

Testimony in support of LD 1619
Judiciary Committee
May 1, 2023

Senator Carney, Representative Moonen, and Members of the Judiciary Committee

My name is Dr. Connie Adler and I practiced women's medicine in Farmington for 30 years.

It has been my immense privilege to care for thousands of people during pregnancy, and to have delivered many, many babies. And that care has involved listening to, advising and supporting the medical decisions that patients have made along the way. Some of those result in abortion. And some of those decisions are breathtakingly hard and very personal.

Passage of LD1619 would say to all that we, in the State of Maine, trust people to make their own medical decisions. In consultation with their medical providers, we trust them to determine what is best for their lives, their families and the health of both. Also, it would mean that we will not criminalize the providers who care for them. And we will not allow the privacy of their care to be violated.

We will assure their safety and their bodily autonomy. We should enthusiastically do that.

When I have accompanied women ending their pregnancy later in its course, they have universally said that what gets them through the excruciatingly difficult situation is the support of their families, being supported by those they care about, near home. Seven other states already have no gestational limits on abortion services. Still, less than 1% of abortions nationally are after 22 wks. These are rare interventions but incredibly important to those involved and more humanely accomplished with the support of loved ones and trusted providers.

We have also seen nationally practically daily lately that when murky or restrictive laws put providers at risk of imprisonment or sanction for even very needed interventions in a pregnancy, care can be delayed or denied and access to care becomes limited leading to hemorrhage, sepsis, organ failure and even death.

Patients and providers often have difficult conversations about their individual healthcare and make plans based on numerous biological and ethical variables. They discuss choices, implications, risks. Government does not interfere when that discussion is about cancer treatment, about hospice care, about surgery and it should not interfere in reproductive healthcare. Mainers should be able to direct their own health care, including abortion care, without legal threats or judgment. These decisions belong in an exam room, not in a legislative chamber, and not in a courtroom.

I urge you to pass LD1619 for the good of the people and families of Maine.

Respectfully submitted,
Connie Adler, MD
Grandmothers for Reproductive Rights

Connie Adler, MD

CHAPTER 263-B

ABORTIONS

§1591. Immunity and employment protection

No physician, nurse or other person who refuses to perform or assist in the performance of an abortion, and no hospital or health care facility that refuses to permit the performance of an abortion upon its premises, shall be liable to any person, firm, association or corporation for damages allegedly arising from the refusal, nor shall such refusal constitute a basis for any civil liability to any physician, nurse or other person, hospital or health care facility nor a basis for any disciplinary or other recriminatory action against them or any of them by the State or any person. [PL 1977, c. 696, §186 (NEW).]

A physician, nurse or other person who refuses to perform or assist in the performance of an abortion may not, because of that refusal, be dismissed, suspended, demoted or otherwise prejudiced or damaged by a hospital, health care facility, firm, association, professional association, corporation or educational institution with which the physician, nurse or other person is affiliated or requests to be affiliated or by which the physician, nurse or other person is employed, nor may that refusal constitute grounds for loss of any privileges or immunities to which the physician, nurse or other person would otherwise be entitled, nor may submission to an abortion or the granting of consent therefor be a condition precedent to the receipt of any public benefits. [RR 2021, c. 2, Pt. B, §95 (COR).]

SECTION HISTORY

PL 1977, c. 696, §186 (NEW). RR 2021, c. 2, Pt. B, §95 (COR).

§1592. Discrimination for refusal

No person, hospital, health care facility, firm, association, corporation or educational institution, directly or indirectly, by himself or another, shall discriminate against any physician, nurse or other person by refusing or withholding employment from or denying admittance, when such physician, nurse or other person refuses to perform, or assist in the performance of an abortion, nor shall such refusal constitute grounds for loss of any privileges or immunities to which such physician, nurse or other person would otherwise be entitled. [PL 1977, c. 696, §186 (NEW).]

SECTION HISTORY

PL 1977, c. 696, §186 (NEW).

§1593. Sale and use of fetuses

1. Prohibition. A person may not use, transfer, distribute or give away a live human fetus, whether intrauterine or extrauterine, or any product of conception considered live born, for scientific experimentation or for any form of experimentation. [PL 2003, c. 452, Pt. K, §10 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. Consenting, aiding or assisting. A person may not consent to violating subsection 1 or aid or assist another in violating subsection 1. [PL 2003, c. 452, Pt. K, §10 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

3. Penalty. A person who violates this section commits a Class C crime. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [PL 2003, c. 452, Pt. K, §10 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1977, c. 696, §186 (NEW). PL 2003, c. 452, §K10 (RPR). PL 2003, c. 452, §X2 (AFF).

The report form must be prepared and signed by the health care professional in attendance at or after the occurrence of the miscarriage and transmitted to the department not later than 10 days following the end of the month in which the miscarriage occurs.

[PL 2019, c. 262, §1 (AMD).]

The identity of any patient or health care professional reporting pursuant to this section is confidential and the department shall take the steps necessary to ensure the confidentiality of the identity of patients or health care professionals reporting pursuant to this section. [PL 2019, c. 262, §1 (AMD).]

SECTION HISTORY

PL 1977, c. 696, §186 (NEW). PL 1979, c. 363, §§1-4 (AMD). PL 1989, c. 274, §1 (RPR). PL 2003, c. 689, §B6 (REV). PL 2019, c. 262, §1 (AMD).

§1597. Parental notification of minor's decision to have an abortion (REPEALED)

SECTION HISTORY

PL 1979, c. 413 (NEW). PL 1993, c. 61, §1 (RP).

§1597-A. Consent to a minor's decision to have an abortion

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Abortion" means the intentional interruption of a pregnancy by the application of external agents, whether chemical or physical, or the ingestion of chemical agents with an intention other than to produce a live birth or to remove a dead fetus. [PL 1989, c. 573, §2 (NEW).]

B. "Counselor" means a person who is:

- (1) A psychiatrist;
- (2) A psychologist licensed under Title 32, chapter 56;
- (3) A social worker licensed under Title 32, chapter 83;
- (4) An ordained member of the clergy;
- (5) A physician assistant licensed by the Board of Licensure in Medicine, Title 32, chapter 48;
- (6) A nurse practitioner registered by the Board of Licensure in Medicine, Title 32, chapter 48;
- (7) A certified guidance counselor;
- (8) A registered professional nurse licensed under Title 32, chapter 31; or
- (9) A practical nurse licensed under Title 32, chapter 31. [PL 2019, c. 627, Pt. B, §6 (AMD).]

C. "Minor" means a person who is less than 18 years of age. [PL 1989, c. 573, §2 (NEW).]
[PL 2019, c. 627, Pt. B, §6 (AMD).]

2. Prohibitions; exceptions. Except as otherwise provided by law, a health care professional, as defined in section 1596, subsection 1, paragraph C, may not knowingly perform an abortion upon a pregnant minor unless:

A. The health care professional has received and will make part of the medical record the informed written consent of the minor and one parent, guardian or adult family member; [PL 2019, c. 262, §2 (AMD).]

- (1) Explain that the information being given to the minor is being given objectively and is not intended to coerce, persuade or induce the minor to choose either to have an abortion or to carry the pregnancy to term;
 - (2) Explain that the minor may withdraw a decision to have an abortion at any time before the abortion is performed or may reconsider a decision not to have an abortion at any time within the time period during which an abortion may legally be performed;
 - (3) Clearly and fully explore with the minor the alternative choices available for managing the pregnancy, including:
 - (a) Carrying the pregnancy to term and keeping the child;
 - (b) Carrying the pregnancy to term and placing the child with a relative or with another family through foster care or adoption;
 - (c) The elements of prenatal and postnatal care; and
 - (d) Having an abortion;
 - (4) Explain that public and private agencies are available to provide birth control information and that a list of these agencies and the services available from each will be provided if the minor requests;
 - (5) Discuss the possibility of involving the minor's parents, guardian or other adult family members in the minor's decision making concerning the pregnancy and explore whether the minor believes that involvement would be in the minor's best interests; and
 - (6) Provide adequate opportunity for the minor to ask any questions concerning the pregnancy, abortion, child care and adoption, and provide the information the minor seeks or, if the person cannot provide the information, indicate where the minor can receive the information. [PL 2019, c. 262, §2 (AMD).]
- B. After the person provides the information and counseling to a minor as required by this subsection, that person shall have the minor sign and date a form stating that:
- (1) The minor has received information on prenatal care and alternatives to abortion and that there are agencies that will provide assistance;
 - (2) The minor has received an explanation that the minor may withdraw an abortion decision or reconsider a decision to carry a pregnancy to term;
 - (3) The alternatives available for managing the pregnancy have been clearly and fully explored with the minor;
 - (4) The minor has received an explanation about agencies available to provide birth control information;
 - (5) The minor has discussed with the person providing the information and counseling the possibility of involving the minor's parents, guardian or other adult family members in the minor's decision making about the pregnancy;
 - (6) The reasons for not involving the minor's parents, guardian or other adult family members are put in writing on the form by the minor or the person providing the information and counseling; and
 - (7) The minor has been given an adequate opportunity to ask questions.

The person providing the information and counseling shall also sign and date the form and include that person's address and telephone number. The person shall keep a copy for that person's files and shall give the form to the minor or, if the minor requests and if the person providing the

(3) Deny the petition only if the court finds that the minor is not mature enough to make the minor's own decision and that the abortion is not in the minor's best interest. [RR 2021, c. 2, Pt. B, §96 (COR).]

E. If the petition is allowed, the informed consent of the minor, pursuant to a court grant of majority rights or the judicial consent, shall bar an action by the parent or guardian of the minor on the grounds of battery of the minor by those performing the abortion. The immunity granted shall only extend to the performance of the abortion and any necessary accompanying services which are performed in a competent manner. [PL 1989, c. 573, §2 (NEW).]

F. The minor may appeal an order issued in accordance with this section to the Superior Court. The notice of appeal shall be filed within 24 hours from the date of issuance of the order. Any record on appeal shall be completed and the appeal shall be perfected within 5 days from the filing of notice to appeal. The Supreme Judicial Court shall, by court rule, provide for expedited appellate review of cases appealed under this section. [PL 1989, c. 573, §2 (NEW).]
[RR 2021, c. 2, Pt. B, §96 (COR).]

7. Abortion performed against the minor's will. An abortion may not be performed on any minor against the minor's will, except that an abortion may be performed against the will of a minor pursuant to a court order described in subsection 6 that the abortion is necessary to preserve the life of the minor.

[RR 2021, c. 2, Pt. B, §97 (COR).]

8. Violations; penalties. The following penalties apply to violations of this section.

A. A person may not knowingly perform or aid in the performance of an abortion in violation of this section. A person who violates this paragraph commits a Class D crime. [PL 2003, c. 452, Pt. K, §11 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A health care professional, as defined in section 1596, subsection 1, paragraph C, or counselor may not knowingly fail to perform any action required by this section. A person who violates this paragraph commits a civil violation for which a fine of not more than \$1,000 may be adjudged for each violation. [PL 2019, c. 262, §3 (AMD).]

[PL 2019, c. 262, §3 (AMD).]

9. Nonseverability. In the event that any portion of this section is held invalid, it is the intent of the Legislature that this entire section shall be invalid.

[PL 1989, c. 573, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 573, §2 (NEW). PL 1993, c. 600, §B21 (AMD). PL 2003, c. 452, §K11 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2019, c. 262, §§2, 3 (AMD). PL 2019, c. 627, Pt. B, §6 (AMD). RR 2021, c. 2, Pt. B, §§96, 97 (COR).

§1598. Abortions

1. Policy. It is the public policy of the State that the State not restrict a woman's exercise of her private decision to terminate a pregnancy before viability except as provided in section 1597-A. After viability an abortion may be performed only when it is necessary to preserve the life or health of the mother. It is also the public policy of the State that all abortions may be performed only by a health care professional, as defined in section 1596, subsection 1, paragraph C.

[PL 2019, c. 262, §4 (AMD).]

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms shall have the following meanings.

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C. The particular risks associated with her own pregnancy and the abortion technique to be performed; and [PL 1993, c. 61, §4 (NEW).]

D. At the woman's request, alternatives to abortion such as childbirth and adoption and information concerning public and private agencies that will provide the woman with economic and other assistance to carry the fetus to term, including, if the woman so requests, a list of these agencies and the services available from each. [PL 1993, c. 61, §4 (NEW).]

[PL 2019, c. 262, §6 (AMD).]

SECTION HISTORY

PL 1993, c. 61, §4 (NEW). PL 2019, c. 262, §6 (AMD).

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