



PO Box 7860
Portland, ME 04112
(207) 774-5444
www.aclumaine.org

TESTIMONY OF MEAGAN SWAY, ESQ.

Ought to Pass - LD 616

An Act To Protect Health Care Professionals Providing Reproductive Health Care Services

Submitted to the

JOINT STANDING COMMITTEE ON HEALTH COVERAGE, INSURANCE AND
FINANCIAL SERVICES

May 1, 2023

Senator Bailey, Representative Perry, and distinguished members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services, greetings. My name is Meagan Sway, and I am the Policy Director at the ACLU of Maine, a statewide organization committed to advancing and preserving civil rights and civil liberties guaranteed by the Maine and U.S. Constitutions. I am here today to testify in support of LD 616, that would protect Maine abortion providers from the adverse consequences of other states' efforts to restrict abortion care.

If enacted, this bill would (1) prohibit insurance providers from denying, canceling, refusing to renew or restricting medical malpractice coverage of licensed health care professionals who participate in abortion care simply because abortion is not legal in another state, and (2) prohibit insurance providers from retaliating against a licensed health care provider who is penalized in another state simply for providing abortion care. This law will give sanctuary to licensed professionals who wish to ensure that their patients have access to their rightful health care, but who cannot do so without adequate insurance in place.

Dobbs v. Jackson Women's Health Organization dramatically changed the legal landscape of abortion in our country by removing federal protections and handing all power to individual states to decide whether abortion is legally protected. In the aftermath, abortion is now banned in 12 states and 12 more states are attempting to enact a ban or extreme restrictions.¹ In addition to making this essential health care inaccessible to more than 1 in 3 women who need

¹ See Center for Reproductive Rights, *After Roe Fell: Abortion Laws by State*, last accessed Apr. 23, 2023, available at <https://reproductiverights.org/maps/abortion-laws-by-state/>.

it,² states like Idaho, Louisiana, South Dakota, Tennessee and Texas have gone even farther, criminalizing abortion.³ And, states are further penalizing doctors who dare to provide care. For example, Idaho's abortion laws declare that "[t]he professional license of any health care professional who performs or attempts to perform an abortion or who assists in performing an abortion...shall be suspended by the appropriate licensing board for a minimum of six (6) months upon a first offense and shall be permanently revoked upon a subsequent offense." Idaho Code Ann. §18-622 (2022). This suspension of someone's license—and the effects that suspension has on their ability to obtain medical malpractice insurance—are designed to cut off the supply of essential health care, so that people cannot find safe professionals to help them end their pregnancies.

Health care systems, doctors, and the lawyers that advise them are all, as a general rule, extremely risk-adverse. The possibility of losing one's medical malpractice insurance could chill the availability of abortion provision here, where abortion is legal. Maine has a long history of support for reproductive rights and must take a firm stand against the terrible developments in other states. It is not enough to ensure our laws protect the right to get an abortion, but they must protect health care professionals who want to provide this care. In doing so, we can ensure that abortion remains legal and accessible to all who need it in our state. We urge you to vote ought to pass.

² Katie Shepherd, Rachel Roubein & Caroline Kitchener, 1 in 3 American women have already lost abortion access. More restrictive laws are coming., The Washington Post, Aug. 22, 2022, available at <https://www.washingtonpost.com/nation/2022/08/22/more-trigger-bans-loom-1-3-women-lose-most-abortion-access-post-roe/>.

³ Center for Reproductive Rights, After Roe Fell: Abortion Laws By State.