

Affidavit in Opposition to H.P. 1044 House of Representatives, April 12, 2023
An Act to Improve Maine's Reproductive Privacy Laws

Anthony Levatino, MD, JD deposes and says:

- 1) I am a board-certified obstetrician gynecologist currently licensed in New Mexico and Arizona with over 40 years of practice and teaching experience.
- 2) I received my Medical Degree from Albany Medical School in Albany, NY in 1976.
- 3) I completed a four-year residency in Obstetrics and Gynecology in 1980 and became board-certified in 1982.
- 4) In the course of my residency training, and over several years of clinical practice, I performed over 1200 first and second-trimester abortions.
- 5) I currently serve on the faculty of Burrell College of Osteopathic Medicine as professor of Clinical Medicine.
- 6) I have read H.P. 1044 in its entirety.
- 7) It is my professional opinion, as both a physician and an attorney, that H.P. 1044 does not serve the citizens of Maine well.
- 8) The first and most important obligation of a state or nation is to protect its citizens from unwarranted and avoidable harm.
- 9) Implementation of H.P. 1044, as written, would be potentially harmful to any person seeking an abortion in Maine.
- 10) Section 2 changes existing law to essentially allow any abortion, at any time, for any reason up until the time of birth solely on the whim of an abortionist with no oversight by medical or state authorities and no justification required of any kind in the medical record or in any other form.
- 11) Simply stating that the "professional" judgment of a licensed physician is inadequate to ensure the safety of patients seeking abortions in the state of Maine.
- 12) In my practice of abortions in New York, my partners and I were faced with a hospital whose governing board ruled that only "medically necessary" abortions would be performed at the hospital. Undeterred, we simply wrote on every medical record that, in our professional judgment, the abortion was medically necessary and then we proceeded. Problem solved. The same could easily happen in Maine.
- 13) It is well established in the medical literature that complications from abortion become more likely as gestational age increases.
- 14) H.P. 1044 opens the door to unregulated abortion practice, without justification after fetal viability by mid-level medical practitioners without adequate medical supervision by a physician who is trained and capable of caring for complications including potentially life-threatening infections, incomplete abortion or failed abortion.

- 15) While a physician is required by the proposed legislation to pass professional judgment on whether a post-viability abortion is justified, Maine law allows physician assistants and advanced care registered nurses to perform these advanced procedures.
- 16) These individuals are not trained nor have adequate experience to ensure the safety of patients they may treat in such circumstances. Allowing this could seriously jeopardize the health and well-being of those seeking abortions in Maine as well as encouraging "dumping" of patients suffering post-abortion complications into emergency rooms that may or may not themselves be capable of handling such complications adequately.
- 17) Post-viability abortion is a specialized practice. ACGME and ACOG have both recognized this by recently instituting a new two-year fellowship in Advanced Family Planning to adequately train Ob/Gyns to perform these abortions.
- 18) Allowing inadequately trained personnel to legally perform such procedures invites serious and avoidable morbidity and mortality in your patient population and shows a callous disregard for those seeking abortions in your state.
- 19) Section 3 only compounds the error by removing any legal penalty from ANYONE who performs an abortion in your state.
- 20) As one possibility, a non-licensed individual could procure Mifepristone by mail order over the internet and sell that drug to anyone in your state, including minors, without penalty. Such an unlicensed individual would do so illegally under section 3 as proposed but striking existing language in Section 3 removes any penalty for such action.
- 21) One must assume that the drafters of this bill, and any legislator supporting it, are well aware that this would be the effect of this legislation.
- 22) Section 2 explicitly states that, "It is also the public policy of the State that all abortions may be performed only by a health care professional". Having so stated, Section 3 then specifically removes any legal penalty for an unlicensed person who performs an abortion in Maine essentially decriminalizing a new form of "back alley" abortion.
- 23) The Summary of the proposed legislation explicitly states, "Finally, this bill removes the criminal penalties for performing an abortion without being licensed as a physician, physician assistant or advanced practice registered nurse and for performing an abortion after viability of the fetus when it was not necessary for the preservation of the life or health of the mother."
- 24) This callous disregard for the health and safety of persons seeking abortions is blatantly unethical on its face and should not, in my opinion, be passed or signed into law in Maine or anywhere else.



Anthony Levatino, MD, JD