

CURRENT CONSCIENCE CLAUSE LAWS*

AND

**CURRENT PROVISION ON CREED IN THE
FAIR EMPLOYMENT LAW***

AND

THE DEFINITION OF ABORTION**

***Before enactment of the Hundertmark/Roessler Conscience Clause Bill.**

****The bill merely cross-references s. 253.10 (2) (a); the full definition of abortion is provided here for your convenience.**

CURRENT CONSCIENCE CLAUSE FOR HOSPITALS

253.09 Abortion refused; no liability; no discrimination.

(1) No hospital shall be required to admit any patient or to allow the use of the hospital facilities for the purpose of performing a sterilization procedure or removing a human embryo or fetus. A physician or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital in which such a procedure has been authorized, who shall state in writing his or her objection to the performance of or providing assistance to such a procedure on moral or religious grounds shall not be required to participate in such medical procedure, and the refusal of any such person to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against such person.

(2) No hospital or employee of any hospital shall be liable for any civil damages resulting from a refusal to perform sterilization procedures or remove a human embryo or fetus from a person, if such refusal is based on religious or moral precepts.

(3) No hospital, school or employer may discriminate against any person with regard to admission, hiring or firing, tenure, term, condition or privilege of employment, student status or staff status on the ground that the person refuses to recommend, aid or perform procedures for sterilization or the removal of a human embryo or fetus, if the refusal is based on religious or moral precepts.

(4) The receipt of any grant, contract, loan or loan guarantee under any state or federal law does not authorize any court or any public official or other public authority to require:

(a) Such individual to perform or assist in the performance of any sterilization procedure or removal of a human embryo or fetus if the individual's performance or assistance in the performance of such a procedure would be contrary to the individual's religious beliefs or moral convictions; or

(b) Such entity to:

1. Make its facilities available for the performance of any sterilization procedure or removal of a human embryo or fetus if the performance of such a procedure in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions; or

2. Provide any personnel for the performance or assistance in the performance of any sterilization procedure or assistance if the performance or assistance in the performance of such procedure or the removal of a human embryo or fetus by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

CURRENT CONSCIENCE CLAUSE FOR NURSES

441.06 Licensure; civil liability exemption.

(6) No person licensed as a registered nurse under this section is liable for any civil damages resulting from his or her refusal to perform sterilization procedures or to remove or aid in the removal of a human embryo or fetus from a person, if the refusal is based on religious or moral precepts.

CURRENT CONSCIENCE CLAUSE FOR PHYSICIANS

448.03 License or certificate required to practice; use of titles; civil immunity; practice of Christian Science.

(5) Civil liability; certain medical procedures and reports.

(a) No person licensed or certified under this subchapter shall be liable for any civil damages resulting from such person's refusal to perform sterilization procedures or to remove or aid in the removal of a human embryo or fetus from a person if such refusal is based on religious or moral precepts.

DEFINITION OF ABORTION

253.10 Voluntary and informed consent for abortions.

(2) DEFINITIONS. In this section:

(a) "Abortion" means the use of an instrument, medicine, drug or other substance or device with intent to terminate the pregnancy of a woman known to be pregnant or for whom there is reason to believe that she may be pregnant and with intent other than to increase the probability of a live birth, to preserve the life or health of the infant after live birth or to remove a dead fetus.

CURRENT PROVISION ON CREED IN THE FAIR EMPLOYMENT LAW

111.337 Creed; exceptions and special cases.

(1) Employment discrimination because of creed includes, but is not limited to, refusing to reasonably accommodate an employee's or prospective employee's religious observance or practice unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise or business.

(2) Notwithstanding s. 111.322, it is not employment discrimination because of creed:

(a) For a religious association not organized for private profit or an organization or corporation which is primarily owned or controlled by such a religious association to give preference to an applicant or employee who is a member of the same or a similar religious denomination.

(am) For a religious association not organized for private profit or an organization or corporation which is primarily owned or controlled by such a religious association to give preference to an applicant or employee who adheres to the religious association's creed, if the job description demonstrates that the position is clearly related to the religious teachings and beliefs of the religious association.

(b) For a fraternal as defined in s. 614.01 (1) (a) to give preference to an employee or applicant who is a member or is eligible for membership in the fraternal, with respect to hiring to or promotion to the position of officer, administrator or salesperson.

(3) No county, city, village or town may adopt any provision concerning employment discrimination because of creed that prohibits activity allowed under this section.

NEW CONSCIENCE CLAUSE LAWS*

- **AMENDED CONSCIENCE CLAUSE LAWS FOR HOSPITALS, NURSES AND PHYSICIANS**
- **NEW PHARMACIST CONSCIENCE CLAUSE LAW**
- **AMENDED PROVISION ON CREED IN THE FAIR EMPLOYMENT LAW**

AND

THE DEFINITION OF ABORTION**

***As amended or created by the Hundertmark/Roessler Substitute Amendment to AB 67, the Conscience Clause Bill.**

****The bill merely cross-references s. 253.10 (2) (a); the full definition of abortion is provided here for your convenience.**

AMENDED CONSCIENCE CLAUSE FOR HOSPITALS

253.09 Refusal to participate in certain practices; no liability; no discrimination.

(1g) In this section:

(a) "Human embryo" means a human organism that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells. "Human embryo" includes a zygote but does not include a human organism at or beyond the stage of development at which the major body structures are present.

(b) "In vitro human embryo" means a human embryo, whether cryopreserved or not, living outside of a woman's body.

(c) "Participate in" means to perform; practice; engage in; assist in; recommend; counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or otherwise promote, encourage, or aid.

(1r) (a) No hospital is required to admit any patient or to allow the use of the hospital facilities for the purpose of performing any of the following:

1. A sterilization procedure.
2. An abortion, as defined in s. 253.10 (2) (a).
3. An experiment or medical procedure that destroys an in vitro human embryo or uses cells or tissue derived from the destruction of an in vitro human embryo.
4. An experiment or medical procedure on an in vitro human embryo that is not related to the beneficial treatment of the in vitro human embryo.
5. An experiment or medical procedure on a developing child in a natural or artificial womb, at any stage of development, that is not related to the beneficial treatment of the developing child.
6. A procedure, including a transplant procedure, that uses fetal tissue or organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or miscarriage.
7. The withholding or withdrawal of nutrition or hydration, if the withholding or withdrawal of nutrition or hydration would result in the patient's death from malnutrition or dehydration, or complications of malnutrition or dehydration, rather than from the underlying terminal illness or injury, unless the administration of nutrition or hydration is medically contraindicated.
8. An act that intentionally causes or assists in causing the death of an individual, such as by assisted suicide, euthanasia, or mercy killing.

(b) A physician or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital in which the performance of an activity specified in par. (a) 1. to 8. has been authorized, who, in writing, refuses, or states an intention to

refuse, to participate in the activity on moral or religious grounds may not be required to participate in the activity.

(c) A physician or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital, is immune from liability for any damage caused by, and may not be subjected to any disciplinary or recriminatory action based on, the refusal of the person to participate in an activity specified in par. (a) 1. to 8. on moral or religious grounds.

(2) A hospital or employee of a hospital is immune from liability for any damage caused by a refusal to participate in an activity specified in sub. (1r) (a) 1. to 8., if the refusal is based on religious or moral precepts.

(3) No hospital, school, or employer may discriminate against any person with regard to admission, hiring or firing, tenure, term, condition, or privilege of employment, student status, or staff status on the ground that the person refuses, or states an intention to refuse, whether or not in writing, to participate in an activity specified in sub. (1r) (a) 1. to 8., if the refusal is based on religious or moral precepts.

(4) The receipt of any grant, contract, loan or loan guarantee under any state or federal law does not authorize any court or any public official or other public authority to require:

(a) Such individual to participate in an activity specified in sub. (1r) (a) 1. to 8., if the individual's participation in the activity is contrary to the individual's religious beliefs or moral convictions; or

(b) Such entity to:

1. Make its facilities available for an individual to participate in an activity specified in sub. (1r) (a) 1. to 8., if the entity prohibits the activity from taking place in the facilities on the basis of religious beliefs or moral convictions; or

2. Provide any personnel to participate in an activity specified in sub. (1r) (a) 1. to 8., if the activity is contrary to the religious beliefs or moral convictions of the personnel.

(5) (a) In this subsection, "damages" do not include noneconomic damages, as defined in s. 893.55 (4) (a).

(b) Except for claims that are subject to s. 111.321 or 111.322, a person who is adversely affected by conduct that is in violation of this section may bring a civil action for equitable relief, including reinstatement, or damages, or both. In an action under this paragraph, the court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person who obtains equitable relief, damages, or both. An action under this paragraph shall be commenced within one year after the cause of action accrues or be barred.

AMENDED CONSCIENCE CLAUSE FOR NURSES

441.06 Licensure; civil liability and disciplinary exemption.

(6) (a) In this subsection:

1. "Human embryo" means a human organism that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells. "Human embryo" includes a zygote but does not include a human organism at or beyond the stage of development at which the major body structures are present.
2. "In vitro human embryo" means a human embryo, whether cryopreserved or not, living outside of a woman's body.
3. "Participate in" means to perform; practice; engage in; assist in; recommend; counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or otherwise promote, encourage, or aid.

(b) A person licensed as a registered nurse under this section or as a practical nurse under s. 441.10 is immune from liability for any damage caused by his or her refusal to participate in any of the following, if the refusal is based on religious or moral precepts:

1. A sterilization procedure.
2. An abortion, as defined in s. 253.10 (2) (a).
3. An experiment or medical procedure that destroys an in vitro human embryo or uses cells or tissue derived from the destruction of an in vitro human embryo.
4. An experiment or medical procedure on an in vitro human embryo that is not related to the beneficial treatment of the in vitro human embryo.
5. An experiment or medical procedure on a developing child in a natural or artificial womb, at any stage of development, that is not related to the beneficial treatment of the developing child.
6. A procedure, including a transplant procedure, that uses fetal tissue or organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or miscarriage.
7. The withholding or withdrawal of nutrition or hydration, if the withholding or withdrawal of nutrition or hydration would result in the patient's death from malnutrition or dehydration, or complications of malnutrition or dehydration, rather than from the underlying terminal illness or injury, unless the administration of nutrition or hydration is medically contraindicated.
8. An act that intentionally causes or assists in causing the death of an individual, such as by assisted suicide, euthanasia, or mercy killing.

(7) A person licensed as a registered nurse under this section or as a practical nurse under s. 441.10 who, in writing, refuses, or states an intention to refuse, on moral or religious grounds to participate in a practice of practical or professional nursing that is

related to an activity specified in sub. (6) (b) 1. to 8. may not be required to participate in the practice with respect to the activity and may not be disciplined by the board or the department for refusing or stating an intention to refuse to participate in the practice with respect to the activity.

(8) (a) In this subsection, "damages" do not include noneconomic damages, as defined in s. 893.55 (4) (a).

(b) Except for claims that are subject to s. 111.321 or 111.322, a person who is adversely affected by conduct that is in violation of sub. (7) may bring a civil action for equitable relief, including reinstatement, or damages, or both. In an action under this paragraph, the court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person who obtains equitable relief, damages, or both. An action under this paragraph shall be commenced within one year after the cause of action accrues or be barred.

AMENDED CONSCIENCE CLAUSE FOR PHYSICIANS

448.03 License or certificate required to practice; use of titles; civil immunity; practice of Christian Science.

(5) Civil liability and disciplinary exemption; certain medical procedures and reports.

(ag) In this subsection:

1. "Human embryo" means a human organism that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells. "Human embryo" includes a zygote but does not include a human organism at or beyond the stage of development at which the major body structures are present.

2. "In vitro human embryo" means a human embryo, whether cryopreserved or not, living outside of a woman's body.

3. "Participate in" means to perform; practice; engage in; assist in; recommend; counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or otherwise promote, encourage, or aid.

(am) A person licensed or certified under this subchapter is immune from liability for any damage caused by the person's refusal to participate in any of the following if the refusal is based on religious or moral precepts:

1. A sterilization procedure.
2. An abortion, as defined in s. 253.10 (2) (a).
3. An experiment or medical procedure that destroys an in vitro human embryo or uses cells or tissue derived from the destruction of an in vitro human embryo.
4. An experiment or medical procedure on an in vitro human embryo that is not related to the beneficial treatment of the in vitro human embryo.
5. An experiment or medical procedure on a developing child in a natural or artificial womb, at any stage of development, that is not related to the beneficial treatment of the developing child.
6. A procedure, including a transplant procedure, that uses fetal tissue or organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or miscarriage.
7. The withholding or withdrawal of nutrition or hydration, if the withholding or withdrawal of nutrition or hydration would result in the patient's death from malnutrition or dehydration, or complications of malnutrition or dehydration, rather than from the underlying terminal illness or injury, unless the administration of nutrition or hydration is medically contraindicated.

8. An act that intentionally causes or assists in causing the death of an individual, such as by assisted suicide, euthanasia, or mercy killing.

(ao) A person licensed or certified under this subchapter who, in writing, refuses, or states an intention to refuse, on moral or religious grounds to participate in a practice within the scope of his or her license or certification that is related to an activity specified in par. (am) 1. to 8. may not be required to participate in the practice with respect to the activity and, notwithstanding ss. 154.07 (1) (a) 3. and 155.50 (1) (b), may not be disciplined by the board or the department for refusing or stating an intention to refuse to participate in the practice with respect to the activity, including refusing or stating an intention to refuse to transfer a patient to another physician who will comply with a declaration, as defined in s. 154.02 (1), instrument for power of attorney for health care, as defined in s. 155.01 (10), or health care decision, as defined in s. 155.01 (5), of a health care agent, as defined in s. 155.01 (4). This paragraph does not apply to the refusal to make a good faith attempt to transfer a declarant with incapacity, as defined in s. 155.01 (8) and with a terminal condition, as defined in s. 154.01 (8), to another physician who will comply with the declaration, as defined in s. 154.02 (1), of the declarant.

(ar) 1. In this paragraph, "damages" do not include noneconomic damages, as defined in s. 893.55 (4) (a).

2. Except for claims that are subject to s. 111.321 or 111.322, a person who is adversely affected by conduct that is in violation of par. (ao) may bring a civil action for equitable relief, including reinstatement, or damages, or both. In an action under this subdivision, the court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person who obtains equitable relief, damages, or both. An action under this subdivision shall be commenced within one year after the cause of action accrues or be barred.

NEW CONSCIENCE CLAUSE FOR PHARMACISTS

450.135 Pharmacist's refusal to be involved in certain activities. (1) In this section:

(a) "Human embryo" means a human organism that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells. "Human embryo" includes a zygote but does not include a human organism at or beyond the stage of development at which the major body structures are present.

(b) "In vitro human embryo" means a human embryo, whether cryopreserved or not, living outside of a woman's body.

(c) "Participate in" means to perform; practice; engage in; assist in; recommend; counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or otherwise promote, encourage, or aid.

(2) A person licensed as a pharmacist under this chapter is immune from liability for any damage caused by his or her refusal to participate in any of the following, if the refusal is based on religious or moral precepts:

(a) A sterilization procedure.

(b) An abortion, as defined in s. 253.10 (2) (a).

(c) An experiment or medical procedure that destroys an in vitro human embryo or uses cells or tissue derived from the destruction of an in vitro human embryo.

(d) An experiment or medical procedure on an in vitro human embryo that is not related to the beneficial treatment of the in vitro human embryo.

(e) An experiment or medical procedure on a developing child in a natural or artificial womb, at any stage of development, that is not related to the beneficial treatment of the developing child.

(f) A procedure, including a transplant procedure, that uses fetal tissue or organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or miscarriage.

(g) The withholding or withdrawal of nutrition or hydration, if the withholding or withdrawal of nutrition or hydration would result in the patient's death from malnutrition or dehydration, or complications of malnutrition or dehydration, rather than from the underlying terminal illness or injury, unless the administration of nutrition or hydration is medically contraindicated.

(h) An act that intentionally causes or assists in causing the death of an individual, such as by assisted suicide, euthanasia, or mercy killing.

(3) (a) A person licensed as a pharmacist under this chapter who, in writing, refuses, or states an intention to refuse, on moral or religious grounds to participate in a practice of pharmacy that is related to an activity specified in sub. (2) (a) to (h) may not be required to participate in the practice with respect to the activity and may not be disciplined by

the board or department for refusing or stating an intention to refuse to participate in the practice with respect to the activity.

(b) 1. In this paragraph, "damages" do not include noneconomic damages, as defined in s. 893.55 (4) (a).

2. Except for claims that are subject to s. 111.321 or 111.322, a person who is adversely affected by conduct that is in violation of par. (a) may bring a civil action for equitable relief, including reinstatement, or damages, or both. In an action under this subdivision, the court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person who obtains equitable relief, damages, or both. An action under this subdivision shall be commenced within one year after the cause of action accrues or be barred.

AMENDED PROVISION ON CREED IN THE FAIR EMPLOYMENT LAW

111.337 Creed; exceptions and special cases.

(1g) In this section:

(a) "Human embryo" means a human organism that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells. "Human embryo" includes a zygote but does not include a human organism at or beyond the stage of development at which the major body structures are present.

(b) "In vitro human embryo" means a human embryo, whether cryopreserved or not, living outside of a woman's body.

(c) "Participate in" means to perform; practice; engage in; assist in; recommend; counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or otherwise promote, encourage, or aid.

(1r) Employment discrimination because of creed includes, but is not limited to, any of the following:

(a) Refusing to reasonably accommodate an employee's or prospective employee's religious observance or practice unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise, or business.

(b) Discriminating against an employee or prospective employee by engaging in any of the actions prohibited under s. 111.322 on the basis of the employee's or prospective employee's refusal, or statement of an intention to refuse, whether or not in writing, based on his or her creed, to participate in any of the following:

1. A sterilization procedure.
2. An abortion, as defined in s. 253.10 (2) (a).
3. An experiment or medical procedure that destroys an in vitro human embryo or uses cells or tissue derived from the destruction of an in vitro human embryo.
4. An experiment or medical procedure on an in vitro human embryo that is not related to the beneficial treatment of the in vitro human embryo.
5. An experiment or medical procedure on a developing child in a natural or artificial womb, at any stage of development, that is not related to the beneficial treatment of the developing child.
6. A procedure, including a transplant procedure, that uses fetal tissue or organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or miscarriage.
7. The withholding or withdrawal of nutrition or hydration, if the withholding or

withdrawal of nutrition or hydration would result in the patient's death from malnutrition or dehydration, or complications of malnutrition or dehydration, rather than from the underlying terminal illness or injury, unless the administration of nutrition or hydration is medically contraindicated.

8. An act that intentionally causes or assists in causing the death of an individual, such as by assisted suicide, euthanasia, or mercy killing.

(2) Notwithstanding s. 111.322, it is not employment discrimination because of creed:

(a) For a religious association not organized for private profit or an organization or corporation which is primarily owned or controlled by such a religious association to give preference to an applicant or employee who is a member of the same or a similar religious denomination.

(am) For a religious association not organized for private profit or an organization or corporation which is primarily owned or controlled by such a religious association to give preference to an applicant or employee who adheres to the religious association's creed, if the job description demonstrates that the position is clearly related to the religious teachings and beliefs of the religious association.

(b) For a fraternal as defined in s. 614.01 (1) (a) to give preference to an employee or applicant who is a member or is eligible for membership in the fraternal, with respect to hiring to or promotion to the position of officer, administrator or salesperson.

(3) No county, city, village or town may adopt any provision concerning employment discrimination because of creed that prohibits activity allowed under this section.

DEFINITION OF ABORTION

253.10 Voluntary and informed consent for abortions.

(2) DEFINITIONS. In this section:

(a) "Abortion" means the use of an instrument, medicine, drug or other substance or device with intent to terminate the pregnancy of a woman known to be pregnant or for whom there is reason to believe that she may be pregnant and with intent other than to increase the probability of a live birth, to preserve the life or health of the infant after live birth or to remove a dead fetus.

**POLICY STATEMENTS SUPPORTING
CONSCIENCE RIGHTS OF VARIOUS HEALTH CARE PROFESSIONALS**

American Medical Association

"H-5.995 Abortion: Our AMA reaffirms that: (1) abortion is a medical procedure and should be performed only by a duly licensed physician and surgeon in conformance with standards of good medical practice and the Medical Practice Act of his state; and (2) no physician or other professional personnel shall be required to perform an act violative of good medical judgment. Neither physician, hospital, nor hospital personnel shall be required to perform any act violative of personally held moral principles. In these circumstances, good medical practice requires only that the physician or other professional withdraw from the case, so long as the withdrawal is consistent with good medical practice." (Sub. Res. 43, A-73; Reaffirmed: I-86; Reaffirmed: Sunset Report, I-96; Reaffirmed by Sub. Res. 208, I-96; Reaffirmed by BOT Rep. 26, A-97; Reaffirmed: CMS Rep. 1, I-00)

American Pharmaceutical Association

"APhA recognizes the individual pharmacist's right to exercise conscientious refusal and supports the establishment of systems to ensure patient access to legally prescribed therapy without compromising the pharmacist's right of conscientious refusal." (Adopted by APhA House of Delegates as Association policy, 1998)

American Hospital Association

"The Board of Trustees of the American Hospital Association has stated that a health care institution should, based on its assessment of its mission, be able to choose whether or not to perform abortions." (AHA letter to Senator John Danforth endorsing the abortion-neutral amendment to the Civil Rights Restoration Act, August 3, 1987)

Association of American Physicians and Surgeons

"The federal government should not discriminate against medical professionals or medical institutions that follow the dictates of conscience or medical judgment in refusing to perform, participate in, support, or fund abortions. The Oath of Hippocrates proscribes abortion, as do the religious or ethical beliefs of a very large number of medical professionals.... ANDA involves a fundamental liberty issue: the freedom to practice one's profession in accordance with one's conscience and one's informed professional judgment." (Testimony to House Energy and Commerce Committee endorsing H.R. 4691, July 9, 2002)

American Nurses Association

"Where nurses are placed in situations of compromise that exceed acceptable moral limits or involve violations of the moral standards of the profession, whether in direct patient care or in any other forms of nursing practice, they may express their conscientious objection to participation. Whether a particular treatment, intervention, activity, or practice is morally objectionable to the nurse, whether intrinsically so or because it is inappropriate for the specific patient, or where it may jeopardize both patients and nursing practice, the nurse is justified in refusing to participate on moral grounds." (Code of Ethics for Nurses, Provision 5.4)

La Crosse Bd HHS
Beyond - education & counseling

Conscience clause- misnomer. "Denial of Health Care" is more accurate.

Guts medical ethics, destroys physician-patient relationship.

No support from medical groups.

Current law: *says*

- 1.) no employer, including hospitals, can hire or fire based on employees' beliefs or refusal to participate in certain procedures.
- 2.) Assisted suicide, euthanasia ^{are} ~~is~~ already illegal
- 3.) Pharmacists may not dispense mifepristone (RU486)

*8 procedures?
future proced
ures?*

What, then, is the real motive? It is a continuation of efforts to restrict access to the full range of womens' health care; to termination of pregnancy, even to save the life of the mother; to birth control; to end-of-life decisions.

Why? Special interest groups believe that they are more qualified to make life and death decisions than doctors and patients.

They want to return us to the barefoot-and-pregnant gold standard of the 1940s and 1950s. We will lose educational and career opportunities, control of our own bodies and our fertility, and will lose our voice in society. There is more to a woman than her uterus.

Medical and moral decisions should be left to medical and moral experts, not government.

Supporters of this bill seem to be in favor of smaller, more intrusive government regulation of the lives of citizens. Why not focus the power of government on issues that will improve life for the citizens of Wisconsin?

What is my interest? Why do I speak to these issues? Because I am a La Crosse County Board Supervisor. It is our responsibility to enact the programs you pass here and to deliver quality health care to the citizens of La Crosse County.

*an advocate for
women's health
I was with him*

Also, because I am a widow. My husband was an obstetrician-gynecologist, ~~went~~ through medical school, residency, and practice, ~~with him~~. We discussed womens' health issues at length.

We also discussed end-of-life issues in depth, as he had a fatal heart condition. *He was 48.* Last June, his heart stopped and he ended up in a coma for 12 days. When it became apparent that he would not recover, I had to make the decision to

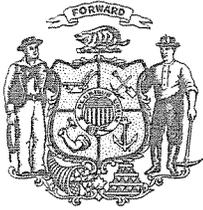
withhold food, water, and medication from him, as he requested in writing in his advance directive. I did it in consultation with his doctors, my family, my friends, his friends, many of whom are in the medical profession, and the medical ethicist at the hospital. It took 4 days for him to die after all treatment was stopped. I was with him for every moment of 12 days in the hospital. I did not make that decision lightly, nor do I regret it.

children

During that time, 2 nurse comfort 12 hr shifts

My children and I live with that decision every day. How dare you tell me that it was not our decision to make. You must not pass this badly flawed bill. You must responsibly represent your constituents, who want to maintain control of their most intimate decisions.

Sharon Hampson
La Crosse WI 54601



LEAH VUKMIR

STATE REPRESENTATIVE

DATE: October 7, 2003

TO: Senator Roessler, Chair
Senate Members
Committee on Health, Children, Families, Aging and Long Term Care

FROM: Representative Vukmir *Leah Vukmir*

RE: AB 67 - Senate Testimony

Thank you Committee Chair and members for taking up this important piece of legislation. I am here today to speak in favor of AB 67.

As you all know, I am a new member of the Assembly and as a practicing registered nurse and pediatric nurse practitioner with 23 years of experience, I also serve on the Assembly Committee on Health. When AB 67 was being debated in our chambers in June of this year, I had been a member of this body for only 5 months. Although it was a short time, I had already learned that a good deal of emphasis is placed on a freshman's first speech on the floor. I was still working on my first piece of legislation and had just assumed that my first speech would be on that bill. That all changed after I listened to the floor debate on AB67. I felt compelled to speak then and I do so again today.

I signed onto this bill to protect health care professionals from employment discrimination, civil penalties and potential professional sanctions – health care professionals who *choose* to abide by their conscience. This is what this bill is about - plain and simple. Too many have tried to cloud this bill with emotional "what-if" scenarios and we need to get our focus back on the original intent.

Currently we afford health care providers the opportunity to conscientiously object to participation in certain procedures. AB 67 expands to include more activities and also provides health care professionals with protection from discrimination from their employers.

Many will say that it rarely if ever happens that a health care provider is discriminated against and therefore the bill is unnecessary. I have been fortunate in my 23 years to have never been put in this position, but that is partly due to the fact that I have worked in predominately Catholic facilities. I do know of colleagues in other settings who have been put in this position and who, out of fear, have not stepped forward. Who knows how many others have done the same?

Our current experiences also assume that we are practicing medicine and science in a time warp. We all know that is not the case. We all know that advances in research arise each and everyday increasing the likelihood that health care professionals will be put in positions that do not agree

with their conscience. AB 67, then, can be seen as forward-thinking because it considers many new areas and advances in technology - from cloning to stem cell research. The ethics of medicine are becoming increasingly murky and as such, health care providers must be given protection from discrimination should they find certain activities inconsistent with their moral being.

During the floor debate I was surprised to hear some say, "All nurses and health care professionals oppose this bill." Well, I am a nurse and I do not oppose this bill. I support this bill along with many of my colleagues. The professionals that I have worked with and continue to work with would in no way allow a patient's life to be harmed or endangered. I would in no way allow a patient's life to be harmed or endangered.

I have heard some argue that this bill violates the nurse's code of ethics by granting them the right to walk away from patients in need. I find that very hard to believe. You see, I remember learning that code and I looked at that code as I prepared for my testimony today. Section 5.4 deals with the issue of conscientious objections and clearly states that it is the nurse's duty to inform others in advance if they have moral problems with participating in the care of a patient. It clearly states that the nurse "must communicate" those concerns to others in advance so that alternative arrangements for care can be made. The nurse "is obliged to provide for the patients safety, to avoid abandonment and to withdraw only when assured that alternative sources of care are available."

I know that my colleagues would not violate that code. AB 67 will not encourage nurses to violate the code. Rather, it *will* protect them from discrimination should they object - for the nurse's code clearly states that those who refuse to participate "may not be insulated against formal or informal penalty." AB 67 will afford that protection. I urge you today to vote in support of this important piece of legislation.

Testimony presented to the Senate Committee on Health, Children, Families,
Aging and Long Term Care.

10:00 AM October 7, 2003 Room 411 S

By Wendy Cooper, 5210 South Hill Drive, Madison, WI 53705

Chairperson Roessler, members of the Committee, thank you for the opportunity to address you regarding Assembly Bill 67.

My name is Wendy Cooper, and I appear before you today representing myself. However, I am a member of the Interim Board of the Religious Coalition for Reproductive Choice of Wisconsin – an affiliate of national Religious Coalition for Reproductive Choice. The Coalition is composed of Christian, Jewish and other religious organizations. In addition, I currently serve as co-chair of the Reproductive Rights Task Force of the Wisconsin Women's Network.

I am here today to express my opposition to AB 67.

Who among us would argue that the religious liberty that we share in the United States is one of the greatest achievements of our society? My opposition to AB 67 relates directly to the question of whether the Wisconsin Legislature will uphold the ideal of religious liberty or negate it by giving greater weight to the religious beliefs of one particular group.

Under the guise of creating a remedy for employment discrimination on the basis of creed for a small group of health care providers, this legislation will ultimately deny the right of the many patients and their families to exercise their moral conscience in health care decisions. And in so doing, the Legislature appears prepared to elevate the religious beliefs of the health care provider to a place of such special standing that even the threat of physical harm to their patients is of no consequence.

If the pharmacist, the physician, or the nurse holds a different set of beliefs than I do shall it be their religious beliefs that dictate the course of my health care, perhaps the course of my life – shall my religious beliefs be made null and void.

AB 67 undermines the codes of ethics that have dictated the nature of the relationship between health care provider and patient. The professional code of ethics of nurses, pharmacists and physicians all place the health and well-being of the patient at the forefront of their profession actions. I am concerned that the ethical standards are breached in two ways in AB 67. First, the health care provider may place his or her own interest above the life and health interest of their patient. Second, there is no requirement in AB 67 that the health care provider disclose to the patient the reason they are failing to offer a service that another health care provider would agree to

offer or even recommend for the patient. Therefore, the patient is left ignorant of their true situation – and AB 67 allows the health care provider the means to impose their religious beliefs on the patient. The health care system is often an intimidating system for patients. We should not assume that patients would be effective advocates for themselves, questioning why a service has been denied or where the service can be otherwise obtained. It seems plausible that under AB 67 a patient may not even realize that a service that would be medically beneficial (perhaps necessary) is being denied. For if the health care provider is opposed to a service that service may never be discussed with the patient. It may never be offered as an option. I believe that these possibilities should be troubling to us all – and hope that the committee will include the patient's rights in their deliberations on this legislation.

When I last gave testimony on this bill I told the Assembly Labor Committee of my concerns about the effect of the bill on my father. My father passed away in June after confronting Alzheimer's disease, and a serious and ultimately fatal heart condition. During the last nine months of my father's life, he was hospitalized five times. Each time he entered the hospital we had to face the possibility that he would die rather than return home. Thankfully, with the support of HospiceCare here in Madison, he

was able to return home, remain home and died peacefully there in early June. During those last difficult months of my father's life he and I had many frank discussions concerning his beliefs about life and death, and about the way he wished to live in his final days and hours. I watched him struggle to understand his own wishes about medical care. He knew that the decisions he was making would affect how many days, or months he would live.

Having stood by my father during this process of soul searching in his final months, and respecting the decisions that he made – I feel nothing but anguish over the possibility that his last days could have been disrupted by a health care provider overruling his wishes. It would have been terrible for him, and terrible for those of us caring for my father to have been thrust into a battle with a health care provider about the medical care my father was to receive affecting how he was going to live his final days on this earth. Yet, AB 67 clearly makes such battles likely. I wonder how the legislature will make those circumstances right?

I urge you to reject AB 67. Thank you for your attention.

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TESTIMONY OF CHRIS TAYLOR IN OPPOSITION TO AB 67

Good afternoon.

My name is Chris Taylor and I am the legislative director for Planned Parenthood of Wisconsin. I wish to thank Chairwoman Roessler and the other members of this committee for giving me this opportunity to speak against AB 67. Planned Parenthood of Wisconsin is strongly opposed to AB 67 for a number of reasons which I will highlight.

I am here as a representative of a health care organization that serves 67,000 patients each year, in 31 clinics throughout the state, by providing preventative and diagnostic health care services. These services include breast and cervical cancer screening, sexually transmitted infection testing and treatment, contraception services, pregnancy counseling, and abstinence-based, age-appropriate sexuality education. In 2002, Planned Parenthood of Wisconsin provided 28,000 breast exams and 33,018 pap smears, mostly to women with little or no health insurance. 54% of our patients have incomes between zero and \$8,860.

Our mission is to provide women and men with the education and direct clinic services to enable them to make responsible choices, have a healthy future and, when they are ready, to have healthy children.

As a non-profit health care provider who has served the reproductive needs of our community for over 67 years, Planned Parenthood of Wisconsin is experienced in assessing and addressing the reproductive health care needs of our population. As one of this state's largest family planning provider, we have an obligation to speak on behalf of patients who will be gravely threatened by this bill.

I also must comment on this bill in my capacity as an attorney, as the legal ramifications of this bill are indeed frightening and indeed understood by the medical community, which, as has been indicated here today, vigorously oppose this bill. Being somewhat new to Planned Parenthood of Wisconsin, AB 67 was the first bill I legally examined. And must admit that I was, and still am, very shocked that AB 67, which has such dire consequences for patients, is seriously being considered by the Wisconsin legislature.

The problems with this bill are indeed numerous.

Perhaps most obvious is the erosion of medical ethics which AB 67 promotes. Under current law, as expressed in the Wisconsin administrative code, no physician can take any actions which "tends to constitute a danger to the health, welfare or safety of patients. Further, physicians have an affirmative duty to provide patients with information about the availability of all alternate, viable medical modes of treatment and about the benefits and risk of this treatment." Clearly, the health needs of a patient are of paramount importance, as reflected in medical ethics.

AB 67, on the contrary, subordinates patient health needs to the personal beliefs of the provider. AB 67 does this by allowing health care professionals and workers to opt-out of "participating in" certain treatment if the provider personally disapproves of the treatment needed. The definition of "participate in" is very broad, and includes a refusal to refer a patient to another provider to administer the needed care, even if a patient's health or life will be jeopardized without treatment. This result clearly conflicts with the expectation we have for health care providers, which is to care for patients and act in their best interests. In fact a physician's duty to a patient is enshrined in Wisconsin law. I know many of you on the committee have fought vigilantly for patient's rights. This bill will gut the rights of patients many of you have worked hard to secure.

AB 67 negatively impacts many categories of patients, including the elderly, terminally ill and incapacitated patients. Pregnant women are also a class of patients potentially harmed by this bill. Pursuant to current Wisconsin law as set forth in Wis. Stat. Sec. 253.09 (attached), hospitals, physicians and any employee can refuse to perform or assist in the performance of abortions. This refusal, as clearly stated in the statutes, can't be used as a basis for a claim for damages or for any disciplinary action against such person. To the extent you have heard otherwise from other witnesses, this testimony is flat-out incorrect, which a quick look at the statute will validate.

AB 67, however, goes much further than current law. A pregnant woman who will die if she continues her pregnancy can also be refused a referral to a hospital or physician that does perform abortions. Hence, a pregnant woman's life could be compromised by AB 67.

Further, AB 67 specifically states that medical procedures that are not specifically related to the beneficial care of a developing child can be refused. What this provision means is that a pregnant woman's own health needs can be ignored. The pregnant cancer patient may still need chemotherapy. A pregnant woman with epilepsy still needs anti-seizure medication. A pregnant woman with diabetes still needs insulin. Yet these treatments could have a negative effect upon a fetus. There was an amendment offered on the Assembly floor to clarify that this provision should

not be interpreted as allowing a pregnant woman to be denied needed health care. That amendment was defeated.

AB 67 additionally allows physicians and health care workers to deny women access to vital prenatal care. Prenatal tests are a standard part of prenatal care. These tests are designed to monitor maternal and fetal health and can be used to detect lethal fetal anomalies that could threaten a woman's health and life as well. Prenatal tests additionally become very important for women who have high risk pregnancies or who are above a certain age. Certainly, women and their families have a right to receive the information available through these tests. Amniocentesis is a prenatal tests commonly recommended to women who are past a certain age. This test does carry a risk of miscarriage. Hence, amniocentesis also could be considered to be "medical procedure which is not related to the beneficial treatment of a developing child." In fact, any prenatal test and screen could be denied to a woman if the physician believes that such information could be a factor in a woman's decision to have an abortion.

At a June press conference by health care professionals prior to the Assembly floor vote on this bill, Dr. Laube, a prominent OB/GYN from the UW Medical School and past vice-chair of the American College of Obstetricians and Gynecologists stated that "AB 67 is an unconscionable attack on maternal health that would restrict valuable prenatal diagnosis and care that is integral to the health and well-being of women and their babies." Dr. Laube also surmised that if AB 67 passed, some of his colleagues would stop performing prenatal tests, potentially compromising a pregnant woman's health.

AB 67 removes all legal protections for Wisconsin patients who incur substantial harm due to the denial of medical treatment allowed by this bill. Even a patient who suffers a permanent disability will have no legal recourse against a hospital, physician or health care worker. Wisconsin citizens, who depend on the skill, knowledge and expertise of their doctors and health care providers, are left out in the cold without any legal remedy even when they have incurred a permanent, life-altering disability.

Not only is AB 67 horrible for patients, but it is horrible for employers. Under current law, religious protection, as set forth in Wis. Stats. s. 111.321 is already extended to employees. As set forth in Wis. Stats. S. 111.33, employers have an affirmative obligation to reasonably accommodate an employee's or prospective employee's religious observance or practice. The only exception is unless such accommodation poses an undue hardship on employers. In most cases, this would be a financial hardship to an employer. AB 67 eliminates this important exception for employers. Rather, employers can not base any employment decision on an employee's refusal to perform his or her job, or substantial parts of his or her job,

because of a personal belief. Even if the employer can not financially afford to accommodate such a belief or practice. Instead, AB 67 demands that employers not consider the willingness of an employee to perform his or her job because of a personal belief, even if this causes a severe financial hardship for the employer.

In fact, it is difficult to find a population of individuals who will be better off under this bill. Patients didn't ask for this bill. The medical community didn't ask for this bill. And certainly employers and hospitals did not ask for this bill. Doctors and nurses certainly don't think they need any of the so-called "protections" under this bill, and vocally oppose this attack on patients.

Planned Parenthood of Wisconsin's opposition to this bill is not in any way a criticism the thousands of doctors, health care workers and pharmacists throughout this state who work tirelessly to ensure that their patients get the best possible health care. We are confident that the majority of these health care professionals and workers will continue to put the needs of their patients first in assessing healthcare needs and treatment. We oppose this bill because it establishes dangerous law, abrogates medical ethics and could result in harming patients. Any patient who is harmed by this legislation or whose health is compromised by this legislation is one patient too many.

The language of AB 67 is intentionally deceptive, couched in terms such as "conscience clause" and "anti-discrimination." AB 67 is not about extending discrimination protection, which already exists in Wisconsin law. Rather, AB 67 perpetuates discrimination in one of the most unconscionable ways imaginable: through the denial of vital health services to patients in their most vulnerable states. This bill is not about protecting a health care providers' conscience. Rather, it is an unconscionable attack on patients, a threat to patient health and a severe restriction on patients' health care choices.

For the sake of the health of all Wisconsin citizens, we urge you to oppose this dangerous bill.

Respectfully submitted,

Chris Taylor

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

Chapter Med 10

UNPROFESSIONAL CONDUCT

Med 10.01 Authority and purpose.

Med 10.02 Definitions.

Note: Chapter Med 16 as it existed on October 31, 1976 was repealed and a new Chapter Med 10 was created effective November 1, 1976.

Med 10.01 Authority and purpose. The definitions of this chapter are adopted by the medical examining board pursuant to the authority delegated by ss. 15.08 (5) 227.11, and 448.40, Stats., for the purposes of ch. 448, Stats.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76; correction made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1989, No. 401.

Med 10.02 Definitions. (1) For the purposes of these rules:

- (a) "Board" means the medical examining board.
- (b) "License" means any license, permit, certificate, or registration issued by the board.
- (2) The term "unprofessional conduct" is defined to mean and include but not be limited to the following, or aiding or abetting the same:
 - (a) Violating or attempting to violate any provision or term of ch. 448, Stats., or of any valid rule of the board.
 - (b) Violating or attempting to violate any term, provision, or condition of any order of the board.
 - (c) Knowingly making or presenting or causing to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing in connection with any application for license.
 - (d) Practicing fraud, forgery, deception, collusion, or conspiracy in connection with any examination for license.
 - (e) Giving, selling, buying, bartering, or attempting to give, sell, buy, or barter any license.
 - (f) Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed or registered to practice in this or any other state. This subsection does not apply to change of name resulting from marriage, divorce, or order by a court of record.
 - (g) Engaging or attempting to engage in the unlawful practice of medicine and surgery or treating the sick.
 - (h) Any practice or conduct which tends to constitute a danger to the health, welfare, or safety of patient or public.
 - (i) Practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to patients.
 - (j) Practicing or attempting to practice under any license beyond the scope of that license.
 - (k) Offering, undertaking, or agreeing to treat or cure a disease or condition by a secret means, method, device, or instrumentality; or refusing to divulge to the board upon demand the means, method, device, or instrumentality used in the treatment of a disease or condition.
 - (L) Representing that a manifestly incurable disease or condition can be or will be permanently cured; or that a curable disease or condition can be cured within a stated time, if such is not the fact.
 - (m) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtaining or attempting to obtain any professional fee or compensation of any form by fraud or deceit.
 - (n) Willfully divulging a privileged communication or confidence entrusted by a patient or deficiencies in the character of

patients observed in the course of professional attendance, unless lawfully required to do so.

(o) Engaging in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence; or engaging in false, misleading or deceptive advertising.

(p) Administering, dispensing, prescribing, supplying, or obtaining controlled substances as defined in s. 961.01 (4), Stats., otherwise than in the course of legitimate professional practice, or as otherwise prohibited by law.

(q) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice medicine and surgery or treat the sick, which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by any agency of the federal government, including but not limited to the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.

(r) Conviction of any crime which may relate to practice under any license, or of violation of any federal or state law regulating the possession, distribution, or use of controlled substances as defined in s. 961.01 (4), Stats. A certified copy of a judgment of a court of record showing such conviction, within this state or without, shall be presumptive evidence thereof.

(s) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any amphetamine or sympathomimetic amine drug designated as a schedule II controlled substance to or for any person except for any of the following:

1. Use as an adjunct to opioid analgesic compounds for treatment of cancer-related pain,
2. Treatment of narcolepsy,
3. Treatment of hyperkinesia,
4. Treatment of drug induced brain dysfunction,
5. Treatment of epilepsy,
6. Differential diagnostic psychiatric evaluation of depression,
7. Treatment of depression shown to be refractory to other therapeutic modalities,
8. Clinical investigation of the effects of such drugs or compounds in which case an investigative protocol therefore shall have been submitted to and reviewed and approved by the board before such investigation has been begun.

(t) Aiding or abetting the unlicensed practice of medicine or representing that unlicensed persons practicing under supervision, including unlicensed M.D.'s and D.O.'s, are licensed, by failing to identify the individuals clearly as unlicensed physicians or delegates.

(u) Failure to inform a patient about the availability of all alternate, viable medical modes of treatment and about the benefits and risks of these treatments, including the benefits and risks associated with the use of extended wear contact lenses.

(v) Use in advertising of the term "board certified" or a similar phrase of like meaning unless in fact so certified and unless disclosure is made of the complete name of the speciality board which conferred the certification.

developing and by annually reviewing and updating a state plan for community-based family planning programs.

(b) The department shall allocate state and federal family planning funds under its control in a manner which will promote the development and maintenance of an integrated system of community health services. It shall maximize the use of existing community family planning services by encouraging local contractual arrangements.

(c) The department shall coordinate the delivery of family planning services by allocating family planning funds in a manner which maximizes coordination between the agencies.

(d) The department shall encourage maximum coordination of family planning services between county social services departments, family planning agencies and local health departments to maximize the use of health, social service and welfare resources.

(e) The department shall promulgate all rules necessary to implement and administer this section.

(3) INDIVIDUAL RIGHTS, MEDICAL PRIVILEGE. (a) The request of any person for family planning services or his or her refusal to accept any service shall in no way affect the right of the person to receive public assistance, public health services or any other public service. Nothing in this section may abridge the right of the individual to make decisions concerning family planning, nor may any individual be required to state his or her reason for refusing any offer of family planning services.

(b) Any employee of the agencies engaged in the administration of the provisions of this section may refuse to accept the duty of offering family planning services to the extent that the duty is contrary to his or her personal beliefs. A refusal may not be grounds for dismissal, suspension, demotion, or any other discrimination in employment. The directors or supervisors of the agencies shall reassign the duties of employees in order to carry out the provisions of this section.

(c) All information gathered by any agency, entity or person conducting programs in family planning, other than statistical information compiled without reference to the identity of any individual or other information which the individual allows to be released through his or her informed consent, shall be considered a confidential medical record.

(4) FAMILY PLANNING SERVICES. From the appropriation under s. 20.435 (5) (f), the department shall allocate funds in the following amounts, for the following services:

(a) For each fiscal year, \$225,000 to establish and maintain 2 city-based clinics for delivery of family planning services under this section, in the cities of Milwaukee, Racine or Kenosha.

(b) For each fiscal year, \$67,500 to subsidize the provision by family planning agencies under this section of papanicolaou tests to individuals with low income. In this paragraph, "low income" means adjusted gross income that is less than 200% of the poverty line established under 42 USC 9902 (2).

(c) For each fiscal year, \$54,000 to subsidize the provision by family planning agencies under this section of follow-up cancer screening.

(d) For each fiscal year, \$31,500 as grants to applying family planning agencies under this section for employment in communities of licensed registered nurses, licensed practical nurses, certified nurse-midwives or licensed physician assistants who are members of a racial minority.

(e) For each fiscal year, \$36,000 to initiate, in areas of high incidence of the disease chlamydia, education and outreach programs to locate, educate and treat individuals at high risk of contracting the disease chlamydia and their partners.

History: 1977 c. 418; 1979 c. 89; 1991 a. 39 s. 3695; 1993 a. 27 s. 379; Stats. 1993 s. 253.07; 1993 a. 105, s. 13; 1997 a. 27, 67.

Toward greater reproductive freedom: Wisconsin's new family planning act. 1979 WLR 509.

253.08 Pregnancy counseling services. The department shall make grants from the appropriation under s. 20.435 (5) (g) to individuals and organizations to provide pregnancy counseling services. For a program to be eligible under this section, an applicant must demonstrate that moneys provided in a grant under s. 20.435 (5) (g) will not be used to engage in any activity specified in s. 20.9275 (2) (a) 1. to 3.

History: 1985 a. 29; 1993 a. 27 s. 377; Stats. 1993 s. 253.08; 1997 a. 27.

253.085 Outreach to low-income pregnant women

(1) The department shall conduct an outreach program to make low-income pregnant women aware of the importance of prenatal and infant health care and of the availability of medical assistance benefits under subch. IV of ch. 49 and other types of funding for prenatal and infant care, to refer women to prenatal and infant care services in the community and to make follow-up contacts with women referred to prenatal and infant care services.

(2) In addition to the amounts appropriated under s. 20.435 (5) (ev), the department shall allocate \$250,000 for each fiscal year from moneys received under the maternal and child health services block grant program, 42 USC 701 to 709, for the outreach program under this section.

History: 1987 a. 399; 1991 a. 39; 1993 a. 27 s. 47; Stats. 1993 s. 253.085; 1997 a. 27; 1997 a. 27.

253.09 Abortion refused; no liability; no discrimination. **(1)** No hospital shall be required to admit any patient or allow the use of the hospital facilities for the purpose of performing a sterilization procedure or removing a human embryo or fetus. A physician or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital in which such a procedure has been authorized, who shall state in writing his or her objection to the performance of or providing assistance to such a procedure on moral or religious grounds shall not be required to participate in such medical procedure.

refusal of any such person to participate therein shall not constitute basis of any claim for damages on account of such refusal or on any disciplinary or recriminatory action against such person.

(2) No hospital or employee of any hospital shall be liable for any civil damages resulting from a refusal to perform sterilization procedures or remove a human embryo or fetus from a person if such refusal is based on religious or moral precepts.

(3) No hospital, school or employer may discriminate against any person with regard to admission, hiring or firing, tenure, employment condition or privilege of employment, student status or staff status on the ground that the person refuses to recommend, perform procedures for sterilization or the removal of a human embryo or fetus, if the refusal is based on religious or moral precepts.

(4) The receipt of any grant, contract, loan or loan guarantee under any state or federal law does not authorize any state or public official or other public authority to require

(a) Such individual to perform or assist in the performance of any sterilization procedure or removal of a human embryo or fetus if the individual's performance or assistance in the performance of such a procedure would be contrary to the individual's religious beliefs or moral convictions; or

(b) Such entity to:

1. Make its facilities available for the performance of any sterilization procedure or removal of a human embryo or fetus if the performance of such a procedure in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions;

2. Provide any personnel for the performance or assistance in the performance of any sterilization procedure or removal of a human embryo or fetus by such personnel if the performance of such a procedure would be contrary to the religious beliefs or moral convictions of such personnel.

History: 1973 c. 159; Stats. 1973 s. 140.275; 1973 c. 136 s. 13; 1973 c. 140.42; 1979 c. 34; 1993 a. 27 s. 222; Stats. 1993 s. 253.09; 1997 a. 27.

ders or impairments, or that indicate a susceptibility to illness, disease, impairment or other disorders, whether physical or mental, or that demonstrate genetic or chromosomal damage due to environmental factors.

(8) "Individual with a disability" means an individual who:

(a) Has a physical or mental impairment which makes achievement unusually difficult or limits the capacity to work;

(b) Has a record of such an impairment; or

(c) Is perceived as having such an impairment.

(9) "Labor organization" means:

(a) Any organization, agency or employee representation committee, group, association or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours or other terms or conditions of employment; or

(b) Any conference, general committee, joint or system board or joint council which is subordinate to a national or international committee, group, association or plan under par. (a).

(10) "License" means the whole or any part of any permit, certificate, approval, registration, charter or similar form of permission required by a state or local unit of government for the undertaking, practice or continuation of any occupation or profession.

(11) "Licensing agency" means any board, commission, committee, department, examining board, affiliated credentialing board or officer, except a judicial officer, in the state or any city, village, town, county or local government authorized to grant, deny, renew, revoke, suspend, annul, withdraw or amend any license.

(12) "Marital status" means the status of being married, single, divorced, separated or widowed.

(12m) "Religious association" means an organization, whether or not organized under ch. 187, which operates under a creed.

(13) "Sexual harassment" means unwelcome sexual advances, unwelcome requests for sexual favors, unwelcome physical contact of a sexual nature or unwelcome verbal or physical conduct of a sexual nature. "Sexual harassment" includes conduct directed by a person at another person of the same or opposite gender. "Unwelcome verbal or physical conduct of a sexual nature" includes but is not limited to the deliberate, repeated making of unsolicited gestures or comments of a sexual nature; the deliberate, repeated display of offensive sexually graphic materials which is not necessary for business purposes; or deliberate verbal or physical conduct of a sexual nature, whether or not repeated, that is sufficiently severe to interfere substantially with an employee's work performance or to create an intimidating, hostile or offensive work environment.

(13m) "Sexual orientation" means having a preference for heterosexuality, homosexuality or bisexuality, having a history of such a preference or being identified with such a preference.

(13r) "Unfair genetic testing" means any test or testing procedure that violates s. 111.372.

(14) "Unfair honesty testing" means any test or testing procedure which violates s. 111.37.

History: 1975 c. 31, 94, 275, 421; 1977 c. 29, 125, 196, 286; 1979 c. 319, 357; 1981 c. 96 s. 67; 1981 c. 112, 334, 391; 1983 a. 36; 1987 a. 149; 1991 a. 117; 1993 s. 107, 427; 1995 a. 27 s. 9130 (4); 1997 a. 3, 112, 283.

Singling out disabilities associated with pregnancy for less favorable treatment in a benefit plan designed to relieve the economic burden of physical incapacity constituted discrimination on the basis of sex, as pregnancy is undisputedly sex-linked. *Ray-O-Vac v. DILHR*, 70 Wis. 2d 919, 236 N.W.2d 209 (1975).

"Creed," as used in sub. (5) (a) [now sub. (3m)], means a system of religious beliefs, not political beliefs. *Augustine v. Anti-Defamation League of B'nai B'rith*, 75 Wis. 2d 207, 249 N.W.2d 547 (1977).

Wisconsin law forbidding pregnancy benefits discrimination was not preempted when an employer negotiated, under the National Labor Relations Act, a welfare benefit plan, under the Employee Retirement Income Security Act. *Goodyear Tire & Rubber Co. v. DILHR*, 87 Wis. 2d 56, 273 N.W.2d 786 (Ct. App. 1978).

The Fair Employment Act (WFEA), subch. II of ch. 111, was not preempted by federal legislation. Sub. (5) (f), which exempts persons who are physically unable to perform a job from protection, includes a "future hazards" exception for employees who

because of their physical condition will be a hazard to themselves or others. *Chicago & North Western Railroad v. LIRC*, 91 Wis. 2d 462, 283 N.W.2d 603 (Ct. App. 1979).

The inclusion of pregnancy-related benefits within a disability benefit plan does not violate the federal Equal Pay Act. *Kimberly-Clark Corp. v. LIRC*, 95 Wis. 2d 558, 291 N.W.2d 584 (Ct. App. 1980).

An individual may be found to be handicapped under WFEA although no actual impairment is found. It is sufficient to find that the employer perceived that the individual is handicapped; discrimination may be found when the perceived handicap is the sole basis of a hiring decision. *La Crosse Police Commission v. LIRC*, 139 Wis. 2d 740, 407 N.W.2d 510 (1987).

Common-law torts recognized before the adoption of WFEA, if properly pled, are not barred by the act although the complained of act may fit a definition of discriminatory behavior under WFEA. A battery claim was not precluded by WFEA, although the sub. (13) definition of "sexual harassment" is broad enough to include battery, when the tort was pled as an unlawful touching, not a discriminatory act. *Becker v. Automatic Garage Door Co.* 156 Wis. 2d 409, 456 N.W.2d 888 (Ct. App. 1990).

The standard to determine whether a person is an "employee" under Title VII of the Civil Rights Act is applicable to WFEA cases. A determination of "employee" status in a Title VII action precludes redetermination in a WFEA action. *Moore v. LIRC*, 175 Wis. 2d 561, 499 N.W.2d 288 (Ct. App. 1993).

Barring spouses who are both public employees from each electing family medical coverage is excepted from the prohibition against discrimination based on marital status under ch. 111. *Motola v. LIRC*, 219 Wis. 2d 589, 580 N.W.2d 297 (1998).

Unwelcome physical contact of a sexual nature and unwelcome verbal conduct or physical conduct of a sexual nature may constitute sexual harassment, even when they do not create a hostile work environment. *Jim Walter Color Separations v. LIRC*, 226 Wis. 2d 334, 595 N.W.2d 68 (Ct. App. 1999).

A licensing agency may request information from an applicant regarding conviction records under sub. (5) (h) [now sub. (3)]. 67 Atty. Gen. 327.

Expanding Employer Liability for Sexual Harassment Under the Wisconsin Fair Employment Act: *Jim Walter Color Separations v. Labor & Industry Review Commission*. Edgar. 2000 WLR 885.

111.321 Prohibited bases of discrimination. Subject to ss. 111.33 to 111.36, no employer, labor organization, employment agency, licensing agency or other person may engage in any act of employment discrimination as specified in s. 111.322 against any individual on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, arrest record, conviction record, membership in the national guard, state defense force or any reserve component of the military forces of the United States or this state or use or nonuse of lawful products off the employer's premises during nonworking hours.

History: 1981 c. 334; 1987 a. 63; 1991 a. 310; 1997 a. 112.

NOTE: See 111.36 for definition of sex discrimination.

The denial of a homosexual employee's request for family coverage for herself and her companion did not violate equal protection or the s. 111.321 prohibition of discrimination on the basis of marital status, sexual orientation, or gender. *Phillips v. Wisconsin Personnel Commission*, 167 Wis. 2d 205, 482 N.W.2d 121 (Ct. App. 1992).

A bargaining agreement requiring married employees with spouses covered by comparable employer-provided health insurance to elect coverage under one policy or the other violated this section. *Braatz v. LIRC*, 174 Wis. 2d 286, 496 N.W.2d 597 (1993).

The exclusive remedy provision in s. 102.03 (2) does not bar a complainant whose claim is covered by the workers compensation act from pursuing an employment discrimination claim under the fair employment act, subchapter II of ch. 111. *Byers v. LIRC*, 208 Wis. 2d 388, 561 N.W.2d 678 (1997).

A prima facie case of discrimination triggers a burden of production against an employer, but unless the employer remains silent in the face of the *prima facie* case, the complainant continues to bear the burden of proof on the ultimate issue of discrimination. *Currie v. DILHR*, 210 Wis. 2d 381, 565 N.W.2d 253 (Ct. App. 1997).

Unwelcome physical contact of a sexual nature and unwelcome verbal conduct or physical conduct of a sexual nature may constitute sexual harassment, even when they do not create a hostile work environment. *Jim Walter Color Separations v. LIRC*, 226 Wis. 2d 334, 595 N.W.2d 68 (Ct. App. 1999).

It was reasonable for LIRC to interpret the prohibition against marital status discrimination as protecting the status of being married in general rather than the status of being married to a particular person. *Bammert v. LIRC*, 2000 WI App 28, 232 Wis. 2d 365, 606 N.W.2d 620.

The department of workforce development has statutory authority to receive and investigate a firefighter's employment discrimination claim under that is tied directly to the charges sustained and disciplinary sanctions imposed by a police and fire commission under s. 62.13 (5), to which claim preclusion is no bar. *City of Madison v. DWD*, 2002 WI App 199, ___ Wis. 2d ___, ___ N.W.2d ___.

Licensing boards do not have authority to enact general regulations that would allow them to suspend, deny, or revoke the license of a person who has a communicable disease. Licensing boards do have authority on a case-by-case basis to suspend, deny, or revoke the license of a person who poses a direct threat to the health and safety of other persons or who is unable to perform duties of the licensed activity. 77 Atty. Gen. 223.

A person suffering from a contagious disease may be handicapped under the federal Rehabilitation Act of 1973. *School Board of Nassau County v. Arline*, 480 U.S. 273 (1987).

Expanding Employer Liability for Sexual Harassment Under the Wisconsin Fair Employment Act: *Jim Walter Color Separations v. Labor & Industry Review Commission*. Edgar. 2000 WLR 885.

under s. 440.26 (6) (b) if the person holding the license or permit has been convicted of a felony and has not been pardoned for that felony.

3. Notwithstanding s. 111.322, it is not employment discrimination because of conviction record to refuse to employ a person in a business licensed under s. 440.26 or as an employee specified in s. 440.26 (5) (b) if the person has been convicted of a felony and has not been pardoned for that felony.

(cm) Notwithstanding s. 111.322, it is not employment discrimination because of conviction record to refuse to employ as an installer of burglar alarms a person who has been convicted of a felony and has not been pardoned.

(cs) Notwithstanding s. 111.322, it is not employment discrimination because of conviction record to revoke, suspend or refuse to renew a license or permit under ch. 125 if the person holding or applying for the license or permit has been convicted of one or more of the following:

1. Manufacturing, distributing or delivering a controlled substance or controlled substance analog under s. 961.41 (1).

2. Possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under s. 961.41 (1m).

3. Possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under a federal law that is substantially similar to s. 961.41 (1) or (1m).

4. Possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under the law of another state that is substantially similar to s. 961.41 (1) or (1m).

(cv) Notwithstanding s. 111.322, it is not employment discrimination because of conviction record to refuse to employ in a position in the classified service, in a position described in s. 230.08 (2) (k), or as a corps enrollee with the Wisconsin conservation corps under s. 106.215 (1) (c) a person who has been convicted under 50 USC, Appendix, section 462 for refusing to register with the selective service system and who has not been pardoned.

History: 1981 c. 334; 1991 a. 216; 1993 a. 98; 1995 a. 448, 461; 1997 a. 112; 2001 a. 16

A rule adopted under s. 165.85 properly barred a nonpardoned felon from holding a police job. *Law Enforcement Standards Board v. Lyndon Station*, 101 Wis. 2d 472, 305 N.W.2d 89 (1981).

A conviction for armed robbery in and of itself constituted circumstances substantially related to a school bus driver's licensure. *Gibson v. Transportation Commission*, 106 Wis. 2d 22, 315 N.W.2d 346 (1982).

An employer's inquiry is limited to general facts in determining whether the "circumstances of the offense" relate to the job. It is not the details of the criminal activity that are important, but rather the circumstances that foster criminal activity, such as opportunity for criminal behavior, reaction to responsibility, and character traits of the person. *County of Milwaukee v. LIRC*, 139 Wis. 2d 805, 407 N.W.2d 908 (1987).

There is no requirement that an employer take affirmative steps to accommodate individuals convicted of felonies. *Knight v. LIRC*, 220 Wis. 2d 137, 582 N.W.2d 448 (Ct. App. 1998).

When evaluating an individual for the position of reserve officer, a sheriff's department may consider information in its possession concerning the individual's juvenile record, subject to prohibitions against arrest record and conviction record discrimination contained in the WFEA. 79 Atty. Gen. 89.

Discrimination in employment on the basis of arrest or conviction record. *Mukamel*. WBB Sept 1983.

111.337 Creed; exceptions and special cases. (1) Employment discrimination because of creed includes, but is not limited to, refusing to reasonably accommodate an employee's or prospective employee's religious observance or practice unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise or business.

(2) Notwithstanding s. 111.322, it is not employment discrimination because of creed:

(a) For a religious association not organized for private profit or an organization or corporation which is primarily owned or controlled by such a religious association to give preference to an applicant or employee who is a member of the same or a similar religious denomination.

(am) For a religious association not organized for private profit or an organization or corporation which is primarily owned or controlled by such a religious association to give preference to an applicant or employee who adheres to the religious association's creed, if the job description demonstrates that the position is clearly related to the religious teachings and beliefs of the religious association.

(b) For a fraternal as defined in s. 614.01 (1) (a) to give preference to an employee or applicant who is a member or is eligible for membership in the fraternal, with respect to hiring to or promotion to the position of officer, administrator or salesperson.

(3) No county, city, village or town may adopt any provision concerning employment discrimination because of creed that prohibits activity allowed under this section.

History: 1981 c. 334; 1983 a. 189 s. 329 (25); 1987 a. 149.

Sub. (2) does not allow religious organizations to engage in prohibited forms of discrimination. *Sacred Heart School Board v. LIRC*, 157 Wis. 2d 638, 460 N.W.2d 430 (Ct. App. 1990).

A union violated Title VII of the federal Civil Rights Act by causing an employer to fire an employee because of the employee's refusal, on religious grounds, to pay union dues. *Nottelson v. Smith Steel Wkrs. D.A.L.U.* 19806, 643 F.2d 445 (1981).

The supreme court redefines employer's role in religious accommodation. *Soeka*. WBB July 1987.

111.34 Disability; exceptions and special cases.

(1) Employment discrimination because of disability includes, but is not limited to:

(a) Contributing a lesser amount to the fringe benefits, including life or disability insurance coverage, of any employee because of the employee's disability; or

(b) Refusing to reasonably accommodate an employee's or prospective employee's disability unless the employer can demonstrate that the accommodation would pose a hardship on the employer's program, enterprise or business.

(2) (a) Notwithstanding s. 111.322, it is not employment discrimination because of disability to refuse to hire, employ, admit or license any individual, to bar or terminate from employment, membership or licensure any individual, or to discriminate against any individual in promotion, compensation or in terms, conditions or privileges of employment if the disability is reasonably related to the individual's ability to adequately undertake the job-related responsibilities of that individual's employment, membership or licensure.

(b) In evaluating whether an individual with a disability can adequately undertake the job-related responsibilities of a particular job, membership or licensed activity, the present and future safety of the individual, of the individual's coworkers and, if applicable, of the general public may be considered. However, this evaluation shall be made on an individual case-by-case basis and may not be made by a general rule which prohibits the employment or licensure of individuals with disabilities in general or a particular class of individuals with disabilities.

(c) If the employment, membership or licensure involves a special duty of care for the safety of the general public, including but not limited to employment with a common carrier, this special duty of care may be considered in evaluating whether the employee or applicant can adequately undertake the job-related responsibilities of a particular job, membership or licensed activity. However, this evaluation shall be made on an individual case-by-case basis and may not be made by a general rule which prohibits the employment or licensure of individuals with disabilities in general or a particular class of individuals with disabilities.

History: 1981 c. 334; 1997 a. 112.

The utilization of federal regulations as a hiring standard, although not applicable to the employing taxi company, demonstrated a rational relationship to the safety obligations imposed on the employer, and its use was not the result of an arbitrary belief lacking in objective reason or rationale. *Boynton Cab Co. v. DILHR*, 96 Wis. 2d 396, 291 N.W.2d 850 (1980).

An employee handicapped by alcoholism was properly discharged under s. 111.32 (5) (f), 1973 Stats., (a predecessor to this section) for inability to efficiently perform job duties. *Squires v. LIRC*, 97 Wis. 2d 648, 294 N.W.2d 48 (Ct. App. 1980).

Small stature is not a handicap. *American Motors Corp. v. LIRC*, 114 Wis. 2d 288, 338 N.W.2d 518 (Ct. App. 1983); aff'd, 119 Wis. 2d 706, 350 N.W.2d 120 (1984).

Coalition of Wisconsin Aging Groups

To: Members of the Senate Committee on Health, Children, Families, Aging and Long-Term Care

From: Attorney Ellen J. Henningsen

Date: October 7, 2003

Re: **AB 67 and Advance Directives**

The Coalition of Wisconsin Aging Groups is an advocacy and educational organization working on behalf of Wisconsin's elders. Among our many efforts is the promotion of advance planning for future health care decision-making, particularly articulating one's end-of-life wishes to family and friends and also completing a Power of Attorney for Health Care. We widely distribute a packet called "Planning for Future Health Care Decision-Making," and give many presentations on the need for advance planning.

CWAG is opposed to those portions of sections 25 and 26 of ASA 1 which affect the autonomy of adults to make end-of-life decisions. Our concern in section 25 is with # 7 – withholding or withdrawing hydration or nutrition - and # 8 – an act that assists in causing death. Our concern in section 26 is the removal of the disciplinary sanctions for physicians who refuse to transfer a patient to another physician who will follow the patient's end-of-life wishes.

The sections affecting end-of-life decision-making are unnecessary because current law adequately protects health care providers and facilities who do not wish to participate in end-of-life decisions they disagree with. The Living Will statute - sec. 154.07 (1) (a) 3 – and the Power of Attorney for Health Care statute - sec. 155.50 (1) (b) – already contain immunity for health care providers and facilities for failing to comply with a Living Will or a POA-HC or the decision of a health care agent.

The statute already strikes the proper balance between a physician's right to refuse to participate in end-of-life decisions the physician disagrees with and the right of the patient to make end-of-life decisions – the physician may refuse to honor the decision of his or her patient *but* the physician must then make a good faith effort to transfer the patient to another physician who will honor the patient's decisions.

The bill and substitute amendment undermines this careful balancing of rights by essentially eradicating the patient's right to implement his or her own decisions about his or her own health care because the physician would now be allowed to refuse to release a patient with whom the doctor disagrees to another physician's care. This means that not only would a patient lose the right to make end-of-life health care

decisions but also the right to choose his or her own doctor. The physician, not the patient, would become the decision-maker for the patient. This violates the patient's right to make his or her own decisions about medical treatment at the end of their life, and in fact contradicts Ch. 155 of the statutes.

* CWAG suggests that the language in Section 26 of ABA 1 regarding refusing or stating an intention to refuse to transfer a patient be omitted, and that language be added that makes it clear that discipline is appropriate when the Ch. 154 and 155 language about good faith efforts to transfer is violated.

CWAG urges you to vote against AB 67 and ABA 1 so that the elders of Wisconsin, as well as all other adults, retain the right to make their own end-of-life decisions.



DEPARTMENT ON AGING

OCT 03 2003

Milwaukee County

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October 1, 2003

Milwaukee County
Commission on Aging

Karen Robison
Chairperson

Beverly Njuguna
Vice Chairperson

Bob Haase
Secretary

Irene M. Brown
Beverly A. Cupertino
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Gwen T. Jackson
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Lee S. Martinez
Peggy Montez
Marion L. Murray
George E. Schneider
Paul F. Soczynski

Senator Carol Roessler, Chair
Health, Children, Families, Aging, and Long Term Care Committee
State Capitol, 8-S
P.O. Box 7882
Madison, WI 53707

Dear Senator Roessler:

I appreciate the opportunity to provide testimony for the public hearing that you will be holding on October 7, 2003 on AB 67.

Although I will not be able to attend the hearing, I would be grateful if you distributed the enclosed comments to members of the committee.

Thank you for your cooperation in this matter.

Sincerely,

Karen Robison, Chair
Milwaukee County Commission on Aging.

Karen Robison, Chair, Milwaukee County Commission on Aging

**Testimony Before the Senate Committee on
Health, Children, Families, Aging and Long-Term Care**

Tuesday October 7, 2003

Thank you for the opportunity to provide this testimony for this important hearing. My name is Karen Robison, and I am the Chairperson of the Milwaukee County Commission on Aging.

I want to share our concerns with you today about AB 67, which would allow healthcare providers to refuse to provide essential services to patients if the health care personal religious beliefs were in disagreement with the patients' desires. Subsequently, this bill will deny patients access to important healthcare services, based on the religious beliefs of the healthcare provider, and it will place the rights of health care employees over the rights of patients in need of service.

We believe that citizens of Wisconsin should be free to make their own healthcare decisions within the context of their own religious convictions and beliefs without interference from others. AB67 would set a dangerous precedent of allowing health care workers to pick and choose what procedures, medications, health education, or treatment they feel are ethically appropriate for the patient. The bill would allow health care professionals to deny patients vital health care services, even if that denial of care harms the patient. In fact, the bill would permit hospitals and health care providers to ignore patients' living wills.

This law could infringe on the rights of patients or other possible service recipients to access a particular type of service because no health care provider is willing to provide the service. This is particularly problematic in rural areas where there is no other available service provider.

Current Wisconsin law already protects a healthcare provider's choice not to provide certain types of treatments or procedures if he/she has moral or religious objections, according to the Wisconsin Medical Society and other health care professional groups. However, current law mandates that if a provider cannot provide such care, he/she has a professional and ethical obligation to refer a patient to another provider who will honor the patient's wishes. This important patient protection will be subverted if AB67 becomes law.

In summary, this bill will allow health care providers to deny access to information, medication, and safe treatment options. We urge you to vote against AB67 in order to protect a patient's access to health care and right to referral in order to receive desired medical care.

Karen Robison, Chair, Milwaukee County Commission on Aging

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