Analysis of Illinois SB 1564 - Detrimental to Both Healthcare Providers and Patients

Anna Paprocki, *Staff Counsel*

SB 1564 violates federal law, jeopardizing billions of dollars in federal funding. Importantly, SB 1564 would also force pro-life healthcare providers to promote and facilitate abortion and threatens the core mission of pregnancy centers that offer women alternatives to abortion.

AUL RECOMMENDATION: Vote NO

SB 1564 jeopardizes Illinois' federal funding including, but not limited to, the federal share of Medicaid.

A bipartisan letter[1] from Members of the Illinois Congressional delegation urges Members of the Illinois General Assembly to immediately cease consideration of SB 1564 because it violates longstanding federal conscience laws, including the Church Amendment,[2] the Coats-Snowe Amendment,[3] and the annual Hyde-Weldon Amendment.[4]

SB 1564's requirements that healthcare providers "provide in writing information," "transfer," or "refer" patients for treatments to which they object, are incompatible with these federal laws.

Violating these laws would seriously imperil the state's federal funding for health-related services, which is expressly conditioned on compliance with these federal conscience laws.

Pro-life pregnancy centers would be required to violate their core mission by referring women for abortion or distributing information on where to obtain abortions.

Pregnancy centers that exist to offer women alternatives to abortion, often referred to as "crisis pregnancy centers," are healthcare providers bound by the bill's coercive duties to promote abortion. SB 1564 would force pregnancy centers discuss the so-called "benefits" of abortion and refer for or provide information on where to obtain abortions.

Doctors would be required to facilitate abortions for any reason, and at any stage of pregnancy, despite their conscientious and professional objections.

Illinois existing conscience law already ensures patient safety is not compromised by clarifying that a physician is not relieved from a duty to "inform his or her patient of the patient's condition, prognosis, and risks…" The law also clearly provides that healthcare personnel are not relieved from "obligations under the law of providing emergency medical care."

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[1] http://www.aul.org/wp-content/uploads/2015/04/Illinios-Congressional-Delegation-Letter-to-IL-General-Assembly-on-SB-1564.pdf
[2] 42 U.S.C. § 300a-7.
[3] 42 U.S.C. § 238n
[4] *See, e.g.,* P.L. 113-235, div. G, § 507(d)(1).

Pro-life healthcare providers, including pregnancy centers, would be required to discuss so-called "benefits" of abortion as a "treatment option" for all pregnant women.

The bill's requirement that this information be given in a "timely" manner could be construed as immediate, since any delay in seeking an abortion would potentially increase an abortion's risks.[5]

When a pregnant woman receives a diagnosis that her child has Down Syndrome, a healthcare provider who is morally opposed to abortion could be mandated to immediately tell her that abortion is a "treatment option" and discuss the "benefits" of aborting her child.

Many pro-life Catholics and non-Catholics alike cannot in good conscience fulfill a government mandate to promote and facilitate abortion-on-demand, including late-term abortions and abortions performed on babies because of their disabilities.

Conscience is not a "Catholic" thing. The agreed upon language in SB 1564 fails to respect the conscience objections of many Catholic and non-Catholic healthcare providers and patients across the state.

Illinois physicians, Illinois pregnancy help organizations that have medical directors, and national organizations with members in Illinois who are physicians or medical pregnancy help organizations, represented by the Alliance Defending Freedom, have testified[6] how SB 1564's requirements violate their sincere moral objection to participating in abortion.

Illinois women would be deprived of their choice of a medical provider who does not, in any way, refer or arrange for abortions.

SB 1564 eliminates choice in Illinois. By violating the life-affirming principles of pro-life physicians and medical organizations, women would not be able to choose reproductive care at a practice that does not refer or arrange for abortions.

SB 1564 is unconstitutional and will subject Illinois to costly litigation.

The Freedom of Speech Clause of the First Amendment includes the right not to speak, or how to address or not address a particular topic, as equally as it protects the right to speak. Several federal courts have specifically struck down requirements that pregnancy centers tell women certain things about abortion or birth control, or that they give the women information about alternative service providers. *See, e.g., Centro Tepeyac v. Montgomery County*, 5 F. Supp. 3d 745 (D. Md. 2014). After receiving the permanent injunction against the coercive law in *Centro Tepeyac*, attorney fees were awarded against the government in the amount of $374,999.

Chief Co-Sponsor Senator Holmes articulated the real point of the bill during the Senate Floor debate: "I want to say to any doctor out there…your moral beliefs—frankly, I could give a damn."

[5] It is undisputed that the inherent risks of abortion increase with gestational age. *See e.g.,* L.A. Bartlett et al., *Risk factors for legal induced abortion-related mortality in the United States*, OBSTETRICS & GYNECOLOGY 103(4):729-37 (2004).

[6] http://www.aul.org/wp-content/uploads/2015/04/ADF-Illinois-Letter-for-Physicians-and-Pregnancy-Centers.pdf