

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.

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3-5-03

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

From: Kathryn Osborne on behalf of the Wisconsin Chapter of the American
College of Nurse Midwives.

Madame Chair, committee members, thank you for the opportunity to provide comments on Assembly Bill 67. My name is Kathryn Osborne. I am licensed by the State of Wisconsin as a Registered Nurse, an Advanced Practice Nurse Prescriber and a Certified Nurse Midwife. I am here today, on behalf of the Wisconsin Chapter of the American College of Nurse Midwives (ACNM), to testify against Assembly Bill 67. As women's health care providers, the Wisconsin Chapter of ACNM opposes any legislation that restricts a woman's access to health care. We believe that there are several mandates in AB 67 that could potentially restrict access to health care and services.

As advocates of self determination and individual choice, we understand that there are certain activities that, based on "creed", some individuals would prefer not to participate in. We also understand that current law already addresses employment discrimination based on "creed". As you are aware, current law protects the religious conviction of individual employees, as long as making accommodations does not pose undue hardship on the employer. The employers we speak of here are health care providers. They are in the business of providing safe, legal, health care to members of a community. If the religious conviction of employees and/or potential employees interferes with the business's ability to provide safe, legal health care services then employers must be afforded the opportunity to hire individuals who will be able deliver such services. Statutorily requiring employers to maintain employees to the degree that they are not able to provide services that are recognized as safe and legal in this country, has the potential of rendering them incapable of conducting business. AB 67 requires employers to honor religious conviction to that degree.

The ability to fill a prescription is another critical element in the provision of health care. The Pharmacy mandate of AB 67 places the decision to proceed with a plan of care, established by a woman and her health care provider, in the hands of a pharmacist who for reasons of "creed" may refuse to fill the prescription. This is most likely to become an issue of restricted services in the rural areas of the state - areas where there may only be one pharmacist, one hospital, or one physician. Imagine for one minute, a young woman in Hayward Wisconsin who, following a sexual assault, is not able to get her prescription for emergency

contraception filled because the only pharmacist in town refuses to fill it based on his "creed". Shall we further violate her, by asking her to drive 25 miles to Spooner? And then she discovers that the pharmacist in Spooner refuses to fill it as well. After hours in an emergency room, following a violent assault, she now has to get back in her car and drive on to Rice Lake. This hardly seems like accessible health care.

The effects of this Bill will also be felt in our inner cities. I know that you are all aware of the rising rates of teen pregnancy. Despite the fact that national statistics may say otherwise, my practice in Milwaukee would suggest that teen pregnancy is a very real problem in the state of Wisconsin. I have seen the lists of several organizations that include hormonal contraceptives (birth control pills and Depo Provera) as abortifacients – drugs that under the provision of this Bill pharmacists would be allowed to refuse to dispense. Keeping this in mind, imagine the crisis we will experience if the two most common forms of contraception for inner city women, are rendered unavailable because WI statute allows health care providers to withhold information about health care options, and/or pharmacists to refuse to fill a prescription written by a licensed health care provider. How likely will it be for my client, who is dependent upon public transportation, to travel from pharmacy to pharmacy (with multiple bus connections) until she finds a pharmacist who will fill the prescription that will prevent one more teen pregnancy?

I would like to advocate for public policy that improves access to health care and moves us away from high rates of unplanned pregnancy, especially for young teens. This Bill has the potential to do just the opposite by limiting access to health care for women of all ages and economic status, in all parts of the state. Health care needs of the patient, not the personal beliefs of the providers or pharmacists, should be the driving force in the provision of health care and the creation of health policy.

Thank you for your consideration of our concerns.

Respectfully Submitted,

Kathryn Osborne MSN CNM
Wisconsin Chapter of the American College of Nurse Midwives

**Testimony in Opposition to ASA 1 To
2003 Assembly Bill 67
STATEMENT OF DR. SCOTT SPEAR**

As a pediatrician, husband and father of three adolescent children, I am compelled to speak out against the unethical bill that is before this committee today—Assembly Bill 67.

Although this bill purports to talk about the conscience or creed of health care professionals, workers and pharmacists, it is in reality a thinly veiled attempt to block a patient's access to vital health care. By subordinating patient health to the personal beliefs of health care professionals and workers, this bill violates medical ethics which form the cornerstone of the relationship between a patient and a physician and the delivery of responsible health care.

Under current law, physicians have a duty to refrain from "engaging in any practice or conduct which tends to constitute a danger to the health, welfare, or safety of patients." Further, physicians also have an ethical duty to inform a patient about all available, viable modes of treatment and about the benefits and risks of such treatment, regardless of whether the physician personally agrees with those modes of treatment. These ethical mandates illustrate that the primary responsibility of a physician is to care for the medical needs of a patient. In other words, the health of the patient must come first. Any attempts to subordinate patient care are anathema to the ethical responsibilities that a physician has to each patient.

AB 67 guts these ethical obligations, and as a result, compromises patient health care. Not only can health care professionals and workers opt out of administering certain needed health care treatment according to this bill, but also they can refuse to "engage in, assist in, recommend, counsel in favor of; make referrals for, prescribe or dispense." It doesn't matter that a patient could be severely and irrevocably harmed as a result of this refusal. Under current Wisconsin law, no physician or health care worker can be forced to perform or assist in the performance of an abortion or sterilization procedures. However, health care professionals still have an obligation to refer a patient who requires an abortion to save her life or to preserve her health. Under AB 67, this obligation is gone. Therefore, a pregnant woman who has severe pre-

eclampsia or life-threatening high blood pressure due to pregnancy and may die without an abortion can be denied referral information. This is simply anathema to the delivery of responsible health care.

Under AB 67, medical treatment could be denied to a pregnant woman if the treatment is not related to the “beneficial treatment of a developing child.” There are many circumstances in which a pregnant woman needs health care treatment that may not be construed as “beneficial treatment” of a fetus or embryo. Pregnant women with epilepsy still need anti-seizure medications that might compromise a developing fetus, but are critical to the health of the mother. A pregnant woman who is found to have cancer may require chemotherapy to save her life, but may cause harm to a fetus or embryo. This bill will allow life-saving health care to be denied to such women.

Not only does this provision allow a pregnant woman to be denied health care, but prenatal tests that may pose a potential risk to a fetus could be refused. Such tests are an important part of prenatal care and families deserve to be informed about the availability of amniocentesis and chorionic villus sampling, even if the results of these tests could lead a woman to choose abortion or could pose a risk to the fetus by their performance.

Finally, AB 67 will be severely compromise the physician-patient relationship. Health care workers can ignore treatment recommendations agreed upon by the physician and the patient if the health care worker claims to religiously or morally oppose such treatment. Therefore, a physician’s treatment plan could be severely compromised and this bill could be deemed to be interfering with legal health care practice—indeed it could be construed as practicing medicine without a license.

Likewise, to allow a pharmacist to refuse to follow a physician’s treatment recommendations for a patient, because of the pharmacist’s personal beliefs, is hazardous to patients. Pharmacists can and do call physicians every day to discuss the prescriptions we write and to clarify that these meet the needs of our patients most appropriately. But these discussions arise from the perspective of what is best for the patient, not what the pharmacist feels like doing or happens to

personally believe about a medication. To destroy this essential relationship of trust between patients, their physicians and pharmacists—which is exactly what AB 67 will do—is harmful to the welfare of our patients and to the public good. It will cause chaos in pharmacies across this state and will be distressing to patients and physicians alike.

Furthermore, for proper diagnosis and successful treatment, a patient must be able to rely on what a physician tells him or her. It is not a patient's responsibility to have to guess whether or not the physician shared full and accurate information. Patients must be able to trust and act upon medical information provided by a physician. Allowing a physician to withhold medically needed information could foster patient mistrust of physicians and lead to not following fully the recommendations of the physician.

Although the personal beliefs of health care professionals, workers and pharmacists are to be respected, theirs is not the viewpoint that matters most in the clinical encounter. Health care providers, including pharmacists and physicians like myself, have a social contract with the general public to provide for the welfare of our patients. Much of our education was subsidized by public tax dollars and our licenses to practice are awarded by the state. And as such, we have a moral responsibility to provide the care that meets the needs of our patients, as long as it is sound medically and is permitted by the laws that govern medical and pharmacy practice.

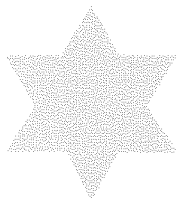
It is a critical component of medical ethics that the beliefs of the patient take priority over the agenda or creed of the health care provider. There are plenty of other professions where the needs of others do not come first, but this ethical precept is central to providing health care. Patients have a basic human right to expect us to do our jobs in their best interest. Any thing less is immoral.

I urge you to reject AB 67 as the unethical and harmful piece of legislation that it is. Thank you!

Scott J. Spear, MD
Associate Professor of Pediatrics
University of Wisconsin-Madison
Madison, WI

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

Prepared by:
Barbara Beckert, Assistant Director
Tuesday October 7, 2003



The Milwaukee Jewish Council for Community Relations, which represents 29 local Jewish organizations, agencies, and synagogues; and Jewish Family Services, which provides comprehensive social services, strongly oppose passage of Assembly Bill 67.

- Keith Lindenbaum
President
- Paula Simon
Executive Director

Organizational Members

- American Association of Jews
from the Former Soviet Union
- American Jewish Committee
- Americans for Peace Now
- Beth El Ner Tamid Synagogue
- B'nai B'rith International
- Congregation Anshai Lebowitz
- Congregation Anshe
S'farad/Kehillat Torah
- Congregation Beth Israel
- Congregation Beth Jehudah
- Congregation Emanu-El
B'ne Jeshurun
- Congregation Emanu-El
of Waukesha
- Congregation Shalom
- Congregation Shir Hadash
- Congregation Sinai
- The Generation After
- Hadassah
- Harry and Rose Samson
Family Jewish Community
Center of Milwaukee
- Hillel Foundation-Milwaukee
- Jewish Family Services
- Jewish War Veterans
- Lake Park Synagogue
- NA'AMAT USA
- National Council of
Jewish Women
- New American Club
- Temple Menorah
- Wisconsin Council of Rabbis
- Wisconsin Society for
Jewish Learning
- Women's American ORT
- Zionist Organization of America

We are concerned that AB 67 will deny patients access to important healthcare services, based on the religious beliefs of the provider, and it places the rights of employees over the rights of patients in need of service. We believe that Wisconsinites should be free to make their own healthcare decisions within the context of their own religious convictions and beliefs, without interference from the state. This is based on the Jewish community's deep commitment to the principle of separation of Church and State, guaranteed by our Constitution, which has kept our nation strong and preserved full freedom for the individual.

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 right for the patient. It allows health care professionals to deny patients vital health care services, even if the denial of care harms the patient, and permits hospitals and health care providers to ignore patients' living wills, as well as patients' directives to donate their organs after death.

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.

According to the Wisconsin Medical Society and other health care professional groups, 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. 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 AB 67 becomes law.

Providing health care is not just an obligation for the patient and the doctor, but for society as well. It is for this reason that Maimonides, a revered Jewish scholar, listed health care first on his list of the ten most important communal services that a city had to offer to its residents (*Mishneh Torah, Hilchot De'ot IV: 23*). Almost all self-governing Jewish communities throughout history set up systems to ensure that all their citizens had access to health care. This bill will allow health care providers to **deny** access to information, medication, and safe treatment options. We urge you to vote against AB 67 in order to protect a patient's access to health care and right to referral in order to receive desired medical care.

Fourth: To make a referral is just as much against conscience as to provide the service.

When I refer to someone I am commending the patient to the doctor for the service and the doctor to the patient. I cannot do that when it would be contrary to my conscience. What I can do is politely defer, allow another physician to assume the care, and make sure that I do my utmost to provide records to assure an orderly resumption of care.

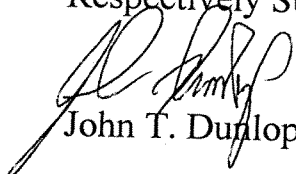
Fifth: There is no reason why a patient's autonomy should take precedence over that of the provider.

Conflicts between the rights of individuals are intrinsic to free people. It is only in the context of a slave culture that the rights of one individual are allowed to trump the rights of another only on the basis of station in society. It is not appropriate for the rights of a patient to trump the rights of a physician simply because of their respective roles.

I would say in closing, that, as a geriatrician, I am sensitive to the issues of the dying. I place great importance on advanced directives and sincerely seek to honor them. In 30 years of being a Doctor I have never had a conflict between advanced directives and my own conscience. It may some day come. If it did, I, and I believe all Doctors that I would consider worth their salt, would seek to work things out in gracious and caring ways which would allow respect for both the patient and the physician.

Senators I know that you recognize the sobriety of this matter. This is about the very character of medicine as it has been traditionally practiced in this country and which many of us continue to cherish. I believe that the house bill is wise and will protect the quality of medicine we want to preserve.

Respectively Submitted,


John T. Dunlop M.D.

John Thomas Dunlop M.D.
Zion Clinic
3115 Lewis Ave.
Zion, IL 60099

Date of Birth: September 27, 1947
Cleveland, Ohio

Education:

High School: Firestone High School, Akron, Ohio, 1965,
Valedictorian

B.S. Physics: Wheaton College, Wheaton, IL, 1969, Summa Cum
Laude

M.D. The Johns Hopkins University, Baltimore, MD, 1973, Alpha
Omega Alpha

M.A. Bioethics, Trinity International University, Deerfield, IL, 2003,
Summa Cum Laude

Residencies:

Internal Medicine, The Johns Hopkins Hospital, 1973-1975

Internal Medicine, Rush Presbyterian St Luke's Hospital, Chicago,
1975-1976, Medical Resident of the Year

Diplomat: American Board of Internal Medicine, 1976

American Board of Geriatric Medicine, 1987

Employment:

Zion Clinic, Zion, IL, 1976 to present

Hospital Affiliation:

Victory Memorial Hospital, Waukegan, IL, 1976-present

Member of Medical Staff Executive Committee, 1997-2003

President of the Medical Staff, 2000

Chair of the Executive Committee, 2002

Medical Director Cardiac Rehab Program, 1984-present

Professional Affiliations:

Fellow: Center for Bioethics and Human Dignity, Deerfield, IL, 2002-
present

Halbur, Jennifer

From: Radloff, Gary
Sent: Wednesday, October 08, 2003 2:05 PM
To: Halbur, Jennifer
Subject: DHFS testimony on AB 67



Final version AB 67
testimony....

Hi Jennifer:

Attached is the testimony from Dr. Katcher on AB 67. Can you distribute to the entire Senate Health committee? Thank you, Gary

Testimony on Assembly Bill 67 (AB-67)

From the Department of Health and Family Services to the Senate Health, Children, Families, Aging and Long-Term Care

October 7, 2003

Murray L. Katcher, MD, PhD

Thank you, Chairperson Roessler.

I'm Murray Katcher, Chief Medical Officer for Family and Community Health at the Wisconsin Department of Health and Family Services (DHFS), and the Wisconsin State Maternal and Child Health (MCH) Director. I am also a pediatrician and Professor of Pediatrics at the University of Wisconsin Medical School, and the parent of two young adult children. I am giving testimony on behalf of DHFS.

The Department of Health and Family Services opposes AB 67 for the following reasons:

- Current law already allows a health worker to refuse to offer services based on the health worker's personal beliefs and creed and prohibits employers from engaging in employment discrimination based on that creed.
- This bill purports to expand that protection but at great potential cost to patients, their families, and society in general.
- DHFS has been promoting the use of living wills and durable power of attorney for end-of-life care for well over a decade. AB-67 allows health care workers, including physicians and hospitals, to *ignore* the wishes of the patients, and at the same time *protect* the health care provider and facility from legal consequences.
- In end-of-life situations, pain medicine could be withheld under this bill on the basis of a health provider's personal belief that the medicine would hasten death.
- For a variety of medical conditions, a pregnant patient may be put at risk under this bill if the health care worker made an assumption that there was potential harm to the fetus. Several examples include the following:
 - A pregnant woman has abdominal pain which is determined to be appendicitis and life-saving surgery and medication are withheld because of fear of fetal damage.
 - A pregnant diabetic or epileptic woman does not receive life-saving medication for fear that the fetus will be damaged.

- Pregnant cancer patients could be denied chemotherapy on the basis of potential harm to the fetus.

In fact, almost all procedures and medication given to a pregnant woman may be thought by some to adversely affect the fetus, thus AB-67 could be imposed to protect a health care provider who essentially commits medical malpractice by withholding essential services that benefits the mother.

- Genetic testing that would prevent the birth of a future affected child could also be withheld from a parent on the basis of the health care provider's beliefs.
- If injury or death should result from the action or lack of action by the health care professional who fatally or permanently injures a patient, appropriate disciplinary actions to the provider would be prohibited. Thus the health care provider is protected at the expense of the patient.
- AB-67 may result in a decrease in necessary referrals for end-of-life care or for prenatal care, based solely on the subjective beliefs of a health-care provider.
- DHFS programs in maternal and child health and reproductive health may also be compromised by this bill. Physicians to whom the patient is referred from our programs may ignore evidence-based care or best-practice care, based on moral beliefs. This referral limitation may be extremely important in rural areas of Wisconsin where there are limited numbers of providers, or in cases where HMO enrollment may limit referrals. Pregnant women could be denied prenatal care, and older adults without advanced directives denied end-of-life care, even if doing so would result in the harm of the patient.
- The burden of finding a new physician, under AB-67, will reside with the patient or his/her family, usually in an extremely high-stress situation, instead of with the health-care provider where it now resides.
- Many key professional health care organizations in Wisconsin oppose this bill.

AB-67, running counter to the existing balance of law, has the potential to put the health status of all residents in Wisconsin, both in cities and in rural areas, in grave jeopardy and works against the fundamental mission of the DHFS to oversee the delivery of excellent health care to, and the maintenance of good health for, the people of Wisconsin.



OCT 09 2003

Wisconsin Nurses Association
6117 Monona Drive
Madison, Wisconsin 53716-3995
(608) 221-0383
FAX (608) 221-2788

October 8, 2003

Senator Carol Roessler
State Capitol
P.O. Box 7882
Madison, WI 53707

Dear Senator Roessler:

The Wisconsin Nurses Association (WNA) the voice of professional nursing in Wisconsin respectfully submits opposition to the expansion of the conscious clause requirements for health care providers.

The WNA is deeply concerned about issues affecting reproductive health – not “pro choice” issues – not “pro-life” issues, but reproductive health issues.

WNA is aware that the emotionally compelling issue of abortion can result in divisive and polarization of communities. WNA is also aware that prevention of unintended pregnancies is the most effective method of decreasing the number of abortions. Therefore, we propose our primary goals focus on the provision of reproductive health services including sexuality education, family planning services, and prenatal care.

Professional nursing practice is governed by its ethical code. The Code of Ethics for nurses not only recognizes and respects patients' individual rights to have control over their bodies, but the Code also proclaims nurses' responsibility to inform the patient of all available health care options. When a nurse does not provide all available legal options and does not refer the patient to another provider, it is deceptive nursing practice. It could also be construed as patient abandonment, which is a violation of Administrative Code N7.04 *Misconduct or unprofessional* conduct. Individuals should have the legal right to be informed of all of their health care options or be referred to another provider, in order that they can make an informed decision. This proposed language in AB 67 allows for patient abandonment, which is unacceptable to WNA.

WNA respects a nurse's right to not be involved in procedures that go against their moral or religious beliefs, however the nurse has a duty to the patient to then inform the patient prior and then refer them. The WNA urges you to oppose AB 67 and instead support the current law that mandates that health care providers refer patients if he/she cannot provide such care.

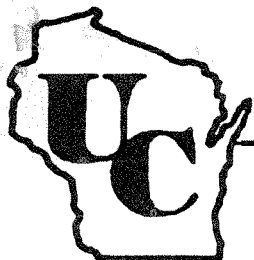
Sincerely,

Gina Dennik-Champion

Gina Dennik-Champion, RN, MSN, MSHA

Executive Director

Wisconsin Nurses Association



United Council

of University of Wisconsin Students, Inc.

14 W. Mifflin Street, Suite 212, Madison, WI 53703-2568 Phone (608) 263-3422 Fax (608) 265-4070

OCT 09 2003

October 8, 2003

Dear Senator Roessler,

Please accept my testimony in opposition to Assembly Bill 67 on behalf of United Council of UW Students.

I was unable to speak at the committee meeting on October 7th, but I feel it is important that committee members know that UW students statewide stand in opposition to this bill.

I urge you to consider the views of the 140,000 students United Council represents and the particular impact this bill would have on them if passed.

Thank you for your time and consideration.

Sincerely,

Marcie Parkhurst
Women's Issues Director
United Council of UW Students

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.

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3-5-03

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

From: Kathryn Osborne on behalf of the Wisconsin Chapter of the American
College of Nurse Midwives.

Madame Chair, committee members, thank you for the opportunity to provide comments on Assembly Bill 67. My name is Kathryn Osborne. I am licensed by the State of Wisconsin as a Registered Nurse, an Advanced Practice Nurse Prescriber and a Certified Nurse Midwife. I am here today, on behalf of the Wisconsin Chapter of the American College of Nurse Midwives (ACNM), to testify against Assembly Bill 67. As women's health care providers, the Wisconsin Chapter of ACNM opposes any legislation that restricts a woman's access to health care. We believe that there are several mandates in AB 67 that could potentially restrict access to health care and services.

As advocates of self determination and individual choice, we understand that there are certain activities that, based on "creed", some individuals would prefer not to participate in. We also understand that current law already addresses employment discrimination based on "creed". As you are aware, current law protects the religious conviction of individual employees, as long as making accommodations does not pose undue hardship on the employer. The employers we speak of here are health care providers. They are in the business of providing safe, legal, health care to members of a community. If the religious conviction of employees and/or potential employees interferes with the business's ability to provide safe, legal health care services then employers must be afforded the opportunity to hire individuals who will be able deliver such services. Statutorily requiring employers to maintain employees to the degree that they are not able to provide services that are recognized as safe and legal in this country, has the potential of rendering them incapable of conducting business. AB 67 requires employers to honor religious conviction to that degree.

The ability to fill a prescription is another critical element in the provision of health care. The Pharmacy mandate of AB 67 places the decision to proceed with a plan of care, established by a woman and her health care provider, in the hands of a pharmacist who for reasons of "creed" may refuse to fill the prescription. This is most likely to become an issue of restricted services in the rural areas of the state - areas where there may only be one pharmacist, one hospital, or one physician. Imagine for one minute, a young woman in Hayward Wisconsin who, following a sexual assault, is not able to get her prescription for emergency

contraception filled because the only pharmacist in town refuses to fill it based on his "creed". Shall we further violate her, by asking her to drive 25 miles to Spooner? And then she discovers that the pharmacist in Spooner refuses to fill it as well. After hours in an emergency room, following a violent assault, she now has to get back in her car and drive on to Rice Lake. This hardly seems like accessible health care.

The effects of this Bill will also be felt in our inner cities. I know that you are all aware of the rising rates of teen pregnancy. Despite the fact that national statistics may say otherwise, my practice in Milwaukee would suggest that teen pregnancy is a very real problem in the state of Wisconsin. I have seen the lists of several organizations that include hormonal contraceptives (birth control pills and Depo Provera) as abortifacants – drugs that under the provision of this Bill pharmacists would be allowed to refuse to dispense. Keeping this in mind, imagine the crisis we will experience if the two most common forms of contraception for inner city women, are rendered unavailable because WI statute allows health care providers to withhold information about health care options, and/or pharmacists to refuse to fill a prescription written by a licensed health care provider. How likely will it be for my client, who is dependent upon public transportation, to travel from pharmacy to pharmacy (with multiple bus connections) until she finds a pharmacist who will fill the prescription that will prevent one more teen pregnancy?

I would like to advocate for public policy that improves access to health care and moves us away from high rates of unplanned pregnancy, especially for young teens. This Bill has the potential to do just the opposite by limiting access to health care for women of all ages and economic status, in all parts of the state. Health care needs of the patient, not the personal beliefs of the providers or pharmacists, should be the driving force in the provision of health care and the creation of health policy.

Thank you for your consideration of our concerns.

Respectfully Submitted,

Kathryn Osborne MSN CNM
Wisconsin Chapter of the American College of Nurse Midwives

**Testimony in Opposition to ASA 1 To
2003 Assembly Bill 67
STATEMENT OF DR. SCOTT SPEAR**

As a pediatrician, husband and father of three adolescent children, I am compelled to speak out against the unethical bill that is before this committee today—Assembly Bill 67.

Although this bill purports to talk about the conscience or creed of health care professionals, workers and pharmacists, it is in reality a thinly veiled attempt to block a patient's access to vital health care. By subordinating patient health to the personal beliefs of health care professionals and workers, this bill violates medical ethics which form the cornerstone of the relationship between a patient and a physician and the delivery of responsible health care.

Under current law, physicians have a duty to refrain from "engaging in any practice or conduct which tends to constitute a danger to the health, welfare, or safety of patients." Further, physicians also have an ethical duty to inform a patient about all available, viable modes of treatment and about the benefits and risks of such treatment, regardless of whether the physician personally agrees with those modes of treatment. These ethical mandates illustrate that the primary responsibility of a physician is to care for the medical needs of a patient. In other words, the health of the patient must come first. Any attempts to subordinate patient care are anathema to the ethical responsibilities that a physician has to each patient.

AB 67 guts these ethical obligations, and as a result, compromises patient health care. Not only can health care professionals and workers opt out of administering certain needed health care treatment according to this bill, but also they can refuse to "engage in, assist in, recommend, counsel in favor of; make referrals for, prescribe or dispense." It doesn't matter that a patient could be severely and irrevocably harmed as a result of this refusal. Under current Wisconsin law, no physician or health care worker can be forced to perform or assist in the performance of an abortion or sterilization procedures. However, health care professionals still have an obligation to refer a patient who requires an abortion to save her life or to preserve her health. Under AB 67, this obligation is gone. Therefore, a pregnant woman who has severe pre-

eclampsia or life-threatening high blood pressure due to pregnancy and may die without an abortion can be denied referral information. This is simply anathema to the delivery of responsible health care.

Under AB 67, medical treatment could be denied to a pregnant woman if the treatment is not related to the “beneficial treatment of a developing child.” There are many circumstances in which a pregnant woman needs health care treatment that may not be construed as “beneficial treatment” of a fetus or embryo. Pregnant women with epilepsy still need anti-seizure medications that might compromise a developing fetus, but are critical to the health of the mother. A pregnant woman who is found to have cancer may require chemotherapy to save her life, but may cause harm to a fetus or embryo. This bill will allow life-saving health care to be denied to such women.

Not only does this provision allow a pregnant woman to be denied health care, but prenatal tests that may pose a potential risk to a fetus could be refused. Such tests are an important part of prenatal care and families deserve to be informed about the availability of amniocentesis and chorionic villus sampling, even if the results of these tests could lead a woman to choose abortion or could pose a risk to the fetus by their performance.

Finally, AB 67 will severely compromise the physician-patient relationship. Health care workers can ignore treatment recommendations agreed upon by the physician and the patient if the health care worker claims to religiously or morally oppose such treatment. Therefore, a physician’s treatment plan could be severely compromised and this bill could be deemed to be interfering with legal health care practice—indeed it could be construed as practicing medicine without a license.

Likewise, to allow a pharmacist to refuse to follow a physician’s treatment recommendations for a patient, because of the pharmacist’s personal beliefs, is hazardous to patients. Pharmacists can and do call physicians every day to discuss the prescriptions we write and to clarify that these meet the needs of our patients most appropriately. But these discussions arise from the perspective of what is best for the patient, not what the pharmacist feels like doing or happens to

personally believe about a medication. To destroy this essential relationship of trust between patients, their physicians and pharmacists—which is exactly what AB 67 will do—is harmful to the welfare of our patients and to the public good. It will cause chaos in pharmacies across this state and will be distressing to patients and physicians alike.

Furthermore, for proper diagnosis and successful treatment, a patient must be able to rely on what a physician tells him or her. It is not a patient's responsibility to have to guess whether or not the physician shared full and accurate information. Patients must be able to trust and act upon medical information provided by a physician. Allowing a physician to withhold medically needed information could foster patient mistrust of physicians and lead to not following fully the recommendations of the physician.

Although the personal beliefs of health care professionals, workers and pharmacists are to be respected, theirs is not the viewpoint that matters most in the clinical encounter. Health care providers, including pharmacists and physicians like myself, have a social contract with the general public to provide for the welfare of our patients. Much of our education was subsidized by public tax dollars and our licenses to practice are awarded by the state. And as such, we have a moral responsibility to provide the care that meets the needs of our patients, as long as it is sound medically and is permitted by the laws that govern medical and pharmacy practice.

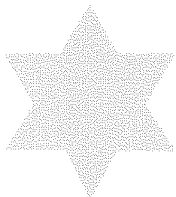
It is a critical component of medical ethics that the beliefs of the patient take priority over the agenda or creed of the health care provider. There are plenty of other professions where the needs of others do not come first, but this ethical precept is central to providing health care. Patients have a basic human right to expect us to do our jobs in their best interest. Any thing less is immoral.

I urge you to reject AB 67 as the unethical and harmful piece of legislation that it is. Thank you!

Scott J. Spear, MD
Associate Professor of Pediatrics
University of Wisconsin-Madison
Madison, WI

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

**Prepared by:
Barbara Beckert, Assistant Director
Tuesday October 7, 2003**



The Milwaukee Jewish Council for Community Relations, which represents 29 local Jewish organizations, agencies, and synagogues; and Jewish Family Services, which provides comprehensive social services, strongly oppose passage of Assembly Bill 67.

- Keith Lindenbaum
President
- Paula Simon
Executive Director

Organizational Members

- American Association of Jews from the Former Soviet Union
- American Jewish Committee
- Americans for Peace Now
- Beth El Ner Tamid Synagogue
- B'nai B'rith International
- Congregation Anshai Lebowitz
- Congregation Anshe Sfarad/Kehillat Torah
- Congregation Beth Israel
- Congregation Beth Jehudah
- Congregation Emanu-El B'ne Jeshurun
- Congregation Emanu-El of Waukesha
- Congregation Shalom
- Congregation Shir Hadash
- Congregation Sinai
- The Generation After
- Hadassah
- Harry and Rose Samson Family Jewish Community Center of Milwaukee
- Hillel Foundation-Milwaukee
- Jewish Family Services
- Jewish War Veterans
- Lake Park Synagogue
- NA'AMAT USA
- National Council of Jewish Women
- New American Club
- Temple Menorah
- Wisconsin Council of Rabbis
- Wisconsin Society for Jewish Learning
- Women's American ORT
- Zionist Organization of America

We are concerned that AB 67 will deny patients access to important healthcare services, based on the religious beliefs of the provider, and it places the rights of employees over the rights of patients in need of service. We believe that Wisconsinites should be free to make their own healthcare decisions within the context of their own religious convictions and beliefs, without interference from the state. This is based on the Jewish community's deep commitment to the principle of separation of Church and State, guaranteed by our Constitution, which has kept our nation strong and preserved full freedom for the individual.

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 right for the patient. It allows health care professionals to deny patients vital health care services, even if the denial of care harms the patient, and permits hospitals and health care providers to ignore patients' living wills, as well as patients' directives to donate their organs after death.

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.

According to the Wisconsin Medical Society and other health care professional groups, 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. 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 AB 67 becomes law.

Providing health care is not just an obligation for the patient and the doctor, but for society as well. It is for this reason that Maimonides, a revered Jewish scholar, listed health care first on his list of the ten most important communal services that a city had to offer to its residents (*Mishneh Torah, Hilchot De'ot IV: 23*). Almost all self-governing Jewish communities throughout history set up systems to ensure that all their citizens had access to health care. This bill will allow health care providers to **deny** access to information, medication, and safe treatment options. We urge you to vote against AB 67 in order to protect a patient's access to health care and right to referral in order to receive desired medical care.

**Testimony to Committee on Health, Children, Families, Aging and Long
Term Care
Assembly Bill 67
October 7, 2003**

Chairperson Roessler and members of the Committee, thank you for the opportunity to testify this morning. My name is Todd McVey, and I am the Community Relations Director for HospiceCare Inc., serving terminally ill patients in Dane and Rock Counties and parts of the surrounding counties.

I am here to speak against this bill, in particular that portion of the bill that addresses end of life issues. Specifically, I am speaking to the withholding or withdrawal of nutrition or hydration. Hospice neither prolongs nor hastens death. We do not practice assisted suicide, euthanasia, or mercy killing, all of which are illegal in Wisconsin.

Among the concerns that we have about this bill is the fact that the bill serves to undermine patient rights. HFS 131 of the Wisconsin Administrative Code regulates hospices and includes the rights of patients to participate the development of their plan of care and in discussions related to changing that plan of care. They have the right to select or refuse services and the right to prepare an advance directive. Honoring a patient's wishes and providing care in accord with their advance directives if they are no longer able to speak for themselves is a core value that we hold as we strive to maintain dignity, respect and quality of life at the end of life. This bill violates that core value and places the wishes of the healthcare provider above those of the patient.

The bill allows a health care worker to ignore the expressed wishes of a terminally ill or dying patient regarding nutrition and hydration. When someone is terminally ill or dying, their needs and wishes ought to take precedence over those of the health care worker. It is not a time to debate moral or religious viewpoints. While this bill does require that a health care worker inform the patient and/or power of attorney of their refusal to participate in certain activities upon receipt of the power of attorney for health care, this is an overly simplistic solution to a much more complex problem. The fact is, many patients do not complete a power of attorney for health care prior to a health crisis. For many it would be in the midst of that health care crisis that they would learn of the health care worker's refusal to comply with their wishes. To expect someone who is in the midst of a health crisis or perhaps even dying, to arrange for a new physician lacks compassion and understanding. Any patient in that situation ought to have priority over the wishes of the physician or other health care provider.

The Federal Patient Self-Determination Act, passed by Congress in 1990 guarantees, among other rights, a patient's right to participate in and direct their own health care decisions and to accept or refuse medical or surgical treatment.

This bill undermines that right by allowing a health care worker to ignore the patient's advance directive.

Last Acts, a national coalition dedicated to improving end of life care, released report entitled "Means to a Better End" in November of last year. The report graded each state on eight criteria related to the availability and use of end of life care. One of the criteria used was the quality of a state's advance directive policies. Wisconsin received a "D." Among the reasons, Wisconsin does not have a single, comprehensive advance directive statute and mandates a power of attorney form that is often confusing to patients and families. In addition to the points already made, I would add that this law only makes things more confusing and complicated. Rather than passing legislation that will further complicate and confuse, we would encourage the legislature to take steps to improve a patient's ability to direct his/her health care and further safeguard the rights of those who are terminally ill or dying.

Todd McVey
Community Relations Director
HospiceCare Inc.
608-276-4660