Elizabeth Salisbury-Afshar, MD, MPH, is a Board Certified member of the American Board of Family Medicine, American Board of Addiction Medicine, and American Board of Preventive Medicine. She serves on the Boards of the Illinois Academy of Family Physicians and Health and Medicine Policy Research Group. Dr. Salisbury-Afshar holds a M.D. from Rush University School of Medicine and a M.P.H. from Johns Hopkins School of Public Health. Dr. Salisbury-Afshar's clinical work has focused on working with underserved populations and she continues to volunteer with Heartland Health Outreach, a health center that serves people experiencing homelessness. Dr. Salisbury-Afshar has participated in research studies looking at lack of access to family planning among women who use drugs and/or are in treatment for drug use.

Debra Stulberg, MD, MA, is a certified member of the American Board of Family Medicine. She is a faculty member with a Primary Appointment in the University of Chicago's Department of Family Medicine and Secondary Appointments in the MacLean Center for Clinical Medical Ethics and the Department of Obstetrics and Gynecology. Dr. Stulberg holds a B.A. and M.D. from Harvard University and an M.A. from the Harris School of Public Policy at the University of Chicago. She completed a Fellowship in Medical Ethics and Primary Care Research at the University of Chicago. Her research focuses on, among other things, decreasing risk to vulnerable women associated with lapses in care for ectopic pregnancy, racial and socioeconomic disparities in reproductive health, and the intersection of religion and health care.

Tabatha Wells, MD, is an Assistant Professor of Family Medicine at the University Of Illinois College of Medicine. Dr. Wells attended the Southern Illinois University School of Medicine and serves of the Board of the Illinois Academy of Family Physicians. She provides the full scope family medicine for patients of all ages and has a particular interest in women's health, including prenatal care and obstetrical care and pediatrics.

Santina Wheat, MD, MPH, is an Assistant Professor at Northwestern University Feinberg School of Medicine and a faculty member of the Northwestern McGaw Family Medicine Residency Program. Dr. Wheat is Board Certified by the American Board of Family Physicians. She is the Medical Director at Erie Family Health Center's Humboldt Park Site in Chicago, Illinois, a federally qualified health clinic that serves low-income and under-resourced populations. Dr. Wheat serves on the Board of the Illinois Academy of Family Physicians. She completed her M.D. and M.P.H. at the University of Illinois at Chicago.

Exhibit 2

I L L I N O I S:

STATE HOUSE OF REPRESENTATIVES

----------x

AMENDMENT TO THE ILLINOIS HEALTH :

CARE RIGHT OF CONSCIENCE ACT :

SENATE BILL 1564 :

----------x

Springfield Illinois

Wednesday, May 13, 2015

HUMAN SERVICES COMMITTEE HEARING

The following pages constitute the proceedings held in the above-captioned matter held at the Illinois State House of Representatives, Illinois State Capitol, 301 S. 2nd St., Springfield, Illinois, when were present:

A P P E A R A N C E S

REP. LITESA WALLACE, CHAIR

REP. ROBYN GABEL, VICE CHAIR

REP. PETER BREEN

REP SHERI JESIEL

REP. MARY FLOWERS

REP. LAURA FINE

REP. KELLY CASSIDY

REP. TOM DEMMER

REP. CYNTHIA SOTO

REP. BRIAN STEWART

REP. JOHN CABELLO

REP. JAMIE ANDRADE, JR.

REP. CAROL AMMONS

REP. PATRICIA R. BELLOCK

MINDY SWANK

KATIE TOUSMA

CHRIS FORMARKSIS

IDA PHILLIPS

LORIE CHAITEN, ACLU

ANNA PAPROCKI, ESQ., AMERICANS UNITED FOR LIFE

GEORGE BROWER

A P P E A R A N C E S - Continued

LANCE LECHNER

LINDA KOWALSKI

ROBERT HEIZE

RALPH RIVERS, ILLINOIS CITIZENS FOR LIFE

HEATHER MORENO

PETER HUIZENGA

VERONICA PRICE

CHRISTINA SEIS

KURT WILDER

DEBBIE SHULTZ, LIFETIME PREGNANCY HELP CENTER

DR. MAURA QUINLAN

C O N T E N T S

PRESENTATION OF SB 1564

PAGE

By Vice Chair Gabel 5

TESTIMONY ON SB 1564

By Ms. Chaiten, Esq. 7

By Ms. Swank 13

By Dr. Quilan 16

By Ms. Paprocki 37

By Ms. Shultz 45

P R O C E E D I N G S

CHAIR WALLACE: The Chair recognizes Rep. Gabel to present Senate Bill 1564.

VICE CHAIR GABEL: Thank you very much, Madam Chair. So there's been quite a bit of discussion about, about this bill. This is the Health Care Right of Conscience Act that we're making a small modification to. I would like to just state for the record that there has been a lot of misinformation going on around about this bill, so I really want to be perfectly clear.

First of all, this bill does not require anyone to perform or participate in an abortion. Secondly, it does not require anyone to refer for an abortion. And third, it does not require any patient to listen to information about treatment options they object to.

So the bill protects both patients and health care providers when a provider asserts a religious or conscientious objection to providing a health care service. An amendment in the Senate removed that position from the Illinois Catholic Conference, the

Illinois Catholic Health Association, and the State Medical Society. It assures that patients will be given information about their medical circumstances and treatment options consistent with the medical standard of care. This is just basic medical ethics.

I would like now to introduce Lorie Chaiten, an attorney with the American Civil Liberties Union, who can talk more about the bill and answer any questions.

CHAIR WALLACE: I'm sorry. One moment. Yeah. I'm going to just read in the oral witnesses 'cause we have 341 proponents. And so we've already introduced Lorie. There is Mindy Swank and Katie Tousma providing oral testimony.

For the opponents. For the opponents we have 1,928 opponents, and so I am asking to just read those who will provide oral testimony and the 1,928 proponents, opponents are -- freezing the rep. Here we go. Those providing oral testimony who are opposed are Chris Formarksis, Ida Phillips, Anna Paprocki of Americans United for Life, George Brower, Lance Lechner, Linda Kowalski, Robert Heize, Michelle, Ralph

Rivera of Illinois Citizens for Life, Heather Moreno, Peter Huizenga, Veronica Price, Christina Seis, Kurt Wilder, and that will be it for oral testimony. And now I ask that we not to read 800 plus opponents.

Thank you, we'll proceed with testimony of the proponents.

MS. CHAITEN: Sorry about that. Thank you, Madam Chair and the Members of the Committee. So the Health Care Right of Conscience Act is a law that we're talking about today. Currently it says that doctors, nurses, and hospitals can refuse to provide care and even information to their patients if they object to doing so on religious grounds.

That means that, for example, that if I am a doctor and I have religious objections to providing my patients with contraception, I don't have to do so. Indeed, the current statute says that I don't even have to tell them about their contraceptive options and there are no repercussions. I cannot be held accountable if my patient is harmed by my refusal to give them all of the information that they need in order to understand their medical circumstances and to

make informed medical decisions.

This is contrary to the standard of care that governs medical practice in Illinois. If I have a back problem my doctor might talk to me about surgery as one of my treatment options. But if there are options short of surgery, for example, a steroid shot, the standard of care would require that my doctor tell me about those options as well. They cannot simply withhold information from me and be practicing medicine in accordance with the standard of care.

Senate Bill 1564 is about making sure that patients get the information they need in accordance with the standard of care. This is why the Catholic Hospital Association, the Catholic Conference, the State Medical Society, are no longer opposed. They understand that patients cannot be kept in the dark about their medical circumstances and their treatment options. This is why we were actually able to negotiate the bill that brings us here today.

It's important that you understand what the bill does not do. Some of the opponents may be confused. They, there are people saying things like

people will be forced to participate in an abortion, but the bill does no such thing. It makes clear, in fact, that health care providers can refuse to participate in any service they object to on religious grounds. But when they do so, their patients must still be told about their legal treatment options in accordance with current standards of medical care.

What do we mean by legal treatment options? We've heard much about things like genital mutilation. That is not a legal treatment option. That is not something a doctor would have to talk about with their patient.

However, if a pregnant woman's water breaks at an early point in pregnancy when the fetus is not viable and she is at risk of her, her life is at risk, she's at risk for life-threatening infection and hemorrhage, the standard of care requires that she be told about all of her treatment options, including the option of ending her pregnancy to prevent infection, to prevent hemorrhage, and other harm. This is a legal treatment option.

Opponents claim that the bill imposes a new

mandate in Illinois law. They're wrong about that. Illinois law already says that doctors can be sued for malpractice if they fail to get informed consent from their patients, if they fail to give patients information about legal treatment options in accordance with medical standard of care.

1564 simply makes clear that the same standard of care applies when health care providers object to providing care on religious grounds. Their patients must still get the information they need. Their patients cannot be left in the dark.

Opponents complain that they should not have to talk about the benefits of health care they oppose. But the standard of care requires that an informed consent discussion between a doctor and a patient include a discussion of the risks, the benefits, and the alternatives of the patient's treatment options. Health care providers cannot choose to withhold any of that information.

If an individual provider does not want to have that conversation with a patient, someone else in their facility can step in and do so. But the patient

cannot be denied important medical information. They cannot be left in the dark.

Opponents claim the bill violates federal law and will deprive Illinois billions of dollars of federal funds. As six members of the Illinois congressional delegation made clear in their letter to you, these opponents are wrong. The federal laws they're talking about involve penalties for discriminating against health care providers who refuse to perform, participate, or refer for abortion. They do some other things as well, but that's the relevant part.

Senate Bill 1564 is not about discrimination. It is about ensuring that patients get information when health care providers object to care on religious grounds. In other words, it's about accommodating religious belief, not discriminating because of it.

Indeed, if a health care provider is discriminated against, rather than accommodated under the Health Care Right of Conscience Act, there's an express provision that permits them to pursue a claim of discrimination, a claim for damages.

In addition, this bill does not require any health care provider to perform, participate in, or refer for any health care. Illinois is simply not at risk for losing federal funds because it passes a law that gives patients standard of care information and protects them from harm.

Finally, opponents complain that crisis pregnancy centers would have to talk about abortion. If a crisis pregnancy center holds itself out as a health care provider, the medical standard of care applies. That means that they have to accurately discuss a patient's treatment options with her. If they don't and the patient suffers harm, they won't be able to use the Health Care Right of Conscience Act to shield themselves from liability.

They cannot claim to be providing all options to their patients and then just withhold the information they don't like. The notion that patients should be able to count on their health care providers to give complete and accurate information about their medical condition should not be controversial.

Senate Bill 1564 is a reasonable change in the

law that creates important protections for Illinois patients. I urge you to vote yes on this bill. Thank you.

CHAIR WALLACE: Thank you very much. I'd like to note that we're winding down on time in terms of, before session. So let's make sure that testimony is succinct and factual. Thank you.

MS. SWANK: Good morning. My name is Mindy Swank and I am pleased to be with you today. A few years ago, a few years ago after my first son was born, my husband, Adam, and I were happily expecting our second child. Unlike my first pregnancy, this pregnancy was not to be easy.

Weeks into my pregnancy doctors told us that the baby suffered a number of severe anomalies. At 20 weeks as we were coping with that news and trying to understand how our lives would change, my water broke. The doctors told us that the baby was not going to live. We were heartbroken, but our nightmare was just beginning.

When we learned that my water had broken, the doctors told me that waiting to miscarry could lead to

hemorrhage and infection. I knew that these complications could threaten not only my future fertility, but also my life. And as the mother of a young son, that worried me.

Adam and I prayed together, talked at length, and in the end decided to terminate the pregnancy. It was a difficult decision for me as someone raised in a conservative and religious home, but my baby was not going to live and my health was at risk. This was the best decision for my health and for my family.

The doctors responsible for my care couldn't help me end the pregnancy and avoid these risks to my health. The reason for this is that the hospital operated under religious restrictions imposed by the Catholic Church. They could not provide me the care I needed to keep from getting sick. I could only get help if I was already infected or hemorrhaging.

Adam and I were confused and frustrated. We attempted to go to a secular hospital a few hours away for help in terminating the pregnancy, but we could not get the procedure covered by our insurance at that hospital, and we could not afford to pay for the

services out of pocket.

We understand that the barrier to our insurance covering the procedure resulted from the religious hospital's failure to provide adequate records showing that the procedure was medically necessary. Had the religious hospital made my health information available, our insurance would have provided coverage. Without any other options, we simply went home to wait.

A few weeks later I woke up bleeding. Adam took me to our local hospital, a hospital that also follows the Catholic health care restrictions. The doctors there told me that I was not sick enough for them to induce labor and help end the pregnancy. I was told to monitor my bleeding and temperature and come back if I bled more or if I had a fever.

No one offered to help us find somewhere else to go that was not limited by religious restrictions. No one talked to us about options other than waiting to get sick enough for them to help us.

Over the next five weeks I went to the same hospital four different times, each time bleeding and

seeking care. At 27 weeks I woke up bleeding a lot more than I had been. Desperate to prove I was sick enough for them to treat me, I brought to the hospital all the pads and clothing I had bled through. The doctors decided that I was sick enough to induce delivery. I gave birth to a baby boy who never gained consciousness and he died within a few hours.

No one should ever have to go through this. I urge you to pass this bill and ensure that other couples will get the information they need to make informed health care decisions and to access the care that they need. Thanks.

CHAIR WALLACE: Okay. Rep. Cassidy moves that Senate Bill 1564 do pass and we'd like to open the roll. Okay, Bellock will be going now. Thank you. For the record, Bellock is on the roll-list now.

DR. QUINLAN: Good morning. My name is Maura Quinlan. I am a board-certified obstetrician with a master's in public health and maternal and child health policy. I am the chair of the Illinois section of the American College of Obstetricians and Gynecologists, commonly called ACOG, and I am testifying today in

support of Senate Bill 1564.

Senate Bill 1564's changes to Illinois law are needed to protect patients and providers. Illinois law currently allows doctors, hospitals, and other health care providers to not give a patient information that conflicts with the provider's religious beliefs. This is contrary to doctors' basic ethical obligations to deny patients the information patients need in order to understand their medical condition, consider their treatment options, and obtain care. This is also inconsistent with ACOG's policies which prioritize patient-centered care and autonomous decision making.

I have seen patients have to wait for necessary medical care because professionals in a religiously affiliated hospital struggled with whether providing the needed care conflicted with their hospital's religious directives. I have also seen patients who were not told about all their treatment options because of a hospital's religious directive.

By requiring protocols for when health care providers object to providing information and care on religious grounds, Senate Bill 1564 will improve

patient access to essential medical information and will reduce confusion and delay in their accessing care.

Patients seeking health care should not have to wonder if they're receiving complete information about all of their treatment options. A patient who delivers or that plans to deliver at a Catholic hospital and wants or needs a tubal ligation needs to be informed about the religious restrictions affecting her care in time for her to ensure that she can deliver at a hospital that will perform the procedure at the time of the C-section or immediately after birth.

A patient in the process of miscarrying who needs medical intervention to protect against hemorrhage and infection should know about all the standards of treatment options, including surgical options and where she can go to get such care.

Women of reproductive age should be given complete information about all appropriate contraceptive options for avoiding unintended pregnancy. All of what I have described is the standard of care within my specialty. Senate Bill 1564

will assure that patients seeking care at religious institutions also get this standard of care information.

It's important, as has been mentioned, that this proposal still allows my colleagues in Illinois to refuse care based on religious objections, but they have to do so in accordance with procedures designed to protect the patient, to make sure that the patient gets information about her condition and treatment options, the information she's entitled to.

The existing law only speaks to the needs of the doctor who has the religious objection. This bill will add the needs of doctors who want to give full information to patients but work in religious hospitals, and most importantly, the essential needs of the patients.

Senate Bill 1564 simply brings Illinois law in line with established medical ethics, medical ethics that I learned at my Catholic medical school that requires health care providers to take into account patients' interests when the provider is asserting a religious objection. In this way, every patient can

act according to his or her own conscience just as readily as the physician can.

As a physician who cares for Illinois patients every day, I cannot stress enough the importance of this bill. On behalf of myself as a physician and on behalf of the Illinois section of the American College of OBGYN, I strongly urge this committee to support Senate Bill 1564.

CHAIR WALLACE: Thank you, and thank you, Mindy, for sharing your story. Are there opponents with oral testimony? Are there questions of the proponents at this time? The Chair recognizes Rep. Breen.

REP. BREEN: Thank you, Madam Chairman. I just want to get the scope of the bill straight. And Representative, as I understand it, this law will regulate all doctors' offices, not just hospitals, but it's all doctors' offices across the state. Is that right?

VICE CHAIR GABEL: Yes. Anybody practicing medicine.

REP. BREEN: So, and that would include as

well -- I, I see dispensaries on the list. Is that -- so pharmacies are also included?

VICE CHAIR GABEL: Not really.

REP. BREEN: I think under the Health Care Right of Conscience Act, which we know applies to pharmacies, I believe that this also, they're considered health care facilities.

VICE CHAIR GABEL: The bill talks about providing correct medical information, and I don't think that pharmacies are in a position to explain medical information to their patients.

REP. BREEN: I think because they wouldn't --

MS. CHAITEN: Yeah. Basically Illinois law, common law, and statutory law creates certain duties for different kinds of health care providers, duties that they owe their patients. So pharmacists owe their clients, their patients, a certain, a certain kind of duty.

If those health care providers are seeking the special protections that Illinois law already provides under the Health Care Right of Conscience Act, not to meet every one of those duties, not to perform a

particular kind of care, not to administer a particular type of drug, then they have to do so in accordance with protocols that are designed to ensure that the patient will get what they need. And the specifics of the protocols that are listed in here, that this is language that was drafted by the Catholic Conference, by the Illinois State Medical Society, and by the Catholic Health Association, sets a floor.

It sets a minimum, but obviously what we're talking about and what the bill says is that, within that duty if you're seeking an out from the Health Care Right of Conscience Act, you need to adhere to a protocol that your health care facility has designed that ensures that the patient will get the information they need about how to access care.

REP. BREEN: The question was does it apply to pharmacies.

MS. CHAITEN: Right --

REP. BREEN: So it does apply to pharmacies?

MS. CHAITEN: Pharmacists, if pharmacists -- if pharmacies and pharmacists are seeking an exemption under the Health Care Right of Conscience Act, they

will have to do so in accordance with this type of a protocol.

REP. BREEN: Sure. And, and I believe that the Morr-Fitz vs. Blagojevich and the Morr-Fitz vs. Quinn Act, I believe that the ACLU was involved as an amicus on the side of the state in that case probably. Lorie Ann, I'm assuming you guys were there. So this would, this would actually impact the holding of the fourth district in the Morr-Fitz vs. Blagojevich case. It could.

MS. CHAITEN: What it would say is that for -- so that decision came out under the Health Care Right of Conscience Act. And that's an important decision because there, the Illinois Appellate Court read this statute and said, uh-mm. There aren't any protections for patients. This is only protecting health care providers.

And so what this bill does is it says that where those pharmacies want to refuse to return a patient's prescription, they want to refuse to transfer a patient somewhere else, they've got to do so in accordance with protocols that are designed to ensure

that a patient gets the information they need.

REP. BREEN: Well, Lorie, it doesn't say anything about refusing to return a prescription --

MS. CHAITEN: Well, that is what they're seeking; that is what they're doing. You're asking about a factual situation. I'm answering about a factual situation.

REP. BREEN: And again, so we just -- now we've got the scope. So it's pharmacies, all doctors' offices, hospitals. We've had pregnancy centers confirmed earlier. Now how -- I want to get to how this bill will be enforced. So the requirement on, I believe on doctors' offices and pregnancy centers, would that be enforced by IDFPR? That normally is the entity that would regulate a doctor's license, I believe.

MS. CHAITEN: So the bill does not, does not contain, for example, an enforcement mechanism where a state agency has an obligation to come in and examine the protocols.

The way this works is when a health care provider is seeking a carve-out, an exemption from

their duty to their patients under the Health Care Right of Conscience Act, they only get those special protections that Illinois law already provides them if they deny the care, deny the, the service that they find objectionable in accordance with protocols that are designed, that were created by the facility in which they work and are designed to ensure that the patient gets what they need.

REP. BREEN: But then what -- well, and I respectfully disagree with your contention about it being a duty, but who enforces this law?

MS. CHAITEN: So if the provider denies care, denies information, doesn't tell the patient that they have certain treatment options and the patient is harmed, the patient could sue the provider for malpractice.

Today as we sit here they have a defense under the Health Care Right of Conscience Act. If this passes --

REP. BREEN: Wait, wait. Suing for malpractice for not --

MS. CHAITEN: For not giving full options, for

not telling the patient that they could, for, if they're miscarrying at 18 weeks and they don't tell them that one of their options is to terminate that pregnancy, and that patient becomes infected and loses her future fertility, as we sit here today, arguably that provider gets protections under the Health Care Right of Conscience Act.

What we want to see is that there be protocols in place that ensure that the patient gets that information. And if they don't, that patient has a cause of action against that provider.

REP. BREEN: Wait, wait, under the existing --

MS. CHAITEN: And potentially IDFPR has, has, has a disciplinary mechanism, but what we are doing is saying that, yes, you get to refuse, you get to adhere to your religious beliefs, but your patient cannot be harmed as a result of it.

REP. BREEN: Just to be clear then, IDFPR could take action against a, a health care provider, a doctor in, I believe -- they regulate doctors. I'm not sure who regulates nurses and other licensed medical professionals.

MS. CHAITEN: We have statutes that regulate health care providers, and for example under Section 22 of the Medical Practice Act, if a health care professional behaves in an unprofessional manner, which has a very long list of things that define them as unprofessional, then IDFPR can step in. If IDFPR steps in --

REP. BREEN: But just to be clear --

MS. CHAITEN: -- and they have adhered to the protocols that this bill would require, then they cannot be disciplined. They still get the protections that the Health Care Right of Conscience Act allows.

REP. BREEN: But only if they adhere to protocols.

MS. CHAITEN: If they do not adhere to protocols and their refusal harmed a patient, then their -- potential, I mean it depends on the facts of the case, of course, but there are those mechanisms. That's how medical practice is governed in Illinois. All we're saying is that patients whose doctors and nurses object get to have the same protections that other patients have.

REP. BREEN: Well, again now, we're just trying to figure out how this -- without a specific enforcement clause, I'm presuming then that IDFPR would promulgate rules to enforce this particular law, and then -- I mean hospitals are governed by the department of public health; is that right?

MS. CHAITEN: You can presume all you want. I can't say that -- what I am saying to you is that the Health Care Right of Conscience Act today doesn't have those rules, right? The Health Care Right of Conscience Act is a statute that creates broad protections and exemptions for health care providers. All this bill does is it says you get those protections, but your patient also has to be protected.

REP. BREEN: Again, the reason --

MS. CHAITEN: And so the way that the Health Care Right of Conscience --

CHAIR WALLACE: I'm sorry. Thank you very much for the very spirited --

REP. BREEN: I just want to ask my question and get a quick answer.

CHAIR WALLACE: -- question and response, but

let us make sure that we're speaking one at a time.

REP. BREEN: The reason I'm asking, Madam Chairman, is that Senator Biss on the floor in the Senate said that corrective action would be taken if a facility or provider didn't follow this law, or this bill. And so I'm worried what is that corrective action? Because we're not hearing a clear statement of what is the corrective action.

MS. CHAITEN: So the clear statement is what I said previously, and that is that Illinois law creates duties of health care providers to their patients. The Health Care Right of Conscience Act as it exists today allows health care providers to not adhere to all of those duties.

This bill says you get those special protections that Illinois law has created for you under the Health Care Right of Conscience Act, but you only get them if you've adhered to a protocol that's designed to ensure that your patient isn't harmed. And I'm paraphrasing. I'm not reading the whole thing.

REP. BREEN: Just so -- I want to be clear. What the contention is, is that there is a duty under

the current -- there's a duty under one set of Illinois law, the medical practice act, to provider either -- well, or there is a common law duty --

MS. CHAITEN: A common law and the standard of care --

REP. BREEN: -- to either provide an abortion, refer for an abortion, or do information for an abortion. And then the Health Care Right of Conscience Act has exemptions to that, and without those exemptions applying, then that is the base duty.

MS. CHAITEN: This bill is not about providing abortion, or referring for abortion, or participating in abortion. This bill is about the standard of care that doctors have to adhere to in order to not be committing malpractice, in order to be treating their patients appropriately.

And so depending on the context in which a patient comes to a doctor, and depending on that patient's needs, that standard of care would dictate the kind of care that the patient gets. The doctor gets to refuse to provide that care, but this bill says the patient gets the information they need so they

don't suffer harm as a result.

So I'm not -- I'm really not going to let you put words in my mouth.

REP. BREEN: Well, I know, but again, we're trying to figure out, and again you raised the issue of pregnancy centers. Usually those are technicians or nurses who are the ones who are doing the work. I know everybody keeps talking about doctors, but I'm really as much worried or more about nurses and technicians who are in a setting where they don't want to hand a list of local abortion clinics to a particular client who asks for it.

MS. CHAITEN: And there is absolutely nothing about this bill that requires them to hand a list of local abortion clinics. What I'll say about pregnancy centers is they vary dramatically in what they do and how they hold themselves out. But if you look at, for example, the website of -- I think it's called Lifetime Medical Center here in Springfield. They, their website says come to us. We give all-options counseling. We will talk to you about all of your options.

So if that their objection today is that they don't want to talk about abortion, how is it that they are meeting their duty to patients when they hold themselves out as health care providers who are saying that they're going to give all-options counseling?

In terms of if they don't provide the care, what this bill says is they have a choice. And again, this is language that came from the Catholic Conference. They can either refer, which we know that some providers do; they can transfer, which many of the Catholic hospitals said they will do with a miscarrying patient; or if they aren't comfortable doing any of those things, they can provide written information about other providers who they reasonably believe may provide the care they're denying.

And keep in mind, that could simply be there is an OBGYN practice down the street that offers full service care. They can, they can talk to you. They can counsel you. They can facilitate your access to care that we won't provide.

REP. BREEN: And just --

CHAIR WALLACE: I'm sorry to interject. I

know we may have more questions. We have still oppositional testimony and we also have other members of the committee who have questions for this particular panel.

REP. BREEN: And Madam Chairman, I'm just trying to figure out because we're hearing different answers here, and I want to understand what, when you say reasonably believe may, that is the language of providing information. And you've stated, well, I can send you to a gynecological practice that has full service so I know that they will include abortion amongst their services.

MS. CHAITEN: That is not what I said.

REP. BREEN: Well, you said a full service, and so full service, I'm assuming what you mean by that is that they will provide abortions. Again, I can't hand you a list --

MS. CHAITEN: Well, they will refer for abortion, or they will talk to the patient about all of their options. And if the patient says I choose termination, they will assist that patient in -- they will facilitate access to that care. That's the health

care that is being denied.

Not only does the crisis pregnancy center not provide abortion, but they won't refer for abortion. They won't facilitate access to abortion or to whatever other care they disapprove of. If they say you know what, there's a doctor down the road you can go to, that doctor might, in fact, help that patient understand what her treatment options are and where she can go to get that care.

CHAIR WALLACE: Thank you very much, Lorie. In the interest of time, and in the spirit of the intention of the bill, we're going to move forward. We're going to allow Rep. Jesiel to ask her question.

Obviously, termination of pregnancy is one of many health care options that might be available to a woman and her reproductive health. So let's move forward to Rep. Jesiel.

REP. JESIEL: Thank you, Madam Chair. Question of sponsor and or possibly the attorney, ACLU attorney. I'm just wondering if this bill also provides conversely for any of the ASTCs or the PTSCs that provide for pregnancy termination services. Are

those facilities required conversely to provide alternatives for pro-life under this bill?

MS. CHAITEN: They are health, they are, they are required -- they're health care facilities. They are doctors and nurses and other health care providers and they are a health care facility. They have duties just like other health care providers do under Illinois law to make sure that they get informed consent from their patients.

And as I said in my testimony, that includes talking about risks, benefits, and alternatives. So yes, in fact, and in fact they do, if a patient comes in and they're not sure and they want to have that conversation, and they decide in the end that they don't want to terminate their pregnancy, they will assist them in accessing the care elsewhere. They will refer them to somebody who can provide prenatal care, etc.

So yes, this, this is not -- again, it's not a bill about abortion. We have a system in place in Illinois that sets up these duties for how health care providers offer their patients care. We're just making

sure that all patients get that.

REP. JESIEL: Okay. I'm just wondering a question of the sponsor. Would, would be willing to amend this bill to include that these types of surgical centers - Planned Parenthood, the PSTCs - provide and required to provide? Because you're saying that they may or they do, but could you require that they provide that kind of information? Would you be willing to --

MS. CHAITEN: They, they already come within the definition of a health care facility under the Health Care Right of Conscience Act and elsewhere in Illinois laws. So they're already covered. If your concern is that -- I mean, pregnancy crisis centers aren't mentioned in the bill either. So the only -- it's just says medical doctor, nurses.

REP. JESIEL: No, the only point I'm making is that if we're going to require people who, by conscience are objecting to having to provide some of that information, perhaps there could be the other consideration on the other end to provide as a matter of treatment or an option of treatment for pro-life services, or ways to not terminate or carry a child to

--

VICE CHAIR GABEL: You know, we can talk about it. There's just a time crunch. So it may be putting it in the record, but we, we can talk about it.

CHAIR WALLACE: Are there other questions for the proponents? We still need to get to the opponents. Thank you very much for your testimony.

And as our opponents come forward, let's please be mindful of the time that we take in terms of testimony and I ask that, that the members of the committee also be mindful of the time they take with questioning. Thank you.

Please state your name and your position.

MS. PAPROCKI: Thank you. I'm Anna Paprocki. I'm an attorney with Americans United for Life. And I thank you for the opportunity to speak with you today. I'm not only speaking today in my capacity as a lawyer with AUL, but also as a woman and a patient in Illinois.

The reach of this bill is very broad. It does as we've heard impact crisis pregnancy centers. There's over 30 medicalized pregnancy help centers,

crisis pregnancy centers that are health care facilities that will be required under this bill to participate by giving information about abortion providers. They're forced to violate their core mission.

These centers exist to offer women hope and alternatives to abortion, but under this, this bill they, at minimum, have to provide in writing a list of providers that they reasonably believe will provide the service they object to. So a generalized list is not acceptable. A generalized list of OBs wouldn't be acceptable.

They have to reasonably believe that these providers provide abortion. So, so it violates their core mission. There isn't -- it doesn't -- it's not acceptable to their core mission to find someone else in their facility. These facilities exist to offer women alternatives to abortion.

Now Ms. Swank's story is very sad, but this bill does not address Ms. Swank's story. It goes far beyond that. Illinois law already does, already requires the transfer of requested medical records.

Illinois law, the conscience law itself explicitly states that doctors have a duty to inform their patients about their condition, prognosis, and risks, and doctors have to comply with emergency care standards.

This bill goes much further than that and requires all health care facilities to promote and facilitate abortions for any reason and at any stage of pregnancy.

Their, their -- Ms. Swank's story as sad as it is does not justify requiring crisis pregnancy centers to advertise for abortion clinics. It is also, it's not just bad policy, it is a clear violation of federal law.

There's a bipartisan letter from members of the Illinois federal delegation explaining the violations of the Coates/Snow amendment, the Hyde/Weldon amendment, and the Church amendment. The Coates/Snow amendment, for example, longstanding federal law, conditions Illinois' federal funding on assurance that the State won't discriminate against health care entities and physicians that object not to

just referring for abortion, but also if they refuse to make arrangements for abortion.

And this bill --

CHAIR WALLACE: Okay, the roll is already open and she would like to have the opportunity. So Rep. Flowers.

REP. FLOWERS: I need clarity. Right now how is this bill violating your, the current law, in regards to your right of conscience?

MS. PAPROCKI: To mine personally? Well, as a patient in Illinois, I seek care at an OB that --

REP. FLOWERS: Okay, I'm sorry, not your right as a doctor.

MS. PAPROCKI: Well, I can actually answer personally too.

REP. FLOWERS: If there was -- how is this violating the current law?

MS. PAPROCKI: So I think my OBGYN practice is actually a perfect example. So I go to Downers Grove OBGYN. I choose to go there because they are authentically pro-life, because they in no way refer or arrange for abortion. And that's consistent with --

and I choose to drive a distance to go see them.

REP. FLOWERS: Okay, wait a minute. Let me, let me just -- because -- and that's your choice. But if I were to go there and under your scenario, that doctor could refuse to care for me because of this, under your scenario.

MS. PAPROCKI: No, actually the Illinois Health Care Right of Conscience Act in no way allows a doctor to discriminate against a patient. It allows a doctor to refuse to participate in a service that violates his or her conscience. So it would not, based on race, based on lifestyle, would not allow --

REP. FLOWERS: If I needed the service, if I needed the service, and if it meant my life -- see the difference -- this is my concern about this legislation. A doctor take an oath to do no harm.

MS. PAPROCKI: Right.

REP. FLOWERS: And so in this business there are certain things that you'll have to do because you never know what the situation of the patient's going to be. So for a doctor to know that my life might be, my life is in this doctor's hands, and because of his

right of conscience, he could refuse my care. Fine. Can you just tell me where I can go to get the help?

MS. PAPROCKI: Well, the Illinois Conscience Law already requires doctors to comply -- it's explicit that doctors have to comply with emergency medical standards. So there's not --

REP. FLOWERS: Let's pretend like it's not an emergency.

MS. PAPROCKI: Right.

REP. FLOWERS: Let's pretend like I just need this information. Let me tell you my conflict, okay? Back in 1999 I passed the patient, the patient's bill of rights to remove gag orders from doctors because back in those days the HMOs were prohibiting doctors from telling patients about their pre-existing conditions, and some of them died as a result of that.

So I'm asking you, are -- is this leaving the gag orders on doctors that will not be able to tell me if you don't want to do it where can I go?

MS. PAPROCKI: No, doctors, doctors can tell you. If it doesn't violate their conscience, there's no, nothing in this, the Health Care Right of

Conscience Act --

REP. FLOWERS: But it might violate their conscience, but it would be the right thing to do in regards to doing no harm to the patient.

MS. PAPROCKI: But, but a doctor who takes an oath to do no harm, and many Catholics and non-Catholics alike believe that abortion harms not only the baby that is going to be killed in this, but also the women.

So what this law does is it actually forces a lot of doctors to violate their, what they believe they've took with the Hippocratic Oath of doing no harm to their patients in promoting and facilitating a procedure that harms them and their child.

CHAIR WALLACE: Okay, thank you.

REP. FLOWERS: Well, this bill is not -- I have not read -- I know what the bill implies. But abortion clinics and abortions is not in this legislation. So I have to deal with the language that's here. So with all due respect, I would like to be recorded as voting...

CHAIR WALLACE: Okay, thank you. Rep. Flowers

and Rep. Andrade are both voting in favor of Senate Bill 1564.

Please continue with your testimony.

MS. PAPROCKI: Yeah, well, and I just want to say that the, go back to the violations of federal law that were misconstrued earlier. It is very clear how this violates the Coates/Snow amendment, Church amendment, and the Hyde/Weldon amendment. And I know you've all received a letter from the Illinois federal delegation, a bipartisan letter explaining those violations.

The stakes are very high with the loss, potential loss of all federal funding, including but not limited to the federal share of Medicaid, but there's also free speech concerns with this. Federal courts have already struck down similar requirements on pregnancy centers and that would subject the State to costly litigation about free speech concerns.

And I did just want to -- again, I'm sorry Rep. Flowers had to leave us, but just reiterate that this denies me my choice to see a provider that authentically and wholly respects life. My doctor's

office I think is a prime example of who is impacted by this bill.

There would be new duties imposed on them to have, to provide, you know, written referrals or give information. And that denies me my opportunity that I'm blessed to have in my area. It denies me my choice.

CHAIR WALLACE: Thank you. Please state your name.

MS. SHULTZ: My name is Debbie Shultz, and I'm the founder and executive director of Lifetime Pregnancy Help Center here in Springfield. And I am honored to be here to present opposition to Senate Bill 1564.

I want to tell a story about one of our clients. Bri came in on a summer warm afternoon with her mother. She had already had a positive home test, and she said that when she read that result she felt paralyzed. She then went to Planned Parenthood to have that result confirmed. And at that time she had not told her parents yet, but she felt like she had to have an abortion.

And the reason why was because Bri was a good student. She was involved in her high school poms and in her show choir. This was her senior year and she was looking forward to all the adventures and promises that come along with a senior year. She was also anticipating going away to college the next fall and being able to live an independent life. But she felt like being pregnant unexpectedly was going to hinder those dreams.

So she did tell her mother, and being adopted and coming from a large family, her biological mother chose birth for all of her children. But yet Bri was to the point of desperation where she could only think about her senior year. Her mom encouraged her to come to Lifetime, and so I sat down with Bri and I talked to her about all of her options.

I talked to her about adoption. I talked to her about parenting. I talked to her about abortion. I gave her factual information about abortion procedures, about the risks involved with abortion, psychologically, physically, emotionally, relationally, spiritually. And I also talked to her about my

personal testimony of how abortion affected me 20 years, when I was 20 years old. That abortion decision has affected me the rest of my life.

Bri left that day still wanting to have an abortion, overwhelmed by her circumstances, but at least she had information. And she was determined that she was going to do her own research. She went online and she read about other teens and their responses to abortion that they had and the regrets that they felt. But she was sure that that wouldn't be her reaction.

She felt very anxious because she knew that the time was short on making this abortion decision. She came back to Lifetime and I again shared with her in more detail the actual procedures, the risks, and in more detail how abortion has impacted my life.

She later shared with me that the conversations that she had at Lifetime those two times, as well as visiting with her doctor, that she realized what the right thing was to do for her. She had her first ultrasound and she didn't expect to fall in love like she did. Hearing that heartbeat and seeing the tiny body move is truly a miracle.

That was a defining turning point in her decision. She stated that was my baby. I chose life for my baby. She graduated from high school in October, she enrolled in Barber College, and she continued working throughout her pregnancy even though it was very difficult going through this journey all alone.

On February 7th, her baby girl arrived, delivered at nine pounds, twelve-and-a-half ounces. Bri stated that she felt overwhelmed, but not by regretting her decision, but by knowing that her life had just changed forever.

And this is a quote. "Anaya is now five years old and it is amazing to look into her eyes and see what a blessing Lifetime Pregnancy Help Center was at such a crucial time in my life. My decision has never been second-guessed and I could not be more satisfied with the outcome."

Bri is one of thousands of mothers who visit pregnancy centers every single year throughout Illinois in search for answers, looking for hope, looking for someone who cares. Since Lifetime opened six years

ago, we have served over 1,300 clients. Many of those joining our earn-while-you-learn program resulting in over 3,800 client visits.

This bill would require pregnancy center workers to violate our core mission by referring mothers for abortions or distributing information on where to obtain abortion. It would also force us to discuss the so-called benefits of abortion. This directly tramps on our rights of conscience as health care providers and our religious beliefs.

Abortion is destroying a human life, the most vulnerable in our society, and can bring devastating effects upon the mother and family, as I personally have experienced. And Lifetime and other pregnancy centers throughout the state cannot have any part in promoting that destruction. Thank you so much.

CHAIR WALLACE: Thank you. As the roll is already open, I would like to add Rep. Ammons as a yes vote.

Are there any questions? Okay. Recognizing Rep. Fine.

REP. FINE: Good morning. Thank you for being

here today. Listening to your story it sounded to me like you were arguing in favor of the bill, because you said that this young lady came to you and you told her what her options were, and then she was able to make her decision. So I think the key word here is people know their options.

And to me my understanding of this legislation is it's not just for pregnancy options. I have children. What if I go to the doctor and the doctor thinks, well, I wouldn't do this for my kid, so I'm not going to tell you that you can do it for yours.

I think what you're doing by opposing this legislation is limiting my choices to decide what's best for me and my family when it comes to either my rights as a woman, or my rights to take care of my children, or if something happens to one of my family members.

This, this same situation could happen. What if you have a family member who's in the hospital on the brink of death and the doctor says to you, well, you could, you know, let them, we could stop feeding them, or we could give them medications to ease their

pain? That should be my choice, but I need to know what those choices are.

And I think this is very important legislation to explain to me what my choices are as a patient. And to deny me the right of that knowledge I think would just be wrong. So I thank you for bringing forward this bill.

MS. SCHULZ: If I may address that clarification, that we do offer the information because we do believe it's very important that everyone be able to make an informed decision. We're not there to tell anyone what to do.

The difficulty in this bill is that we'd be required to refer our clients to get an abortion. A written referral of where they can get an abortion, that's a referral and that completely goes against our right of conscience. That's where the conflict for me as a pregnancy center comes in. I can't speak on the other health issues. Maybe Anna can.

CHAIR WALLACE: Rep. Gabel, is that the --

VICE CHAIR GABEL: Well, it's not a referral. It says that they do have to provide them in writing

with, the exact language is through a -- they will have to provide in writing, writing information to the patient about other health care providers who they reasonably believe may offer the health care services, the health care facility, physician, or health personnel refuses to permit, perform, or participate in because of a conscience-based objection.

So they would, as we've talked about earlier, they could give -- she -- a paper with one name on it. This an OBGYN. They may have information on what you're seeking. They do not have to have a list of abortion clinics, absolutely not. As we've said, they have to provide a name of some health care provider that they reasonably believe may offer or have more information about this.

I mean, you know, and I'm, I'm very happy that the woman made the right choice for her, and it's, it's a beautiful story. And to me the key in that whole story was that the woman had her options and could decide what to do.

MS. PAPROCKI: And I just want to clarify, and you read the language, but it says you reasonably

believe may offer not or refer. So you have to reasonably believe that these are, these are abortion-providing health care providers. So, so that is --

VICE CHAIR GABEL: That is not true.

MS. PAPROCKI: Or any, but use abortion as an example, since this is where there are a lot of, where the rubber meets the road. There's a lot of conscientious objection to abortion. So this is a very concrete example of where we're going to see conscience violations.

But going to your question just very quickly. I think, you know, even talking about how crisis pregnancy centers, pregnancy help centers, how they talk about abortion, they do talk about abortion. So in some ways this is, you know, again, it's -- what your point, I think, with your question, and with her testimony illustrates that there isn't a problem that abortion isn't being talked about.

The sticking points in this are, are that you have to talk about benefits of abortion. So what does that mean? And then also the written referral or giving information on where to obtain abortions.

CHAIR WALLACE: Okay, thank you. I didn't --

MS. CHAITEN: Can I just briefly respond to that?

CHAIR WALLACE: I actually was going to -- I'm sorry. I'm going to, I'm going to allow you to do that as well. And we also have Rep. Cassidy with a question.

But when we start to speak about risk, benefits, harm, no harm, we're talking in a, in the most objective scientific manner in terms of medical terminology, not necessarily if you have an abortion this will greatly benefit you.

It is if you're at risk and this pregnancy needs to be terminated, the benefit would be your life will be saved or you will not get infection. And yes, there are many other conscientious -- there are many other issues that might be a result of conscientious objective. I mean there are some religious beliefs that blood transfusions should not be allowed.

But if I am bleeding out, should I then not be allowed to have access to that? So just trying to allow this conversation to shift away from it only

being about abortion because this bill covers many more medical situations, many more medical issues that people may or may not object to due to the doctor's own religious beliefs.

Lorie, and then we'll go to Rep. Cassidy. Let's move a little more quickly.

MS. CHAITEN: Well, thank you, 'cause that just took away one of the things I wanted to talk about, about the benefits that a patient who is at risk for harm needs to understand if a treatment option will help them. So thank you for that.

I want to very briefly - and I'm happy to talk to anybody afterwards if necessary - but I want to be clear. This written piece of, this written document does not, is not a referral, does not require a referral. It says that they reasonably believe may offer the health care service that the health care facility, physician, or health care personnel refuses to permit, perform, or participate in on conscience grounds.

So if I'm a crisis pregnancy center and one of the things I refuse to participate in is I won't refer

for abortion, that's something I won't do, but I have to make sure I'm sending that patient somewhere else where I reasonably believe they may have a fuller discussion about other places where the person could access care.

That's why the OBGYN down the road works in that context. This isn't a referral. It's not a requirement for referral. And again, it is only what is required in order to avoid liability if the patient is harmed because you didn't give them what they needed.

CHAIR WALLACE: Thank you. Rep. Cassidy.

REP. CASSIDY: Lorie, to that point, and this might sound a little silly, especially since we hardly use them anymore, but could this reasonably be the O page from the Yellow Pages? Here are all the obstetricians in, in the city?

MS. CHAITEN: So I would like to think that a health care professional wouldn't just hand the Yellow Pages --

REP. CASSIDY: Well, we'd hope they'd do better than that, but in theory?

MS. CHAITEN: But in theory if they have a reasonable belief, they look at their community's Yellow Pages, they see who their OBGYNs are, and they know which ones, you know, will in fact have a full conversation about where a person might go for the care that they need, then give the Yellow Pages with a check mark if that's what's needed.

But make sure that the patient doesn't leave in the dark. This is about patients really just not knowing where to turn.

REP. CASSIDY: My point is simply that we're not demanding that they do exhaustive research and interview and all of that. We're simply making sure that they provide some options and some alternatives.

MS. CHAITEN: And that was, in fact, exactly the language used by the folks who were representing the Catholic Conference when we were talking about this language. They said we don't want to have to be out there researching who's going to do it. But they were willing to say -- if we reasonably believe that when we send the patient on, they'll get what they need without us needing to be a part of it, that will work.

So reasonably believe may offer the care in terms of participating and referring that's being denied.

REP. CASSIDY: Thank you. As someone who had to be born in a different state than my family lived in because of the restrictions of the only hospital in my hometown and my mother's medical situation, I fully appreciate what we're trying to accomplish here. Please add me as a cosponsor if I'm not already.

CHAIR WALLACE: Okay. Do we have any other questions? Rep. Breen.

REP. BREEN: Yes, ma'am. I wanted to ask you a question. Do you believe in good conscience that a Christian can hand someone a list of -- of a woman seeking an abortion, can a Christian in good conscience hand that woman a list of places that you believe may offer that woman an abortion?

MS. SHULTZ: No.

REP. BREEN: So if that's true, then your pregnancy center may shut down if this bill passes.

MS. SHULTZ: Correct.

REP. BREEN: Thank you.

CHAIR WALLACE: Okay. Thank you for everyone who has testified. I'm going to briefly share a story of a very close friend of mine, in fact, my very best friend. Going through a divorce, had her reproductive options available to her. She had the Mirena, the most recent IUD, inserted after the birth of her fourth child. Because, again, she was going through a divorce. She did not want to bring any more children into the marriage.

The Mirena ruptured her uterus. She had to have an invasive surgery to have that, that piece of material removed, and in between the removal of the Mirena and going onto another long-term birth control option she became pregnant again.

Various abusive complications with the relationship in terms of refusal of sexual intercourse with the person she was married to, but that's a whole nother story. She became pregnant again and she was worried because after having recently had that surgery, and having recently had a hole in her uterus, how could she continue this pregnancy.

She went to her doctor to find out what she

could best do. Her doctor did invoke the right of conscience and said that I cannot tell you, you know, what additional things. After about three-and-a-half weeks she ultimately was able to see a provider who would assist her, and she learned that the developing embryo, or fetus at that point, had attached to a blood clot.

Had this pregnancy gone to term -- and the heart rate was low at that point anyway. But her life was at risk and those weeks of waiting and waiting, she may have very well left her four children without a mother. And so I just share that story because we talk so much about abortion and termination of pregnancy, and then we had Mindy share her awful story, and I went into labor with my son at 28 weeks.

And so I think we have to detach this from the moral pro-life or pro-choice, or what have you, but what is right for the life of the patient. Will the patient survive? Will the patient be unharmed by whatever the decisions that the health care providers are going to make?

And if the answer is the patient will not go

unharmed, so in other words if the patient will be harmed, we have to allow them to seek medical attention from someone who will save them from infection, save them from whatever harm it may be. And we don't need to do that in a way that burdens our conscience.

So as the roll is already open, I will vote yes. And we will continue to take the roll.

VICE CHAIR GABEL: Yes.

REP. CASSIDY: Yes.

REP. DEMMER: No.

REP. FINE: Yes.

REP. JESIEL: No.

REP. SOTO: Yes.

REP. STEWART: No.

REP. CABELLO: No.

REP. BREEN: And because existing law already covers, according to what Ms. Chaiten said, the situations that have been dealt with, in particular the one that was just related by the chairman, and because it would shut down the state's pregnancy centers, I vote no.

CHAIR WALLACE: Thank you. With there being

eight voting in favor, four voting -- oh, five opposed, and zero voting present, Senate Bill 1564 will be favorably reported to the House Floor.

(Whereupon, the proceeding was concluded.)

CERTIFICATE OF TRANSCRIBER

I, Penny Knight, do hereby certify that this transcript was prepared from audio to the best of my ability.

I am neither counsel for, related to, nor employed by any of the parties to this action, nor financially or otherwise interested in the outcome of this action.

Penny Knight

5/9/17

DATE Penny Knight

E-FILED
Wednesday, 17 May, 2017 02:58:33 PM
Clerk, U.S. District Court, ILCD

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

DR. RONALD L. SCHROEDER, et al.,	)	
	)	
	)	
Plaintiffs,	)	Case No. 17-cv-3076
	)	
v.	)	Judge Sue E. Myerscough
	)	Magistrate Judge Tom Schanzle-Haskins
BRUCE RAUNER, et al.,	)	
	)	
Defendants.	)	

ORDER

It is hereby ordered that the Uncontested Motion for Leave to File Brief of *Amici Curiae* American College of Obstetricians and Gynecologists, Illinois Academy of Family Physicians, *et al.*, in Opposition to Plaintiffs' Motion for Preliminary Injunction is GRANTED/DENIED.

By: _____

_____

_____

Dated: _____