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May 5, 2023

Senator Anne Carney, Chair  
Representative Matt Moonen, Chair  
Committee on Judiciary  
100 State House Station  
Augusta, Maine 04333

Re: ***LD 494, An Act to Conform State Funding to the Federal Hyde Amendment, Limiting Funding for Some Abortion Services***  
***LD 771, An Act to Protect a Woman's Right to Withdraw Consent for an Abortion***  
***LD 1197, An Act to Prevent Coerced Abortion***  
***LD 1249, An Act to Protect the Quality of Care Provided via Telehealth by Prohibiting Physicians from Prescribing Abortion-inducing Drugs or Devices Through Telehealth or Other Electronic Communication***  
***LD 1614, An Act to Require an Ultrasound and Certain Counseling Before an Abortion***

Greetings Senator Carney and Representative Moonen,

I am writing today to express my opposition to LDs 494, 771, 1197, 1249 and 1614. My office has supported numerous efforts to defend reproductive rights on a national level, and these bills would work to undermine many of those efforts here in Maine.

For nearly a half century, the United States Constitution protected the fundamental right to access abortion care. In *Dobbs v. Jackson Women's Health Organization*, the United States Supreme Court reversed long-standing precedent and withdrew this constitutional protection. Fortunately, Maine continues to protect reproductive freedom, but efforts are now underway to chip away at state law protections. Immediately after *Dobbs* was decided, I pledged to do everything within my power as Attorney General to block such efforts, and I come before you now to urge that you reject the five bills that serve no valid public health purpose and instead would simply throw up roadblocks to persons seeking access to abortion care.

LD 494, *An Act to Confirm State Funding to the Federal Hyde Amendment, Limiting Funding for Some Abortion Services*, would repeal a state law that provides coverage for abortion services to MaineCare members. Despite what the title of this bill suggests, existing state law does not violate or conflict with the Hyde Amendment, which applies only to the expenditure of federal

funds. For abortion services that are not approved under federal Medicaid law, only state funds are used. Covering MaineCare members for abortion services is imperative. For low-income persons, paying for abortion care is a significant expense. This may result in delays in receiving care, which, in turn, can increase the cost and risks of the procedure. In some cases, lack of coverage can be an insurmountable obstacle – one study found that approximately one in four persons enrolled in Medicaid who sought abortion services were unable to receive them because of the federal funding restriction.<sup>1</sup>

LD 1249, *An Act to Protect the Quality of Care Provided via Telehealth by Prohibiting Physicians from Prescribing Abortion-inducing Drugs or Devices Through Telehealth or other Electronic Communication*, prohibits the provision of medication abortion services via telehealth and makes it a crime to mail medication abortion drugs such as mifepristone to patients. Mifepristone was approved by the FDA over twenty years ago and has since been safely used over five million times. Recognizing the safety of the drug, the FDA now allows it to be dispensed to patients via mail. Restricting mifepristone to in-person dispensing advances no public health purpose. And in a rural state like Maine, an in-person dispensing requirement, along with a prohibition on the use of telehealth appointments, will serve only to impose a significant obstacle for many patients. Decisions on the use of telehealth and medication dispensing should be left to health care providers and their patients.

LD 1614, *An Act to Require an Ultrasound and Certain Counseling Before an Abortion*, requires medical providers to perform an ultrasound on a person seeking abortion services and prohibits the person from receiving those services until sitting out a 48-hour “waiting period.” Whether an ultrasound is appropriate is a decision for the provider and the patient. A 48-hour waiting period can be a significant obstacle on access to abortion care because it effectively requires a patient to make two trips to their provider, with an attendant increase in time away from work and travel, childcare and other expenses. This becomes an even greater obstacle in rural parts of the State, where the nearest provider may be hours away.

LD 1197, *An Act to Prevent Coerced Abortion*, requires medical providers, as part of the informed consent process, to inform pregnant patients that deciding to not have an abortion will not affect their right to public assistance, describe Maine’s criminal threatening law and the Maine Human Rights Act, and offer to provide referrals to law enforcement agencies and domestic violence and sexual assault support organizations. Providing patients with relevant information, such as the risk of potential complications, is a critical part of the exercise of informed consent. We should leave it to health care providers, as an exercise of their professional judgment, to decide what information they deem important for a patient to know before consenting to medical treatment. Otherwise, patients may be deluged with information having no bearing on their decision, thus distracting from that which is truly important.

LD 771, *An Act Protect a Woman’s Right to Withdraw Consent for an Abortion*, requires providers to advise pregnant adults of their right to withdraw consent to an abortion and makes it a crime to perform an abortion on a person who has withheld or withdrawn consent. This is unnecessary – adults are fully aware of their right to withdraw consent to a medical procedure at


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<sup>1</sup> See <https://www.gutmacher.org/sites/default/files/pdfs/pubs/MedicaidLitReview.pdf>.

any time and performing any medical procedure on a person who has not consented is already unlawful.

Please continue Maine's strong and proud tradition of protecting the reproductive rights of our citizens and vote Ought Not To Pass on LD 494, LD 771, LD 1197, LD 1249, and LD 1614. Thank you for your time and consideration.

Sincerely,

  
Aaron M. Frey  
Attorney General