Congress of the United States
Washington, DC 20515

April 24, 2015

The Honorable Members of the Illinois General Assembly
Capitol Building
Springfield, IL 62706

Dear Members of the Illinois General Assembly,

In recent days, the Illinois General Assembly has advanced legislation that would severely limit the scope and applicability of conscience protections for healthcare workers in the State of Illinois, in violation of federal law.

S.B. 1564, as amended by Senate Amendment No. 3, creates a new and problematic requirement that in the event a healthcare provider declines to perform or participate in a medical procedure due to their personal conscientious or religious objections,

> *"then the patient shall either be provided the requested health care service by others in the facility or be... referred, transferred, or given information...in writing...about other health care providers who [the objecting healthcare provider] reasonably believe[s] may offer the health care service."*

These provisions in actual effect gut the conscience protections currently enshrined in Illinois' Health Care Right of Conscience Act by forcing objecting physicians and providers to assist and participate in the very treatments precluded by their conscientious or religious objections. More importantly, the provisions stand in stark contrast to the requirements of superseding federal law, including the Church Amendment[1], the Coats-Snowe Amendment[2], and the annual Hyde-Weldon Amendment[3]. Moving forward with such legislation at the state level could seriously imperil federal funds for healthcare programs, including reimbursements under Medicare and Medicaid.

Specifically, the Church Amendment stipulates that for healthcare services funded in whole or in part by a program administered by the U.S. Department of Health and Human Services (HHS), no person may be required to *"perform or assist in the performance of any sterilization procedure or abortion if his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions."*[4] S.B. 1564's requirement that healthcare providers "refer", "transfer", or "give[] information" on abortions is incompatible with this federal standard.

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[1] P.L. 93-45, § 401(b), (c), 87 Stat. 91 (1973). Additional conscience provisions supplemented the Church Amendment in 1974 and 1979. *See* P.L. 93-348, § 214(b), 88 Stat. 353 (1974); P.L. 96-76, § 208, 93 Stat. 585 (1979).
[2] 42 U.S.C. § 238n
[3] *See, e.g.,* P.L. 113-235, div. G, § 507(d)(1).
[4] 42 U.S.C. § 300a-7.

The Coats-Snowe Amendment provides that *"The federal government, and any state or local government that receives federal financial assistance, may not subject any health care entity to discrimination on the basis that...the entity refuses to undergo training in the performance of induced abortions, to require or provide such training, to perform such abortions, or to provide referrals for such training or such abortions...[or] the entity refuses to make arrangements for any of the activities specified."*[5] S.B. 1564's requirement that healthcare providers "inform", "provide in writing information", "transfer", or "refer" patients for treatments to which they object is incompatible with this federal standard.

Finally, the Hyde-Weldon Amendment provides that *"none of the funds made available in this Act may be made available to a federal agency or program, or to a state or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions."*[6] S.B. 1564's requirements that healthcare providers provide "the requested health care service", or "refer[]", "transfer[]", or "give information" on treatments to which they object are incompatible with this federal standard.

The right of conscience is a fundamental freedom protected under the U.S. Constitution. The Free Exercise Clause of the First Amendment expressly guarantees that Americans will not be prohibited from acting under their chosen religious beliefs, stating, "Congress shall make no law…prohibiting the free exercise [of religion]."[7] For decades, Americans of all faiths, and no faith, have overwhelmingly agreed with longstanding state and federal policy that a healthcare provider should not be forced to participate in treatments to which he or she has a conscientious or religious objection. In a 2009 speech to a Joint Meeting of Congress, President Obama declared "federal conscience laws will remain in place." At a press briefing in 2012, the White House Press Secretary reiterated "The President and this administration have previously expressed strong support for existing conscience protections, including those relating to health care providers."

S.B. 1564 would dramatically alter conscience protections for Illinois physicians and healthcare providers, while subjecting the State to enforcement proceedings in federal court and through the HHS Office of Civil Rights tasked with executing federal conscience standards. It would also risk interrupting the flow of federal dollars for health-related services, including for reimbursements under the Medicare and Medicaid programs.

Reasonable people can differ on issues. Our nation has a rich legacy of respecting the sincerity of others' views, a heritage that would be badly marred by the enactment of S.B. 1564. This legislation would have severe negative repercussions on Illinois, and we urge you to set it aside immediately.

Thank you for your thoughtful consideration.

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[5] 42 U.S.C. § 238n(a).
[6] *See, e.g.,* P.L. 113-235, div. G, § 507(d)(1).
[7] U.S. Const. amend. I.

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Very truly yours,

PETER J. ROSKAM
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DANIEL W. LIPINSKI
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