

Bill as Introduced

HB 1662-FN - AS INTRODUCED

2010 SESSION

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HOUSE BILL

1662-FN

AN ACT relative to consent for abortions.

SPONSORS: Rep. Seidel, Hills 20; Rep. Kolodziej, Rock 4; Rep. Hogan, Hills 25; Rep. Willette, Hills 6; Rep. Ingbretson, Graf 5; Sen. Letourneau, Dist 19

COMMITTEE: Judiciary

ANALYSIS

This bill regulates abortions in New Hampshire by requiring women to have a medical consultation before an abortion, requiring informed consent of the woman upon whom the abortion is to be performed, and requiring parental consent in the case of a minor. Under this bill, the department of health and human services is to publish certain materials. The commissioner of the department of health and human services is granted rulemaking authority for the purposes of the bill.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struck through.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to consent for abortions.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Statement of Intent.

2 I. It is the intention of the general court to protect hereby the life and health of the woman
3 subject to abortion and to protect the life and health of the child subject to abortion. It is the further
4 intention of the general court to foster the development of standards of professional conduct in a
5 critical area of medical practice, to provide for development of statistical data and to protect the right
6 of the minor woman voluntarily to decide to submit to abortion or to carry her child to term. The
7 general court finds as fact that the rights and interests furthered by this chapter are not secure in
8 the context in which abortion is presently performed.

9 II. Reliable and convincing evidence has compelled the general court to conclude and the
10 general court does hereby solemnly declare and find that:

11 (a) Many women now seek or are encouraged to undergo abortions without full
12 knowledge of the development of the unborn child or of alternatives to abortion.

13 (b) The gestational age at which viability of an unborn child occurs has been lowering
14 substantially and steadily as advances in neonatal medical care continue to be made.

15 (c) A significant number of late-term abortions result in live births, or in delivery of
16 children who could survive if measures were taken to bring about breathing. Some physicians have
17 been allowing these children to die or have been failing to induce breathing.

18 (d) Because New Hampshire places a supreme value upon protecting human life, it is
19 necessary that those physicians which it permits to practice medicine be held to precise standards of
20 care in cases where their actions do or may result in the death of an unborn child.

21 (e) A reasonable waiting period, as contained in this chapter, is critical to the assurance
22 that a woman elect to undergo an abortion procedure only after having the fullest opportunity to give
23 her informed consent thereto.

24 III. In every relevant civil or criminal proceeding in which it is possible to do so without
25 violating the federal Constitution, the common and statutory law of New Hampshire shall be
26 construed so as to extend to the unborn the equal protection of the laws and to further the public
27 policy of New Hampshire encouraging childbirth over abortion.

28 IV. It is the further public policy of New Hampshire to respect and protect the right of
29 conscience of all persons who refuse to obtain, receive, subsidize, accept, or provide abortions
30 including those persons who are engaged in the delivery of medical services and medical care
31 whether acting individually, corporately, or in association with other persons; and to prohibit all

1 forms of discrimination, disqualification, coercion, disability, or imposition of liability or financial
2 burden upon such persons or entities by reason of their refusing to act contrary to their consciences
3 or conscientious convictions in refusing to obtain, receive, subsidize, accept, or provide abortions.

4 2 New Subdivision; Abortion Control Act. Amend RSA 132 by inserting after section 28 the
5 following new subdivision:

6 Abortion Control Act

7 132:29 Definitions: In this subdivision:

8 I. "Abortion" means the use of any means to terminate the clinically diagnosable pregnancy
9 of a woman with knowledge that the termination by those means will, with reasonable likelihood,
10 cause the death of the unborn child except that, for the purposes of this chapter, abortion shall not
11 mean the use of an intrauterine device or birth control pill to inhibit or prevent ovulation,
12 fertilization, or the implantation of a fertilized ovum within the uterus.

13 II. "Born alive" when used with regard to a human being, means that the human being was
14 completely expelled or extracted from her or his mother and after such separation breathed or
15 showed evidence of any of the following: beating of the heart, pulsation of the umbilical cord,
16 definite movement of voluntary muscles, or any brainwave activity.

17 III. "Complication" includes but is not limited to hemorrhage, infection, uterine perforation,
18 cervical laceration, and retained products. The department may further define complication.

19 IV. "Conscience" means a sincerely held set of moral convictions arising from belief in and
20 relation to a deity or which, though not so derived, obtains from a place in the life of its possessor
21 parallel to that filled by a deity among adherents to religious faiths.

22 V. "Department" means the department of health and human services.

23 VI. "Facility" or "medical facility" means any facility licensed under RSA 151.

24 VII. "Fertilization" and "conception" means the fusion of a human spermatozoon with a
25 human ovum.

26 VIII. "First trimester" means the first 12 weeks of gestation.

27 IX. "Gestational age" means the age of the unborn child as calculated from the first day of
28 the last menstrual period of the pregnant woman.

29 X. "Hospital" means an institution licensed under RSA 151.

30 XI. "In vitro fertilization" means the purposeful fertilization of a human ovum outside the
31 body of a living human female.

32 XII. "Medical emergency" means that condition which, on the basis of the physician's good
33 faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate
34 the immediate abortion of her pregnancy to avert her death or for which a delay will create serious
35 risk of substantial and irreversible impairment of major bodily function.

36 XIII. "Medical personnel" means any nurse, nurse's aide, medical school student,
37 professional or any other person who furnishes, or assists in the furnishing of, medical care.

1 XIV. "Physician" means any person licensed under RSA 329 to practice medicine in
2 New Hampshire. The term includes medical doctors and doctors of osteopathy.

3 XV. "Pregnancy" and "pregnant" mean that female reproductive condition of having a
4 developing fetus in the body and commences with fertilization.

5 XVI. "Probable gestational age of the unborn child" means what, in the judgment of the
6 attending physician, will with reasonable probability be the gestational age of the unborn child at
7 the time the abortion is planned to be performed.

8 XVII. "Unborn child" and "fetus" means an individual organism of the species homo sapiens
9 from fertilization until live birth.

10 XVIII. "Viability" means that stage of fetal development when, in the judgment of the
11 physician based on the particular facts of the case before him or her and in light of the most
12 advanced medical technology and information available to him or her, there is a reasonable
13 likelihood of sustained survival of the unborn child outside the body of his or her mother, with or
14 without artificial support.

15 132:30 Medical Consultation and Judgment; Abortion Prohibited; Exceptions; Penalty.

16 I. No abortion shall be performed except by a physician after either:

17 (a) He or she determines that, in his or her best clinical judgment, the abortion is
18 necessary; or

19 (b) He or she receives what he or she reasonably believes to be a written statement
20 signed by another physician, hereinafter called the "referring physician," certifying that in this
21 referring physician's best clinical judgment the abortion is necessary.

22 II. Except in a medical emergency where there is insufficient time before the abortion is
23 performed, the woman upon whom the abortion is to be performed shall have a private medical
24 consultation either with the physician who is to perform the abortion or with the referring physician.
25 The consultation will be in a place, at a time and of a duration reasonably sufficient to enable the
26 physician to determine whether, based on his or her best clinical judgment, the abortion is
27 necessary.

28 III. In determining in accordance with paragraph I whether an abortion is necessary, a
29 physician's best clinical judgment may be exercised in the light of all factors, physical, emotional,
30 psychological, familial and the woman's age, relevant to the well-being of the woman. No abortion
31 which is sought solely because of the sex of the unborn child shall be deemed a necessary abortion.

32 IV. Any person who intentionally, knowingly or recklessly violates the provisions of this
33 section commits a felony, and any physician who violates the provisions of this section is guilty of
34 "unprofessional conduct" and his or her license for the practice of medicine and surgery shall be
35 subject to suspension or revocation in accordance with procedures provided under RSA 329.

36 132:31 Informed Consent; Emergency; Penalty.

1 I. No abortion shall be performed or induced except with the voluntary and informed consent
2 of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical
3 emergency, consent to an abortion is voluntary and informed if and only if:

4 (a) At least 24 hours prior to the abortion, the physician who is to perform the abortion
5 or the referring physician has orally informed the woman of:

6 (1) The nature of the proposed procedure or treatment and of those risks and
7 alternatives to the procedure or treatment that a reasonable patient would consider material to the
8 decision of whether or not to undergo the abortion.

9 (2) The probable gestational age of the unborn child at the time the abortion is to be
10 performed.

11 (3) The medical risks associated with carrying her child to term.

12 (b) At least 24 hours prior to the abortion, the physician who is to perform the abortion
13 or the referring physician, or a qualified physician assistant, health care practitioner, technician or
14 social worker to whom the responsibility has been delegated by either physician, has informed the
15 pregnant woman that:

16 (1) The department publishes printed materials which describe the unborn child and
17 list agencies which offer alternatives to abortion and that she has a right to review the printed
18 materials and that a copy will be provided to her free of charge if she chooses to review it.

19 (2) Medical assistance benefits may be available for prenatal care, childbirth, and
20 neonatal care, and that more detailed information on the availability of such assistance is contained
21 in the printed materials published by the department.

22 (3) The father of the unborn child is liable to assist in the support of her child, even
23 in instances where he has offered to pay for the abortion. In the case of rape, this information may
24 be omitted.

25 (c) A copy of the printed materials has been provided to the pregnant woman if she
26 chooses to view these materials.

27 (d) The pregnant woman certifies in writing, prior to the abortion, that the information
28 required to be provided under this subparagraph has been provided.

29 II. Where a medical emergency compels the performance of an abortion, the physician shall
30 inform the woman, prior to the abortion if possible, of the medical indications supporting his or her
31 judgment that an abortion is necessary to avert her death or to avert substantial and irreversible
32 impairment of major bodily function.

33 III. Any physician who violates the provisions of this section is guilty of "unprofessional
34 conduct" and his or her license for the practice of medicine shall be subject to suspension or
35 revocation in accordance with procedures provided under RSA 329. Any physician who performs or
36 induces an abortion without first obtaining the certification required by subparagraph I(d) or with
37 knowledge or reason to know that the informed consent of the woman has not been obtained shall for

1 the first offense be guilty of a class B misdemeanor and for each subsequent offense be guilty of a
2 class A misdemeanor. No physician shall be guilty of violating this section for failure to furnish the
3 information required by paragraph I if he or she can demonstrate, by a preponderance of the
4 evidence, that he or she reasonably believed that furnishing the information would have resulted in
5 a severely adverse effect on the physical or mental health of the patient.

6 132:32 Parental Consent.

7 I. Except in the case of a medical emergency, or except as provided in this section, if a
8 pregnant woman is less than 18 years of age and not emancipated, or if she has been adjudged an
9 incapacitated person under state law, a physician shall not perform an abortion upon her unless, in
10 the case of a woman who is less than 18 years of age, he or she first obtains the informed consent
11 both of the pregnant woman and of one of her parents; or, in the case of a woman who is an
12 incapacitated person, he or she first obtains the informed consent of her guardian. In deciding
13 whether to grant such consent, a pregnant woman's parent or guardian shall consider only his or her
14 child's or ward's best interests. In the case of a pregnancy that is the result of incest where the
15 father is a party to the incestuous act, the pregnant woman need only obtain the consent of her
16 mother.

17 II. If both parents have died or are otherwise unavailable to the physician within a
18 reasonable time and in a reasonable manner, consent of the pregnant woman's guardian or
19 guardians shall be sufficient. If the pregnant woman's parents are divorced, consent of the parent
20 having custody shall be sufficient. If neither any parent nor a legal guardian is available to the
21 physician within a reasonable time and in a reasonable manner, consent of any adult person
22 standing in loco parentis shall be sufficient.

23 III. If both of the parents or guardians of the pregnant woman refuse to consent to the
24 performance of an abortion or if she elects not to seek the consent of either of her parents or of her
25 guardian, the superior court of the judicial district in which the applicant resides or in which the
26 abortion is sought shall, upon petition or motion, after an appropriate hearing, authorize a physician
27 to perform the abortion if the court determines that the pregnant woman is mature and capable of
28 giving informed consent to the proposed abortion, and has, in fact, given such consent.

29 IV. If the court determines that the pregnant woman is not mature and capable of giving
30 informed consent or if the pregnant woman does not claim to be mature and capable of giving
31 informed consent, the court shall determine whether the performance of an abortion upon her would
32 be in her best interests. If the court determines that the performance of an abortion would be in the
33 best interests of the woman, it shall authorize a physician to perform the abortion.

34 V. The pregnant woman may participate in proceedings in the court on her own behalf and
35 the court may appoint a guardian ad litem to assist her. The court shall, however, advise her that
36 she has a right to court appointed counsel, and shall provide her with such counsel unless she wishes
37 to appear with private counsel or has knowingly and intelligently waived representation by counsel.

1 VI.(a) Court proceedings under this section shall be confidential and shall be given such
2 precedence over other pending matters as will ensure that the court may reach a decision promptly
3 and without delay in order to serve the best interests of the pregnant woman. In no case shall the
4 court fail to rule within 3 business days of the date of application. A court which conducts
5 proceedings under this section shall make in writing specific factual findings and legal conclusions
6 supporting its decision and shall, upon the initial filing of the minor's petition for judicial
7 authorization of an abortion, order a sealed record of the petition, pleadings, submissions,
8 transcripts, exhibits, orders, evidence, and any other written material to be maintained which shall
9 include its own findings and conclusions.

10 (b) The application to the court shall be accompanied by a non-notarized verification
11 stating that the information therein is true and correct to the best of the applicant's knowledge, and
12 the application shall set forth the following facts:

13 (1) The initials of the pregnant woman.

14 (2) The age of the pregnant woman.

15 (3) The names and addresses of each parent, guardian or, if the minor's parents are
16 deceased and no guardian has been appointed, any other person standing in loco parentis to the
17 minor.

18 (4) That the pregnant woman has been fully informed of the risks and consequences
19 of the abortion.

20 (5) Whether the pregnant woman is of sound mind and has sufficient intellectual
21 capacity to consent to the abortion.

22 (6) A prayer for relief asking the court to either grant the pregnant woman full
23 capacity for the purpose of personal consent to the abortion, or to give judicial consent to the abortion
24 under paragraph IV based upon a finding that the abortion is in the best interest of the pregnant
25 woman.

26 (7) That the pregnant woman is aware that any false statements made in the
27 application are punishable by law.

28 (8) The signature of the pregnant woman. Where necessary to serve the interest of
29 justice, the judicial branch family division shall refer the pregnant woman to the appropriate
30 personnel for assistance in preparing the application.

31 (c) The name of the pregnant woman shall not be entered on any docket which is subject to
32 public inspection. All persons shall be excluded from hearings under this section except the applicant
33 and such other persons whose presence is specifically requested by the applicant or her guardian.

34 (d) At the hearing, the court shall hear evidence relating to the emotional development,
35 maturity, intellect, and understanding of the pregnant woman, the fact and duration of her
36 pregnancy, the nature, possible consequences, and alternatives to the abortion and any other
37 evidence that the court may find useful in determining whether the pregnant woman should be

1 granted full capacity for the purpose of consenting to the abortion or whether the abortion is in the
2 best interest of the pregnant woman. The court shall also notify the pregnant woman at the hearing
3 that it must rule on her application within 3 business days of the date of its filing and that, should
4 the court fail to rule in favor of her application within the allotted time, she has the right to appeal
5 to the supreme court.

6 VII. Except in a medical emergency, no parent, guardian, or other person standing in loco
7 parentis shall coerce a minor or incapacitated woman to undergo an abortion. Any minor or
8 incapacitated woman who is threatened with such coercion may apply to the superior court. The
9 court shall provide the minor or incapacitated woman with counsel, give the matter expedited
10 consideration, and grant such relief as may be necessary to prevent such coercion. Should a minor
11 be denied the financial support of her parents by reason of her refusal to undergo abortion, she shall
12 be considered emancipated for purposes of eligibility for assistance benefits.

13 VIII. No filing fees shall be required of any woman availing herself of the procedures
14 provided by this section. An expedited confidential appeal shall be available to any pregnant woman
15 whom the court fails to grant an order authorizing an abortion within the time specified in this
16 section. Any court to which an appeal is taken under this section shall give prompt and confidential
17 attention thereto and shall rule thereon within 5 business days of the filing of the appeal. The
18 supreme court may issue such rules as may further assure that the process provided in this section
19 is conducted in such a manner as will ensure confidentiality and sufficient precedence over other
20 pending matters to ensure promptness of disposition.

21 IX. Any person who performs an abortion upon a woman who is an unemancipated minor or
22 incapacitated person to whom this section applies either with knowledge that she is a minor or
23 incapacitated person to whom this section applies, or with reckless disregard or negligence as to
24 whether she is a minor or incapacitated person to whom this section applies, and who intentionally,
25 knowingly or recklessly fails to conform to any requirement of this section is guilty of "unprofessional
26 conduct" and his or her license for the practice of medicine shall be suspended in accordance with
27 procedures provided under RSA 329 for a period of at least 3 months. Failure to comply with the
28 requirements of this section is prima facie evidence of failure to obtain informed consent and of
29 interference with family relations in appropriate civil actions. The laws of New Hampshire shall not
30 be construed to preclude the award of exemplary damages or damages for emotional distress even if
31 unaccompanied by physical complications in any appropriate civil action relevant to violations of this
32 section. Nothing in this section shall be construed to limit the common law rights of parents.

33 132:33 Abortion Facilities.

34 I. The department shall adopt rules, under RSA 541-A, with respect to performance of
35 abortions and with respect to facilities in which abortions are performed, so as to protect the health
36 and safety of woman having abortions and of premature infants aborted alive. These rules shall
37 include, but not be limited to, procedures, staff, equipment, and laboratory testing requirements for
38 all facilities offering abortion services.

1 II.(a) Within 30 days after the effective date of this subdivision, every facility at which
2 abortions are performed shall file, and update immediately upon any change, a report with the
3 department, containing the following information:

4 (1) Name and address of the facility.

5 (2) Name and address of any parent, subsidiary or affiliated organizations,
6 corporations or associations.

7 (3) Name and address of any parent, subsidiary or affiliated organizations,
8 corporations or associations having contemporaneous commonality of ownership, beneficial interest,
9 directorship, or officership with any other facility.

10 (b) The information contained in those reports which are filed pursuant to this section by
11 facilities which receive state appropriated funds during the 12 calendar-month period immediately
12 preceding a request to inspect or copy such reports shall be deemed public information. Reports filed
13 by facilities which do not receive state appropriated funds shall only be available to law enforcement
14 officials and the board of medicine for use in the performance of its official duties. Any facility failing
15 to comply with the provisions of this section shall be assessed by the department a fine of \$500 for
16 each day it is in violation.

17 132:34 Printed Information.

18 I. The department shall cause to be published in English within 60 days after this chapter
19 becomes law, and shall update on an annual basis, the following easily comprehensible printed
20 materials:

21 (a) Geographically indexed materials designed to inform the woman of public and
22 private agencies and services available to assist a woman through pregnancy, upon childbirth and
23 while the child is dependent, including adoption agencies, which shall include a comprehensive list of
24 the agencies available, a description of the services they offer and a description of the manner,
25 including telephone numbers, in which they might be contacted, or, at the option of the department,
26 printed materials including a toll-free, 24-hour a day telephone number which may be called to
27 obtain, orally, such a list and description of agencies in the locality of the caller and of the services
28 they offer. The materials shall provide information on the availability of medical assistance benefits
29 for prenatal care, childbirth, and neonatal care, and state that it is unlawful for any individual to
30 coerce a woman to undergo abortion, that any physician who performs an abortion upon a woman
31 without obtaining her informed consent or without according her a private medical consultation may
32 be liable to her for damages in a civil action at law, that the father of a child is liable to assist in the
33 support of that child, even in instances where the father has offered to pay for an abortion, and that
34 the law permits adoptive parents to pay costs of prenatal care, childbirth, and neonatal care.

35 (b) Materials designed to inform the woman of the probable anatomical and physiological
36 characteristics of the unborn child at 2-week gestational increments from fertilization to full term,
37 including pictures representing the development of unborn children at 2-week gestational

1 increments, and any relevant information on the possibility of the unborn child's survival; provided
2 that any such pictures or drawings shall contain the dimensions of the fetus and shall be realistic
3 and appropriate for the woman's stage of pregnancy. The materials shall be objective,
4 nonjudgmental, and designed to convey only accurate scientific information about the unborn child
5 at the various gestational ages. The material shall also contain objective information describing the
6 methods of abortion procedures commonly employed, the medical risks commonly associated with
7 each such procedure, the possible detrimental psychological effects of abortion, and the medical risks
8 commonly associated with each such procedure and the medical risks commonly associated with
9 carrying a child to term.

10 II. The materials shall be printed in a typeface large enough to be clearly legible.

11 III. The materials required under this section shall be available at no cost from the
12 department upon request and in appropriate number to any person, facility, or hospital.

13 132:35 Interference Prohibited. New Hampshire shall not interfere with the use of medically
14 appropriate methods of contraception or the manner in which medically appropriate methods of
15 contraception are provided.

16 132:36 Spousal Notice.

17 I. In order to further New Hampshire's interest in promoting the integrity of the marital
18 relationship and to protect a spouse's interests in having children within marriage and in protecting
19 the prenatal life of that spouse's child, no physician shall perform an abortion on a married woman,
20 except as provided in paragraphs II and III, unless he or she has received a signed statement, which
21 need not be notarized, from the woman upon whom the abortion is to be performed, that she has
22 notified her spouse that she is about to undergo an abortion. The statement shall bear a notice that
23 any false statement made therein is punishable by law.

24 II.(a) The statement certifying that the notice required by paragraph I has been given need
25 not be furnished where the woman provides the physician a signed statement certifying at least one
26 of the following:

27 (1) Her spouse is not the father of the child.

28 (2) Her spouse, after diligent effort, could not be located.

29 (3) The pregnancy is a result of spousal sexual assault as described in section 3128
30 (relating to spousal sexual assault), which has been reported to a law enforcement agency having the
31 requisite jurisdiction.

32 (4) The woman has reason to believe that the furnishing of notice to her spouse is
33 likely to result in the infliction of bodily injury upon her by her spouse or by another individual.

34 (b) Such statement need not be notarized, but shall bear a notice that any false
35 statements made therein are punishable by law.

36 III. The requirements of paragraph I shall not apply in case of a medical emergency.

1 IV. The department shall cause to be published forms which may be utilized for purposes of
2 providing the signed statements required by paragraphs I and II. The department shall distribute
3 an adequate supply of such forms to all abortion facilities in New Hampshire.

4 V. Any physician who violates the provisions of this section is guilty of "unprofessional
5 conduct," and his or her license for the practice of medicine shall be subject to suspension or
6 revocation in accordance with procedures provided under the RSA 329. In addition, any physician
7 who knowingly violates the provisions of this section shall be civilly liable to the spouse who is the
8 father of the aborted child for any damages caused thereby and for punitive damages in the amount
9 of \$5,000, and the court shall award a prevailing plaintiff a reasonable attorney fee as part of costs.

10 132:37 Determination of Gestational Age.

11 I. Except in the case of a medical emergency which prevents compliance with this section, no
12 abortion shall be performed or induced unless the referring physician or the physician performing or
13 inducing it has first made a determination of the probable gestational age of the unborn child. In
14 making such determination, the physician shall make such inquiries of the patient and perform or
15 cause to be performed such medical examinations and tests as a prudent physician would consider
16 necessary to make or perform in making an accurate diagnosis with respect to gestational age. The
17 physician who performs or induces the abortion shall report the type of inquiries made and the type
18 of examinations and tests utilized to determine the gestational age of the unborn child and the basis
19 for the diagnosis with respect to gestational age on forms provided by the department.

20 II. Failure of any physician to conform to any requirement of this section constitutes
21 "unprofessional conduct." Upon a finding by the board of medicine that any physician has failed to
22 conform to any requirement of this section, the board shall suspend that physician's license for a
23 period of at least 3 months. Intentional, knowing, or reckless falsification of any report required
24 under this section is a class A misdemeanor.

25 132:38 Abortion on Unborn Child of 24 or More Weeks Gestational Age.

26 I. Except as provided in subparagraph II(b), no person shall perform or induce an abortion
27 upon another person when the gestational age of the unborn child is 24 or more weeks.

28 II.(a) It shall not be a violation of paragraph I if an abortion is performed by a physician and
29 that physician reasonably believes that it is necessary to prevent either the death of the pregnant
30 woman or the substantial and irreversible impairment of a major bodily function of the woman. No
31 abortion shall be deemed authorized under this paragraph if performed on the basis of a claim or a
32 diagnosis that the woman will engage in conduct which would result in her death or in substantial
33 and irreversible impairment of a major bodily function.

34 (b) It shall not be a violation of paragraph I if the abortion is performed by a physician
35 and that physician reasonably believes, after making a determination of the gestational age of the
36 unborn child in compliance with RSA 132:37 that the unborn child is less than 24 weeks
37 gestational age.

1 III. Except in the case of a medical emergency which, in the reasonable medical judgment of
2 the physician performing the abortion, prevents compliance with a particular requirement of this
3 paragraph, no abortion which is authorized under subparagraph II(a) shall be performed unless each
4 of the following conditions is met:

5 (a) The physician performing the abortion certifies in writing that, based upon his or her
6 medical examination of the pregnant woman and his or her medical judgment, the abortion is
7 necessary to prevent either the death of the pregnant woman or the substantial and irreversible
8 impairment of a major bodily function of the woman.

9 (b) Such physician's judgment with respect to the necessity for the abortion has been
10 concurred in by one other licensed physician who certifies in writing that, based upon his or her
11 separate personal medical examination of the pregnant woman and his or her medical judgment, the
12 abortion is necessary to prevent either the death of the pregnant woman or the substantial and
13 irreversible impairment of a major bodily function of the woman.

14 (c) The abortion is performed in a hospital.

15 (d) The physician terminates the pregnancy in a manner which provides the best
16 opportunity for the unborn child to survive, unless the physician determines, in his or her good faith
17 medical judgment, that termination of the pregnancy in that manner poses a significantly greater
18 risk either of the death of the pregnant woman or the substantial and irreversible impairment of a
19 major bodily function of the woman than would other available methods.

20 (e) The physician performing the abortion arranges for the attendance, in the same room
21 in which the abortion is to be completed, of a second physician who shall take control of the child
22 immediately after complete extraction from the mother and shall provide immediate medical care for
23 the child, taking all reasonable steps necessary to preserve the child's life and health.

24 IV. Any person who violates paragraph I commits a felony. Any person who violates
25 paragraph III commits a class B misdemeanor for the first offense and a class A misdemeanor for
26 subsequent offenses.

27 132:39 Infanticide.

28 I. New Hampshire law shall not be construed to imply that any human being born alive in
29 the course of or as a result of an abortion or pregnancy termination, no matter what may be that
30 human being's chance of survival, is not a person under the constitution and laws of New
31 Hampshire.

32 II. All physicians and licensed medical personnel attending a child who is born alive during
33 the course of an abortion or premature delivery, or after being carried to term, shall provide such
34 child that type and degree of care and treatment which, in the good faith judgment of the physician,
35 is commonly and customarily provided to any other person under similar conditions and
36 circumstances. Any individual who intentionally, knowingly, or recklessly violates the provisions of
37 this section commits a felony.

1 III. Whenever the physician or any other person is prevented by lack of parental or guardian
2 consent from fulfilling his or her obligations under paragraph II, he or she shall nonetheless fulfill
3 said obligations and immediately notify the juvenile court of the facts of the case. The juvenile court
4 shall immediately institute an inquiry and, if it finds that the lack of parental or guardian consent is
5 preventing treatment required under paragraph II, it shall immediately grant injunctive relief to
6 require such treatment.

7 132:40 Prohibited Acts.

8 I. Except in the case of a pregnancy which is not yet clinically diagnosable, any person who
9 intends to perform or induce abortion shall, before accepting payment therefor, make or obtain a
10 determination that the woman is pregnant. Any person who intentionally or knowingly accepts such a
11 payment without first making or obtaining such a determination commits a class B misdemeanor. Any
12 person commits a class B misdemeanor who makes such a determination erroneously either knowing
13 that it is erroneous or with reckless disregard or negligence as to whether it is erroneous, and who either:

14 (a) Thereupon or thereafter intentionally relies upon that determination in soliciting or
15 obtaining any such payment; or

16 (b) Intentionally conveys that determination to any person or persons with knowledge
17 that, or with reckless disregard as to whether, that determination will be relied upon in any
18 solicitation or obtaining of any such payment.

19 II. The payment or receipt of a referral fee in connection with the performance of an abortion
20 is a class A misdemeanor. For purposes of this section, "referral fee" means the transfer of anything
21 of value between a physician who performs an abortion or an operator or employee of a clinic at
22 which an abortion is performed and the person who advised the woman receiving the abortion to use
23 the services of that physician or clinic.

24 III. The department shall adopt rules, pursuant to RSA 541-A, to assure that prior to the
25 performance of any abortion, including abortions performed in the first trimester of pregnancy, the
26 maternal Rh status shall be determined and that anti-Rh sensitization prophylaxis shall be provided
27 to each patient at risk of sensitization unless the patient refuses to accept the treatment. Except
28 when there exists a medical emergency or, in the judgment of the physician, there exists no
29 possibility of Rh sensitization, the intentional, knowing, or reckless failure to conform to the
30 regulations issued pursuant to this paragraph constitutes "unprofessional conduct" and his or her
31 license for the practice of medicine shall be subject to suspension or revocation in accordance with
32 procedures provided under RSA 329.

33 IV. Except for a facility devoted exclusively to the performance of abortions, no medical
34 personnel or medical facility, nor any employee, agent, or student thereof, shall be required against
35 his or her or its conscience to aid, abet, or facilitate performance of an abortion or dispensing of an
36 abortifacient and failure or refusal to do so shall not be a basis for any civil, criminal, administrative
37 or disciplinary action, penalty or proceeding, nor may it be the basis for refusing to hire or admit

1 anyone. Any person who knowingly violates the provisions of this paragraph shall be civilly liable to
2 the person thereby injured and, in addition, shall be liable to that person for punitive damages in the
3 amount of \$5,000.

4 V.(a) All persons conducting, or experimenting in, in vitro fertilization shall file quarterly
5 reports with the department, which shall be available for public inspection and copying, containing
6 the following information:

7 (1) Names of all persons conducting or assisting in the fertilization or
8 experimentation process.

9 (2) Locations where the fertilization or experimentation is conducted.

10 (3) Name and address of any person, facility, agency, or organization sponsoring the
11 fertilization or experimentation except that names of any persons who are donors or recipients of
12 sperm or eggs shall not be disclosed.

13 (4) Number of eggs fertilized.

14 (5) Number of fertilized eggs destroyed or discarded.

15 (6) Number of women implanted with a fertilized egg.

16 (b) Any person required under this paragraph to file a report, keep records, or supply
17 information, who willfully fails to file such report, keep records, or supply such information or who
18 submits a false report shall be assessed a fine by the department in the amount of \$50 for each day
19 in which that person is in violation hereof.

20 VI.(a) Except for a facility devoted exclusively to the performance of abortions, every facility
21 performing abortions shall prominently post a notice, not less than 8-1/2 inches by 11 inches in size,
22 entitled "Right of Conscience," for the exclusive purpose of informing medical personnel, employees,
23 agents, and students of such facilities of their rights under paragraph IV. The facility shall post the
24 notice required by this subparagraph in a location or locations where notices to employees, medical
25 personnel, and students are normally posted or, if notices are not normally posted, in a location or
26 locations where the notice required by this subparagraph is likely to be seen by medical personnel,
27 employees, or students of the facility. The department shall prescribe a model notice which may be
28 used by any facility, and any facility which utilizes the model notice or substantially similar
29 language shall be deemed in compliance with this subparagraph.

30 (b) The department shall have the authority to assess a civil penalty of up to \$5,000
31 against any facility for each violation of this paragraph, giving due consideration to the
32 appropriateness of the penalty with respect to the size of the facility, the gravity of the violation, the
33 good faith of the facility and the history of previous violations. Civil penalties due under this
34 paragraph shall be paid to the department for deposit in the state treasury and may be collected by
35 the department in the appropriate court. The department shall send a copy of its model notice to
36 every facility which files a report under RSA 132:33. Failure to receive a notice shall not be a
37 defense to any civil action brought pursuant to this paragraph.

1 132:41 Reporting.

2 I. For the purpose of promotion of maternal health and life by adding to the sum of medical
3 and public health knowledge through the compilation of relevant data, and to promote New
4 Hampshire's interest in protection of the unborn child, a report of each abortion performed shall be
5 made to the department on forms prescribed by it. The report forms shall not identify the individual
6 patient by name and shall include the following information:

7 (a) Identification of the physician who performed the abortion, the concurring physician
8 as required by RSA 132:38, III(b), the second physician as required by RSA 132:38, III(e), and the
9 facility where the abortion was performed and of the referring physician, agency, or service, if any.

10 (b) The county and state in which the woman resides.

11 (c) The woman's age.

12 (d) The number of prior pregnancies and prior abortions of the woman.

13 (e) The gestational age of the unborn child at the time of the abortion.

14 (f) The type of procedure performed or prescribed and the date of the abortion.

15 (g) Pre-existing medical conditions of the woman which would complicate pregnancy, if
16 any, and, if known, any medical complication which resulted from the abortion itself.

17 (h) The basis for the medical judgment of the physician who performed the abortion that
18 the abortion was necessary to prevent either the death of the pregnant woman or the substantial and
19 irreversible impairment of a major bodily function of the woman, where an abortion has been
20 performed pursuant to RSA 132:38, II(a).

21 (i) The weight of the aborted child for any abortion performed pursuant to RSA 132:38, II(a).

22 (j) Basis for any medical judgment that a medical emergency existed which excused the
23 physician from compliance with any provision of this chapter.

24 (k) The information required to be reported under RSA 132:37, I.

25 (l) Whether the abortion was performed upon a married woman and, if so, whether
26 notice to her spouse was given. If no notice to her spouse was given, the report shall also indicate
27 the reason for failure to provide notice.

28 II. The reports shall be completed by the hospital or other licensed facility, signed by the
29 physician who performed the abortion, and transmitted to the department within 15 days after each
30 reporting month.

31 III. When there is an abortion performed during the first trimester of pregnancy, the tissue
32 that is removed shall be subjected to a gross or microscopic examination, as needed, by the physician
33 or a qualified person designated by the physician to determine if a pregnancy existed and was
34 terminated. If the examination indicates no fetal remains, that information shall immediately be
35 made known to the physician and sent to the department within 15 days of the analysis. When there
36 is an abortion performed after the first trimester of pregnancy where the physician has certified the
37 unborn child is not viable, the dead unborn child and all tissue removed at the time of the abortion

1 shall be submitted for tissue analysis to a board eligible or certified pathologist. If the report reveals
2 evidence of viability or live birth, the pathologist shall report such findings to the department within
3 15 days and a copy of the report shall also be sent to the physician performing the abortion.
4 Intentional, knowing, reckless, or negligent failure of the physician to submit such an unborn child
5 or such tissue remains to such a pathologist for such a purpose, or intentional, knowing, or reckless
6 failure of the pathologist to report any evidence of live birth or viability to the department in the
7 manner and within the time prescribed is a class B misdemeanor.

8 IV. The department shall prescribe a form on which pathologists may report any evidence of
9 absence of pregnancy, live birth, or viability.

10 V.(a) The department shall prepare a comprehensive annual statistical report for the speaker
11 of the house of representatives, the president of the senate, and the governor based upon the data
12 gathered under this section. Such report shall not lead to the disclosure of the identity of any person
13 filing a report or about whom a report is filed, and shall be available for public inspection and copying.

14 (b) Reports filed pursuant to paragraph I or VIII shall not be deemed public records
15 under RSA 91-A and shall remain confidential, except that disclosure may be made to law
16 enforcement officials upon an order of a court after application showing good cause therefor. The
17 court may condition disclosure of the information upon any appropriate safeguards it may impose.

18 (c) Original copies of all reports filed under paragraphs I, VI, and VIII shall be available
19 to the board of medicine for use in the performance of its official duties.

20 (d) Any person who willfully discloses any information obtained from reports filed
21 pursuant to paragraph I or paragraph VIII, other than that disclosure authorized under
22 subparagraphs (a)-(c) hereof or as otherwise authorized by law, shall commit a class B misdemeanor.

23 VI. Every facility in which an abortion is performed within this state during any quarter
24 year shall file with the department a report showing the total number of abortions performed within
25 the hospital or other facility during that quarter year. This report shall also show the total abortions
26 performed in each trimester of pregnancy. Any report shall be available for public inspection and
27 copying only if the facility receives state-appropriated funds within the 12-calendar-month period
28 immediately preceding the filing of the report. These reports shall be submitted on a form
29 prescribed by the department which will enable a facility to indicate whether or not it is receiving
30 state-appropriated funds. If the facility indicates on the form that it is not receiving state-
31 appropriated funds, the department shall regard its report as confidential unless it receives other
32 evidence which causes it to conclude that the facility receives state-appropriated funds.

33 VII. After 30 days' public notice, the department shall henceforth require that all reports of
34 maternal deaths occurring within the state arising from pregnancy, childbirth, or intentional
35 abortion in every case state the cause of death, the duration of the woman's pregnancy when her
36 death occurred and whether or not the woman was under the care of a physician during her
37 pregnancy prior to her death and shall issue such rules under RSA 541-A as are necessary to assure

1 that such information is reported, conducting its own investigation if necessary in order to ascertain
2 such data. A woman shall be deemed to have been under the care of a physician prior to her death
3 for the purpose of this chapter when she had either been examined or treated by a physician, not
4 including any examination or treatment in connection with emergency care for complications of her
5 pregnancy or complications of her abortion, preceding the woman's death at any time which is both
6 21 or more days after the time she became pregnant and within 60 days prior to her death. Known
7 incidents of maternal mortality of nonresident women arising from induced abortion performed in
8 this state shall be included as incidents of maternal mortality arising from induced abortions.
9 Incidents of maternal morality arising from continued pregnancy or childbirth and occurring after
10 induced abortion has been attempted but not completed, including deaths occurring after induced
11 abortion has been attempted but not completed as a result of ectopic pregnancy, shall be included as
12 incidents of maternal morality arising from induced abortion. The department shall annually
13 compile a statistical report for the speaker of the house of representatives, the president of the
14 senate, and the governor based upon the data gathered under this paragraph, and all such statistical
15 reports shall be available for public inspection and copying.

16 VIII. Every physician who is called upon to provide medical care or treatment to a woman
17 who is in need of medical care because of a complication or complications resulting, in the good faith
18 judgment of the physician, from having undergone an abortion or attempted abortion shall prepare a
19 report thereof and file the report with the department within 30 days of the date of his or her first
20 examination of the woman, which report shall be on forms prescribed by the department, which
21 forms shall contain the following information, as received, and such other information except the
22 name of the patient as the department may from time to time require:

- 23 (a) Age of patient.
- 24 (b) Number of pregnancies patient may have had prior to the abortion.
- 25 (c) Number and type of abortions patient may have had prior to this abortion.
- 26 (d) Name and address of the facility where the abortion was performed.
- 27 (e) Gestational age of the unborn child at the time of the abortion, if known.
- 28 (f) Type of abortion performed, if known.
- 29 (g) Nature of complication or complications.
- 30 (h) Medical treatment given.
- 31 (i) The nature and extent, if known, of any permanent condition caused by the
32 complication.

33 II.(a) Any person required under this section to file a report, keep any records, or supply any
34 information, who willfully fails to file such report, keep such records, or supply such information at
35 the time or times required by law or rule is guilty of "unprofessional conduct" and his or her license
36 for the practice of medicine shall be subject to suspension or revocation in accordance with
37 procedures provided under RSA 329.

1 (b) Any person who willfully delivers or discloses to the department any report, record,
2 or information known by him or her to be false commits a class A misdemeanor.

3 (c) In addition to the above penalties, any person, organization, or facility who willfully
4 violates any of the provisions of this section requiring reporting shall upon conviction thereof:

5 (1) For the first time, have its license suspended for a period of 6 months.

6 (2) For the second time, have its license suspended for a period of one year.

7 (3) For the third time, have its license revoked.

8 132:42 Publicly Owned Facilities; Public Officials and Public Funds.

9 I. No hospital, clinic, or other health facility owned or operated by the state, a county, a city,
10 or other governmental entity shall:

11 (a) Provide, induce, perform, or permit its facilities to be used for the provision,
12 inducement, or performance of any abortion except where necessary to avert the death of the woman
13 or where necessary to terminate pregnancies initiated by acts of rape or incest if reported in
14 accordance with requirements set forth in paragraph III.

15 (b) Lease or sell or permit the subleasing of its facilities or property to any physician or
16 health facility for use in the provision, inducement, or performance of abortion, except abortion
17 necessary to avert the death of the woman or to terminate pregnancies initiated by acts of rape or
18 incest if reported in accordance with requirements set forth in paragraph III.

19 (c) Enter into any contract with any physician or health facility under the terms of which
20 such physician or health facility agrees to provide, induce, or perform abortions, except abortion
21 necessary to avert the death of the woman or to terminate pregnancies initiated by acts of rape or
22 incest if reported in accordance with requirements set forth in paragraph III.

23 II. Nothing in paragraph I shall be construed to preclude any hospital, clinic, or other health
24 facility from providing treatment for post-abortion complications.

25 III. No state funds and no federal funds which are appropriated by the state shall be
26 expended by any state or local government agency for the performance of abortion, except:

27 (a) When abortion is necessary to avert the death of the mother on certification by a
28 physician. When such physician will perform the abortion or has a pecuniary or proprietary interest
29 in the abortion there shall be a separate certification from a physician who has no such interest.

30 (b) When abortion is performed in the case of pregnancy caused by rape which, prior to
31 the performance of the abortion, has been reported, together with the identity of the offender, if
32 known, to a law enforcement agency having the requisite jurisdiction and has been personally
33 reported by the victim.

34 (c) When abortion is performed in the case of pregnancy caused by incest which, prior to
35 the performance of the abortion, has been personally reported by the victim to a law enforcement
36 agency having the requisite jurisdiction, or, in the case of a minor, to the county child protective
37 service agency and the other party to the incestuous act has been named in such report.

1 IV. Notwithstanding any provision of law to the contrary, no health plan for employees,
2 funded with any state funds, shall include coverage for abortion, except under the same conditions
3 and requirements as provided in paragraph III. The prohibition contained herein shall not apply to
4 health plans for which abortion coverage has been expressly bargained for in any collective
5 bargaining agreement presently in effect, but shall be construed to preclude such coverage with
6 respect to any future agreement.

7 V. All insurers who make available health care and disability insurance policies in this state
8 shall make available such policies which contain an express exclusion of coverage for abortion
9 services not necessary to avert the death of the woman or to terminate pregnancies caused by rape or
10 incest.

11 VI. Except in the case of a medical emergency, no court, judge, executive officer,
12 administrative agency, or public employee of the state or of any local governmental body shall have
13 power to issue any order requiring an abortion without the express voluntary consent of the woman
14 upon whom the abortion is to be performed or shall coerce any person to have an abortion.

15 VII. No court, judge, executive officer, administrative agency, or public employee of the state
16 or of any local governmental body shall withhold, reduce, or suspend or threaten to withhold, reduce
17 or suspend any benefits to which a person would otherwise be entitled on the ground that such
18 person chooses not to have an abortion.

19 VIII. Whoever orders an abortion in violation of paragraph VI or withholds, reduces, or
20 suspends any benefits or threatens to withhold, reduce, or suspend any benefits in violation of
21 paragraph VII commits a class A misdemeanor.

22 IX.(a) No federal or state funds which are appropriated by the state for the provision of legal
23 services by private agencies, and no public funds generated by collection of interest on lawyer's trust
24 accounts, as authorized by statute previously or subsequently enacted, may be used, directly or
25 indirectly, to:

26 (1) Advocate the freedom to choose abortion or the prohibition of abortion.

27 (2) Provide legal assistance with respect to any proceeding or litigation which seeks
28 to procure or prevent any abortion or to procure or prevent public funding for any abortion.

29 (3) Provide legal assistance with respect to any proceeding or litigation which seeks
30 to compel or prevent the performance or assistance in the performance of any abortion, or the
31 provision of facilities for the performance of any abortion.

32 (b) Nothing in this paragraph shall be construed to require or prevent the expenditure of
33 funds pursuant to a court order to provide court appointed counsel in any proceeding authorized
34 under RSA 132:32.

35 X.(a) No state agency shall make any payment from federal or state funds appropriated by
36 the state for the performance of any abortion pursuant to subparagraph III(b) or (c) unless the
37 agency first:

1 (1) Receives from the physician or facility seeking payment a statement signed by
2 the physician performing the abortion stating that, prior to performing the abortion, he or she
3 obtained a non-notarized, signed statement from the pregnant woman stating that she was a victim
4 of rape or incest, as the case may be, and that she reported the crime, including the identity of the
5 offender, if known, to a law enforcement agency having the requisite jurisdiction or, in the case of
6 incest where a pregnant minor is the victim, to the county child protective service agency and stating
7 the name of the law enforcement agency or child protective service agency to which the report was
8 made and the date such report was made;

9 (2) Receives from the physician or facility seeking payment, the signed statement of
10 the pregnant woman which is described in subparagraph (1). The statement shall bear the notice
11 that any false statements made therein are punishable by law and shall state that the pregnant
12 woman is aware that false reports to law enforcement authorities are punishable by law; and

13 (3) Verifies with the law enforcement agency or child protective service agency
14 named in the statement of the pregnant woman whether a report of rape or incest was filed with the
15 agency in accordance with the statement.

16 (b) The agency shall report any evidence of false statements, of false reports to law
17 enforcement authorities, or of fraud in the procurement or attempted procurement of any payment
18 from federal or state funds appropriated by the state pursuant to this section to the county attorney
19 of appropriate jurisdiction and, where appropriate, to the attorney general.

20 132:43 Fetal Experimentation.

21 I. Any person who knowingly performs any type of nontherapeutic experimentation or
22 nontherapeutic medical procedure except an abortion as defined in this chapter upon any unborn
23 child, or upon any child born alive during the course of an abortion, commits a class A felony.
24 "Nontherapeutic" means that which is not intended to preserve the life or health of the child upon
25 whom it is performed.

26 II. The following standards govern the procurement and use of any fetal tissue or organ
27 which is used in animal or human transplantation, research, or experimentation:

28 (a) No fetal tissue or organs may be procured or used without the written consent of the
29 mother. No consideration of any kind for such consent may be offered or given. Further, if the tissue
30 or organs are being derived from abortion, such consent shall be valid only if obtained after the
31 decision to abort has been made.

32 (b) No person who provides the information required by RSA 132:31 shall employ the
33 possibility of the use of aborted fetal tissue or organs as an inducement to a pregnant woman to
34 undergo abortion except that payment for reasonable expenses occasioned by the actual retrieval,
35 storage, preparation, and transportation of the tissues is permitted.

36 (c) No remuneration, compensation, or other consideration may be paid to any person or
37 organization in connection with the procurement of fetal tissue or organs.

1 (d) All persons who participate in the procurement, use, or transplantation of fetal tissue
2 or organs, including the recipients of such tissue or organs, shall be informed as to whether the
3 particular tissue or organ involved was procured as a result of either:

- 4 (1) stillbirth;
5 (2) miscarriage;
6 (3) ectopic pregnancy;
7 (4) abortion; or
8 (5) any other means.

9 (e) No person who consents to the procurement or use of any fetal tissue or organ may
10 designate the recipient of that tissue or organ, nor shall any other person or organization act to fulfill
11 that designation.

12 (f) The department may assess a civil penalty upon any person who procures, sells, or
13 uses any fetal tissue or organs in violation of this section or the rules issued thereunder. Such civil
14 penalties shall not exceed \$5,000 for each separate violation. In assessing such penalties, the
15 department shall give due consideration to the gravity of the violation, the good faith of the violator,
16 and the history of previous violations. Civil penalties due under this subparagraph shall be paid to
17 the department for deposit in the state treasury.

18 III. Nothing in this section shall be construed to condone or prohibit the performance of
19 diagnostic tests while the unborn child is in utero or the performance of pathological examinations
20 on an aborted child. Nor shall anything in this section be construed to condone or prohibit the
21 performance of in vitro fertilization and accompanying embryo transfer.

22 132:44 Civil Penalties. Any physician who knowingly violates any of the provisions of RSA
23 132:30 or RSA 132:31 shall, in addition to any other penalty prescribed in this subdivision, be civilly
24 liable to his or her patient for any damages caused thereby and, in addition, shall be liable to his or
25 her patient for punitive damages in the amount of \$5,000, and the court shall award a prevailing
26 plaintiff a reasonable attorney fee as part of costs.

27 132:45 Criminal Penalties.

28 I. Notwithstanding any other provision of this subdivision, no criminal penalty shall apply to
29 a woman who violates any provision of this subdivision solely in order to perform or induce or
30 attempt to perform or induce an abortion upon herself. Nor shall any woman who undergoes an
31 abortion be found guilty of having committed an offense, relating to liability for conduct of another;
32 complicity or relating to inchoate crimes, by reason of having undergone such abortion.

33 II. A person commits a class B misdemeanor if, with intent to mislead a public servant in
34 performing his or her official function under this subdivision, such person:

- 35 (a) Makes any written false statement which he or she does not believe to be true; or
36 (b) Submits or invites reliance on any writing which he or she knows to be forged,
37 altered, or otherwise lacking in authenticity.

1 III. Any person or persons identifying themselves as the parents or legal guardians of the
2 minor, when such person or persons are not, shall be guilty of perjury, a felony, and may be subject
3 to further penalty if the pregnancy was determined to be the result of statutory rape.

4 IV. A person commits a class A misdemeanor if such person makes a written false statement
5 which such person does not believe to be true on a statement submitted as required under this
6 subdivision, bearing notice to the effect that false statements made therein are punishable.

7 V. The laws relating to perjury shall apply to paragraphs II and III.

8 132:46 Board of Medicine.

9 I. It shall be the duty of the board of medicine to vigorously enforce those provisions of this
10 subdivision, violation of which constitutes "unprofessional conduct". The board shall have the power
11 to conduct, and its responsibilities shall include, systematic review of all reports filed under this
12 subdivision.

13 II. Except as otherwise herein provided, upon a finding of "unprofessional conduct" under
14 the provisions of this subdivision, the board shall, for the first such offense, prescribe such penalties
15 as it deems appropriate; for the second such offense, suspend the license of the physician for at least
16 90 days; and, for the third such offense, revoke the license of the physician.

17 III.(a) The board shall prepare and submit an annual report of its enforcement efforts under
18 this subdivision to the speaker of the house of representatives, the president of the senate, and the
19 governor, which shall contain the following items:

20 (1) Number of violations investigated, by section of this subdivision;

21 (2) Number of physicians complained against;

22 (3) Number of physicians investigated;

23 (4) Penalties imposed; and

24 (5) Such other information as any committee of the general court shall require.

25 (b) Such reports shall be available for public inspection under RSA 91-A and copying.

26 3 Effective Date. This act shall take effect January 1, 2011.

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HB 1662-FN - FISCAL NOTE

AN ACT relative to consent for abortions.

FISCAL IMPACT:

The Judicial Branch, Department of Health and Human Services, Judicial Council, Department of Justice, Department of Corrections, and New Hampshire Association of Counties state this bill may increase state and county expenditures, and state revenue by an indeterminable amount in FY 2011 and each year thereafter. This bill will have no fiscal impact on local expenditures, or county and local revenue.

METHODOLOGY:

The Judicial Branch states this bill would enact RSA 132: 29 through 46, which would be known as the "Abortion Control Act." The proposed act has an inordinate number of potential points of fiscal impact on the Branch, numbering at least forty. These can be divided into three groups: potential criminal actions; potential civil actions in either the district, superior, or supreme courts, as well as in the family division; and potential administrative proceedings which could result in administrative appeals. In none of the three groups does the Branch have any information on how many new cases may arise under the provisions of the proposed act. Eighteen sections of the proposed act can give rise to criminal actions at three different levels. Felonies are provided in the following sections:

- 132:30, IV – abortions performed in violation of section 30;
- 132:38, IV – abortions performed where gestational age is 24 or more weeks;
- 132:39, II – violations of provisions re infanticide;
- 132:43, I – violations of provisions re fetal experimentation; and
- 132:45, III – falsely indentifying oneself as the parent or legal guardian of a minor.

Class A misdemeanors are provided in the following sections:

- 132:31, III – physician performing abortion without certification (subsequent offense);
- 132:37, II – falsification of reports of gestational age;
- 132:38, IV – violation of 132:38, III (subsequent offense);
- 132:40, II – paying or receiving a referral fee re an abortion;
- 132:40, IX(b) – disclosure or delivery of a false report or record;
- 132:42, VIII – violation of 132:42, VI or VII; and
- 132:45, IV – false statements.

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Class B misdemeanors are provided in the following sections:

- 132:31, III – physician performing abortion without certification (first offense);
- 132:38, IV – violation of 132:38, III (first offense);
- 132:40, I – accepting payment without determination of pregnancy or knowing of erroneous determination;
- 132:41, III – failure to submit unborn child or tissue remains to pathologist or failure of pathologist to report;
- 132:41, V(d) – improper disclosure of reports required by 132:41, I or VIII; and
- 132:45, II – misleading a public servant.

The Branch estimates the per charge costs for criminal cases of the type specified above, using current salary levels and not including the costs of an appeal as follows -

- | | |
|-----------------------|----------|
| ◦ Routine Felony | \$335.98 |
| ◦ Class A Misdemeanor | \$51.14 |
| ◦ Class B Misdemeanor | \$36.89 |

The Branch states eleven sections of the proposed act can give rise to civil actions at different court levels. The family division may be impacted in the following sections:

- 132:32, VI(b)(8) – assistance in preparing applications to court re parental consent;
- 132:39, III – inquiry re lack of parental consent preventing treatment of fetus.

Either the superior court or the district court may be impacted in the following section:

- 132:40, VI(b), – collection of civil penalties imposed by DHHS.

The superior court may be impacted by the civil actions which can be brought pursuant to the following sections:

- 132:32, IX – for failure to comply with 132:32 re parental consent, including exemplary damages;
- 132:36, V – for failure to comply with 132:36 re spousal notice, including \$5,000 punitive damages and attorney's fees;
- 132:40, IV – for requiring an abortion to be performed against one's conscience, including \$5,000 punitive damages; and

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- 132:44 – against physicians for violating 132:30 or 31, including \$5,000 punitive damages and attorney's fees.

The superior court may be impacted by the equity actions which can be brought pursuant to the following sections:

- 132:32, III – to authorize an abortion without parental consent, with a decision required in three business days, and providing for the appointment of a guardian ad litem and counsel in 132:32, VI(a);
- 132:32, VII – petition against coercion to undergo an abortion, and providing for the appointment of counsel; and
- 132:41, V(b) – to allow disclosure of reports filed in accordance with 132:41, I or VIII.

The supreme court may be impacted by appeals from the superior court provided for in the following sections:

- 132:32, VI(d) and VIII – right to appeal if the superior court fails to render a decision in three business days on a petition to authorize an abortion without parental consent.

The Branch estimates the per charge costs for cases of the types discussed above using current salary levels and not including the costs of an appeal as follows

- | | |
|---|----------|
| • Routine Civil Case in Superior Court | \$303.93 |
| • Complex Civil Case in Superior Court | \$559.43 |
| • Routine Equity Case in Superior Court | \$184.21 |
| • Complex Equity Case in Superior Court | \$506.50 |

The Branch states eleven sections of the proposed act can give rise to administrative proceedings which could be appealed to the supreme court. The administrative proceedings in the proposed act are in two categories. The first are instances where certain actions require a finding of "unprofessional conduct" by the board of medicine. Pursuant to RSA 329:17, VIII, such decisions are appealable to the supreme court. The following seven sections mandate such a finding of "unprofessional conduct" -

- 132:30, IV – a physician performing an abortion in violation of section 30;
- 132:31, III – a physician violating section 31 re informed consent;
- 132:32, IX – performing an abortion in violation of section 32 re parental consent;
- 132:36, V – physician violating section 36 re spousal notice;

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- 132:37, II – physician failing to conform to section 37 re determining gestational age;
- 132:40, III – failing to conform to regulations re determining the Rh status; and
- 132:41, IX(a) – failing to keep required records.

In addition, the following four sections provide for civil penalties to be determined by DHHS. Any such civil penalty would be appealable to the supreme court -

- 132:33, II(b) – failing to comply with rules re abortion facilities (\$500 per day);
- 132:40, V(b) – failing to file required report, or keep records, or the filing of a false report (\$50 per day);
- 132:40, VI(b) – failing to post notice re Right of Conscience (up to \$5,000 per violation) and
- 132:43, II(f) – improper use of fetal tissues or organs (up to \$5,000 per violation).

The Branch has no information on how many appeals may arise from the proposed act. The supreme court has discretionary review of such appeals; therefore, another variable is whether the court accepts the appeal for full appellate review, accepts it for more limited review, or declines the appeal. Such appeals are too speculative to arrive at a conclusion regarding fiscal impact. Suffice it to say, even one appeal accepted for full appellate consideration could result in a fiscal impact to the Branch in excess of the \$10,000 threshold. The Branch states the possible impacts run the gamut from multiple types of civil actions to class A and B misdemeanors, to felonies, and to supreme court appeals. The Branch cannot estimate the number or types of cases that could occur under it. With the notoriety that any case regarding abortion would have, even one case could reach the fiscal impact threshold. The exact fiscal impact cannot be determined at this time.

The Department of Health and Human Services (DHHS) states this bill requires the informed consent of a pregnant woman before an abortion may be performed and requires parental consent in the case of a minor. The bill will require the Department to publish printed materials relative to options available to women. This information shall also be available on the internet and at the option of the Department provide a toll-free, 24-hour a day telephone number to obtain orally the written information. The Department will also be required to adopt rules with respect to performance of abortions, with respect to facilities, and to assume that prior to the performance of any abortion, the maternal Rh status shall be determined and that

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anti-Rh sensitization prophylaxis shall be provided to each patient at risk of sensitization unless the patient refuses to accept the treatment. The Department will also be required to publish forms for the purpose of providing the signed statements required notifications. The Department will also be required to publish forms and receive reports quarterly from facilities, which an abortion was performed, showing the total number of abortions, performed in each trimester of pregnancy. The reports will also detail each abortion performed in New Hampshire. The Department shall prescribe a form on which a pathologist may report any evidence of absence of pregnancy, live birth or viability and the Department will prepare a comprehensive annual statistical report for submission to the Legislature and Governor. The bill will also require that all reports of maternal deaths occurring within the state arising from pregnancy, childbirth or intentional abortion in every case state the cause of death, duration of the woman's pregnancy when her death occurred and whether or not the woman was under the care of a physician during her pregnancy prior to her death and shall issue rules to ascertain such data. The Department will also be required to publish forms and receive reports relative to the initial examination of a women in which a physician is called upon to provide medical care or treatment to a woman who is in need of medical care because of a complication or complications resulting, if the good faith judgment of the physician, from having undergone an abortion or attempted abortion. The Department may also assess and collect a civil penalty upon any person who procures, sells, or uses any fetal tissue or organ in violation of this section. Although this bill does not establish positions or contain an appropriation, the Department assumes it will need to hire a full-time Program Specialist II position (LG 21), and a three-quarter time Program Planner III position (LG 25) to do the work outlined in this bill. Assuming an effective date of January 1, 2011, the Department estimates the fiscal impact of this bill, including salary and benefits, at approximately \$98,685 in FY 2011, \$145,677 in FY 2012, \$150,516 in FY 2013, and \$155,441 in FY 2014.

The Judicial Council states this bill may result in an indeterminable increase in state general fund expenditures. The Council states if an individual is found to be indigent, the flat fee of \$275 per misdemeanor and \$756.25 per felony level offense is charged by a public defender or contract attorney. If an assigned counsel attorney is used the fee is \$60 per hour with a cap of \$1,400 for a misdemeanor and a cap of \$4,100 for a felony level offense. The Council also states additional costs could be incurred if an appeal is filed. The public defender, contract attorney and assigned counsel rates for Supreme Court appeals is \$2,000 per case, with many assigned counsel attorneys seeking permission to exceed the fee cap. Requests to exceed the fee cap are seldom granted. Finally, expenditures would increase if services other than counsel are

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requested and approved by the court during the defense of a case or during an appeal. The exact fiscal impact cannot be determined at this time.

The Department of Justice states the creation of the new offenses in the bill would not result in a fiscal impact on the prosecution or appellate responsibilities of the Department. However, a violation of the bill may trigger a complaint before the applicable medical licensing board. There would be some fiscal impact to the Department by the Civil Bureau for client counseling duties to the relevant board. If the Administrative Prosecutions Unit investigates and prosecutes a complaint before a licensing board for violations under the bill, the services of an assistant attorney general, investigator, and paralegal would be necessary. The Department is unable to determine how many cases, if any, would be generated as a result of this bill, and is unable to determine the exact fiscal impact at this time.

The Department of Corrections states crime and arrest data is not available in sufficient detail to predict the number of individuals who would likely be subject to this legislation. The average annual cost of incarcerating an individual in the general prison population for FY 2009 was \$33,110. The cost to supervise an offender by the Department's Division of Field Services for FY 2009 was \$744.

The New Hampshire Association of Counties states to the extent any fewer individuals are convicted, and sentenced to incarceration, the counties may have decreased expenditures. The Association is unable to determine the number of individuals who might be impacted by the proposed bill. The average cost to incarcerate an individual in a county facility is \$35,342 a year.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1662-FN

BILL TITLE: relative to consent for abortions

DATE: January 19, 2010

LOB ROOM: 208 **Time Public Hearing Called to Order:** 2:00 pm

Time Adjourned: 3:00 pm

(please circle if present)

Committee Members: Reps. D. Cote, Wall, Potter, Hackel, P. Preston, G. Richardson, L. Weber, B. Browne, Nixon, Thompson, Watrous, Rowe, N. Elliott, DiFruscia, W. O'Brien, Hagan, L. Perkins, Silva, W. Smith and Mead and Read.

Bill Sponsors: Repp. Seidel, Hills 20; Rep. Kolodziej, Rock 4; Rep. Hogan, Hills 25; Rep. Willette Hills 6, Ingbretson, Graf 5; Sen Letourneau, Dist 19

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Carl Seidel, sponsor

Bill deals with minors brought to an abortion clinic by a non-parent. Reads from testimony. Says that abortion clinics are not licensed, thus, they are not safe. Bill would make it easy to charge statutory rape.

Rep. Frances Potter: What is source that older man is involved? Ans. Only anecdotal.

***Pilar Olivo:** Interim Director. Interstate NARAL Pro-choice TVH

Reviews written testimony. (7 bullets at top of testimony). Many organizations support confidential medical decisions. Other procedures do not require delays as this bill would. Bill implies that women can't make informed decisions. Grants a broad refusal clause. Individuals have a right to opt out on a basis of conscience, but businesses should not. [Is reading from testimony.]

Rep. Lawrence Perkins: What would be your definition of a back alley abortion? Ans. I don't have a legal definition of it.

Peter Cataldo. Diocese of Manchester

Reads testimony. Consistent with informed consent in medical situation.

Claire Ebel, NHCLU

Since 1983, this is the worse bill I have seen.

Page 1, line 7, 8: rubbish.

Lines 11-12: unsupported.

Lines 15-17: no late-term abortions performed in New Hampshire.

Lines 18-20: inflammatory.

Lines 21-23: rubbish.

Lines 24-27: changes common law foundation, places in statute a religious belief.

Lines 28 to Lines 2 and 3 on Page 2: ignores obligation to patient.

Page 2, Line 26: the first trimester is 13+ weeks.

Page 3, Line 3: a woman has a constitutional right to terminate her pregnancy, and her right should never be subject to political whims.

Page 4: makes felons out of providers; waiting period; treats a woman as incompetent or a fool.

Page 5, Line 6: Parental Consent: unconstitutional.

Page 7: license facilities not defined.

Page 9: spousal notification struck down by the US Supreme Court. It has been some time since women were considered the property of their husbands.

Pages 10-11: no exception for fetuses that is incompatible with life.

Pages 11 & 12: NH physicians do not need a lecture that a fetus born alive is a person under the law.

Page 14: opens up individual physicians to threats to his/her life.

Page 17, 132:42: there are no publicly owned hospitals in New H.

Page 18, top: limits bargain rights of public employees (perhaps unconstitutional).

Rep. William O'Brien: Challenges Claire's comment about Supreme Court decision on parental notification.

Rep. Frances Potter: Comments on 6 pages of fiscal notes.

Shannon McGinley, Cornerstone Action - supports

Likes spirit of bill. Not in favor of the consent language but the state does need parental notification. Mentions need of children to get permission to visit the state house, also HB 1160 in Health and Human Services Committee regarding tanning. Other examples of parental consent cited. Most parents deal appropriately with children's pregnancies. Abuse does not avoid the need for the consent and knowledge of the parent. Parents bear the ultimate responsibility without adequate knowledge. Offered to work with the committee to amend the bill.

Rep. Robert Mead: Ans. Says abortions are not quick and easy; procedure is risky and the parents would be responsible for any complications.

Kathleen Souza, Manchester - supports

Parental involvement is essential. Describes her opinion of the daily routine at Planned Parenthood clinics; claims to have seen 'horror' on the faces of clients who are also emotionally drained. Once a week she sees a license plate from Massachusetts.

Rep. William O'Brien: Asks if current clinics are in fact 'back alley' because they are not licensed. Ans. Yes. Gives hearsay testimony about abortions shortly after Roe decision.

Sharon Hickey - supports

Mary Kechan, Gilford - supports

Kurt Wuelper, President, New Hampshire Right-to-Life - supports (mostly)

Approves of 90% of bill. Would like to include grandparents in bill. Claims 60-85% of women getting an abortion are coerced and feel helpless. Cites a high level of emotional distress because abortions are coerced. Page 5, Lines 13 and 14 do not include interest of the unborn 'child'.

Respectfully submitted,

A handwritten signature in black ink that reads "Philip Preston". The signature is written in a cursive style with a large, stylized "P" and "P" at the beginning and end of the name.

Philip Preston, Clerk

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1662-FN

BILL TITLE: relative to consent for abortions

DATE: 1-19-10

LOB ROOM: 208

Time Public Hearing Called to Order: 2:00

Time Adjourned: 3:00pm

(please circle if present)

Committee Members:

Smith, Thompson, Hogan, Richardson, O'Brien, Perkins
Rawa, Patten, Preston, ~~Richardson~~, Weber, Elliott, Meach, Read, Nixon, Watrous

Bill Sponsors: Repp. Seidel, Hills 20; Rep. Kolodziej, Rock 4; Rep. Hogan, Hills 25; Rep. Willette
Hills 6, Ingbretson, Graf 5; Sen Letourneau, Dist 19

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

FROM: Rep. Philip Preston, Clerk
DATE: Public hearing January 19, 2010
SUBJECT: Meeting minutes on HB 1662, relative to consent for abortions.

HB 1662 relative to consent for abortions 2:05

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Judiciary Hearings — January 19, 2010 addendum

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Add the following to the testimony on HB 1662.

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Testimony

New Hampshire  Public Health
ASSOCIATION

January 19, 2010

Subject: HB 1662 – An act relative to consent for abortions

Dear Chairman Cote and Members of the Judiciary Committee:

The New Hampshire Public Health Association asks that you **oppose** HB 1662 – an act relative to consent for abortions.

The New Hampshire Public Health Association (NHPHA) is dedicated to promoting and protecting the health of the public and our communities. NHPHA strongly opposes this bill because it would place additional restrictions on women's access to legal abortion services. The American Public Health Association, as well as NHPHA, recognizes the importance of women's access to safe abortion services and the safe guarding of abortion as a reproductive choice.

The New Hampshire Public Health Association bases its opinions and recommendations on scientific evidence and fact-based strategies that promote health and reduce disease and injury. The Association has more than 200 members of individuals and organizations committed to the public health and safety of all New Hampshire residents.

I am happy to address any questions you might have regarding my letter. Please feel free to contact me at anytime at (603) 545-1389. Thank you for your attention.

Sincerely,



Kristina L. Diamond
Policy Director
New Hampshire Public Health Association



NARAL
Pro-Choice New Hampshire

MEMORANDUM

To: David Cote, Chair, NH Judiciary Committee
From: Pilar Olivo, Interim Executive Director, NARAL Pro-Choice New Hampshire
Re: NARAL Pro-Choice New Hampshire Opposes HB 1662
Date: January 19, 2010

On behalf of our more than 1000 members across the state, NARAL Pro-Choice New Hampshire opposes HB 1662.

In general, HB 1662 would – if passed – accomplish the following:

- Allow the government to intrude on private, medical decisions.
- Apply additional restrictions to young women's access to abortion care.
- Require biased counseling and mandatory delays to abortion care.
- Broaden providers' ability to refuse to provide medical services.
- Impose burdensome restrictions on abortion providers with TRAP laws.
- Force women to obtain spousal notice, further restricting women's access to abortion.
- Prohibit insurance coverage for abortion for state government employees.

Each of these issues is addressed below.

Permits Government Interference In Personal, Medical Decisions

HB 1662 is a direct intrusion by the government into women's private, medical decisions. This bill would insert the government in the confidential doctor-patient relationship.

- It is a clear attack on a woman's freedom and privacy and could jeopardize a woman's health.
- It mounts multiple ideologically-driven attacks on women's right to choose safe, legal abortion. Under the guise of protecting the health and safety of women seeking abortion care, this bill creates numerous obstacles to women's ability to access the full range of reproductive-health options.

Applies Additional Restrictions to Young Women's Access to Abortion Care

Section 132:32 would require minors seeking abortion care to obtain the consent of at least one parent or a guardian; provides a judicial-bypass process for minors who cannot obtain that consent; and prescribes civil penalties for violation including suspension of medical licensure and the creation of a civil cause of action that could include exemplary damages.

- This question of whether the state government should have the power to intrude into the lives of families on the question of reproductive health-care for our young people has been asked and answered. Since 1998, state legislators have considered 12 separate attempts to interfere in family life on this issue, only one passed in 2003. Consistent with the value citizens of our state place on privacy and freedom, state legislators repealed parental notice in 2007.

- National medical and public health groups, including the American Medical Association, the American Academy of Pediatrics and the American Public Health Association all support confidential health services for young people, including comprehensive reproductive health services.
- Young people facing an unplanned pregnancy will ideally seek the advice and counsel of those who care for her most and know her best. In fact, several studies show that even in the absence of laws mandating parental involvement, many young women do turn to their parents when they are considering abortion.
- In many cases where young people do not seek that counsel or disclose a pregnancy, it is because physical violence or emotional abuse is present in their homes, because their pregnancies are the result of incest, or because they fear parental anger and disappointment. This law will not solve the problem of inadequate family communication; it will only exacerbate a potentially dangerous situation for some teens.
- According to several studies “although the stated intent of mandatory parental-consent laws is to enhance family communication and parental responsibility, there is no supporting evidence that the laws have these effects.” The American Medical Association has noted that “[b]ecause the need for privacy may be compelling, minors may be driven to desperate measures to maintain the confidentiality of their pregnancies. They may run away from home, obtain a ‘back alley’ abortion, or resort to self-induced abortion. The desire to maintain secrecy has been one of the leading reasons for illegal abortion deaths since . . . 1973.”ⁱ
- For young women, it may be overwhelming and, at times, impossible to manage the judicial-bypass procedure. Some young women simply are intimidated by the required legal procedures, or cannot attend hearings scheduled during school hours, especially while attempting to maintain confidentiality.ⁱⁱ Others do not seek, or delay seeking, judicial review because they fear that the proceedings are not confidential or that they will be recognized by people at the courthouse. Many young women simply do not want to reveal intimate details of their personal lives to strangers.ⁱⁱⁱ

Provides for Biased Counseling and Mandatory Delays to Abortion Care

Section 132:31 of NH HB 1662 requires that a woman receive biased counseling and wait a state-mandated 24 hour period before she can receive abortion care. This is dangerous legislation that would place the government squarely in the middle of personal and private medical decisions and endanger women’s health.

Informed consent is already required, making additional legislation in this area unnecessary:

- Every individual should be given complete information about *any* medical procedure. Existing law and policy already ensure that this happens. Informed consent requirements mandated by New Hampshire law and standard medical practice require that prior to performing any medical procedure, a doctor obtains the patient’s informed consent after advising her of the relevant information. If such consent is not obtained, a woman may sue her medical provider in a civil malpractice lawsuit as provided for in New Hampshire law on medical injury (N.H. Rev. Stat. Ann. 507-C).
- The proposed state-mandated delay and biased-counseling provisions conflict with the established principle of individual, informed decision-making. This bill sets a dangerous precedent by putting the state in charge of the medical information an individual woman must receive. As the American Public Health Association concluded, such laws “will interfere with constructive consultation between physicians and their patients and will undermine patients’ health and are in fact antithetical to informed consent.”^{iv}

Biased-counseling and mandatory-delay requirements like those contained in Section 132:31 single out abortion from other medical procedures and do not foster informed decision-making:

- Laws like those proposed in this section of HB 1662 are simply tools used by anti-choice legislators seeking to limit access to safe and legal abortion and to take away a woman's fundamental right to choose.
- Even people undergoing procedures as dangerous as heart or brain surgery are not subjected to government-imposed mandatory delays. With other types of procedures, it is commonly accepted that standard medical practices and existing informed consent requirements already ensure that by the time patients reach the physician's office, clinic, or hospital for a medical procedure, they have weighed the consequences and made an informed decision.
- HB 1662 reflects the demeaning and erroneous assumption that women do not think carefully about abortion and are unable to make responsible decisions without governmental interference.
- NH state legislators have considered and rejected biased counseling bills four times since 1998.

A 24-hour delay could impermissibly increase women's health risks:

- Section 132:31 ostensibly requires only a 24-hour waiting period, but in practice this can mean a forced delay of days or even weeks, compelling a woman to undergo a later abortion that poses increased risks to her health.
- A 1998 study in the *Journal of the American Medical Association* concluded that Mississippi's state-mandated 24-hour delay resulted in more women traveling out of state for an abortion and in a fifty percent increase in the number of women receiving second trimester abortions.^v A study released in 2000 regarding Mississippi's mandatory waiting period law had similar results, revealing that, after the law's enactment, the percentage of second trimester abortions rose by 53 percent among women whose closest abortion provider is in-state.^{vi}
- Though the proposed New Hampshire law does not require two visits to the clinic before an abortion, if implemented, the delay is likely to cause an analogous increase in later abortions because of the rural population and the small numbers of providers in the state. Under HB 1662, delays in care could result from the scheduling difficulties created by requiring providers to arrange two separate appointments for the physician to speak with the patient.

Requiring physicians, rather than other qualified medical professionals, to provide certain information is problematic:

- The legislation also requires the referring or attending physician to provide certain information to each woman at least 24 hours prior to an abortion.
- Half of New Hampshire's counties are without an abortion provider. For the limited number of health centers that provide abortion services in the state, physician delivery of the state-mandated information will create major problems with provision of care. This requirement bans other qualified health professionals from providing counseling to patients and their families before women access abortion care. Mandating that only a physician deliver the state-mandated lecture places a strain on the already small number of doctors in the state able to provide abortion care. The end result will likely be substantial delays and increased costs for women seeking abortions.

Grants Providers Broad License to Refuse to Provide Medical Services

Section 132:40.IV establishes a broad refusal clause allowing both individuals and facilities to refuse to provide abortion services. It states, "no medical personnel or medical facility, nor any employee, agent, or student thereof, shall be required against his or her or its conscience to aid, abet, or facilitate performance or an abortion or dispensing of an abortifacient."

This section offers broad refusal rights to an expansive universe.

- HB 1662 would allow health care providers, including entire hospitals, to refuse to provide or assist in the provision of abortion care. While NARAL Pro-Choice New Hampshire does not oppose an individual right of conscience, this bill goes much further, granting health-care companies the same "conscience" rights as individuals.
- It also allows *any* employee at a hospital or other health care provider to refuse to provide these services, even if they are only tangentially involved in offering the services in question; for example, it might allow receptionists to opt out of scheduling appointments for patients seeking health care services.
- The bill's far-reaching language completely disregards the importance of patients' access to health-care services and information. It could go as far as to encourage hospitals to refuse to provide emergency abortion care, even in life-threatening circumstances. Furthermore, it does not require health-care providers that refuse to provide or cover abortion services to notify patients that they will deny this care or to refer them elsewhere. As such, patients may unknowingly visit hospitals that deny these services.

Imposes Burdensome Restrictions on Abortion Providers With TRAP Laws

Section 132:33 of HB 1662 provides for the promulgation of TRAP laws by the Department of Health and Human Services. In general, TRAP laws are burdensome restrictions that are not applied to other medical professionals. These restrictions can include administrative, physical plant, personnel, and/or licensing requirements designed to increase the cost and limit, or eliminate altogether, the accessibility of abortion care in New Hampshire. NARAL Pro-Choice New Hampshire opposes such anti-choice provisions in HB 1662 because they represent a calculated attempt to severely restrict women's rights to choice and privacy in New Hampshire and serves no legitimate health care purpose.

- *The regulations proposed in Section 132:33 ARE unnecessary because all health-care providers, including those who provide abortion care, are already required to comply with a variety of federal and state regulations.* These include the federal Clinical Laboratory Improvement Amendments (CLIA), Health Insurance Portability and Accountability Act (HIPAA), and Occupational Safety and Health Administration (OSHA) requirements, as well as state and local regulations including building and fire code. Additionally, physicians and clinicians who work in abortion care are already required to maintain professional standards and licenses and complete continuing medical education courses.

Section 132:33 of this bill leaves unanswered too many questions about the specific regulations the Health Department might adopt. Because Section 132:33 allows the department of health and human services wide latitude to promulgate rules and regulations at a future date, it is unclear how onerous a set of restrictions the legislature would be approving if it voted to pass this bill.

There is no guarantee that the regulations the department will promulgate will be appropriate and reasonable. The extent of physical-plant and administrative requirements remain unknown. Anti-choice lawmakers in other states have instituted incredibly burdensome requirements that are unrelated to patient care.

- *Missouri's particularly onerous and extensive construction and design requirements* mandate that procedure rooms must be at least 12 feet long and wide with ceilings at least nine feet high and doors at least 44 inches wide, corridors must be at least six feet wide, and separate counseling rooms are required and must be at least ten feet long and wide. Mo. Code Regs. Ann. tit. 19, §§ 30-30.070(2)(B), .070(2)(C), .070(2)(M), .070(2)(Z).
- *South Carolina's more than 30 pages of requirements include many that are not medically-related*, such as stipulations about the landscaping outside of the building, the maintenance of adjacent buildings, and the nature of parking facilities. 61-12 S.C. Code Ann. Regs. 605B, 605C, 606, 806, 807L(1).
- *Other states require that abortion providers convert their practices into mini-hospitals*, a provision that is unnecessary for the delivery of safe, early abortion care.

- *Such TRAP regulations are medically unnecessary – because legal abortion is among the safest medical procedures in the United States.* Legal abortion entails half the risk of death involved in a tonsillectomy and one-hundredth the risk of death involved in an appendectomy.^{vii} The risk of death from abortion is lower than that from a shot of penicillin.^{viii} Anti-choice lawmakers' attempts to paint legal abortion as unregulated or unsafe simply have no basis in fact.
- In fact, this bill, like other TRAP measures, threatens women's health because it could have the effect of driving abortion providers out of business, making safe abortion more difficult to obtain in New Hampshire. When safe abortion is difficult to obtain, women often wait longer for the procedure, which increases the gestational age at which the induced pregnancy termination occurs and thereby increases the risk.

Requires Women to Obtain Spousal Notice, Restricting Access to Abortion

Section 132:36.I - V would require a married woman to present a signed statement that she has given notice to her husband about her intent to have an abortion before she is permitted to undergo the procedure.

- This provision is unconstitutional. Such a proposition has been rejected by *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992). In *Casey* the Supreme Court struck down a less restrictive spousal notification provision as an undue burden on a woman's right to choose.
- This provision is a direct intrusion by an anti-choice government into women's private, medical decisions. This bill would insert the government in the confidential doctor-patient relationship.
- This provision would do absolutely nothing to improve the health of women and families in New Hampshire. Instead, it is a divisive measure that attacks women's personal freedom and autonomy. Essentially, the goal of this bill is to erode women's access to reproductive health care in New Hampshire and serve as a stepping stone in the path of the anti-choice goal of overturning the right to choose, not just in our state but nationwide.

Prohibits Insurance Coverage for Abortion for State Government Employees

Section 132:42.IV-V would ban insurance coverage for abortion for state employees, like the anti-choice Stupak-Pitts abortion-coverage ban to health-care reform.

- Women should not be denied coverage for reproductive-health services – a basic part of women's health care – by politicians imposing their personal beliefs on private, medical decisions.
- The provision banning insurance coverage for abortion for state employees puts the health of women and families at risk and unfairly forces women to spend more than men on health care. The state has an obligation to ensure neutrality in the provision of health care, and in particular should not penalize state employees.

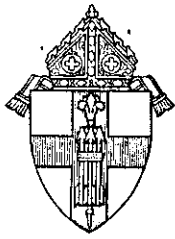
Notes:

ⁱ Council on Ethical and Judicial Affairs, American Medical Association, *Mandatory Parental Consent to Abortion*, 269 JAMA 82, 83 (1993).

ⁱⁱ Patricia Donovan, *Judging Teenagers: How Minors Fare When They Seek Court-Authorized Abortions*, 15 Fam. Plan. Persp. 259 (1983); Helena Silverstein, *Girls on the Stand: How Courts Fail Pregnant Minors* (2007).

ⁱⁱⁱ *Hodgson v. Minnesota*, 648 F. Supp. 756, 763-64 (D. Minn. 1986).

- iv. Amicus Curiae Brief for the American College of Obstetricians and Gynecologists et al., in Support of Petitioners at 21-22, *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).
- v. Theodore Joyce, et al., "The Impact of Mississippi's Mandatory Delay Law on Abortions and Births," *JAMA*, vol. 278, no. 8 (Aug. 27, 1997): 655.
- vi. Ted Joyce & Robert Kaestner, "The Impact of Mississippi's Mandatory Delay Law on the Timing of Abortion," *Family Planning Perspectives*, vol. 32, no. 1 (Jan./Feb. 2000): 4.
- vii. Warren M. Hern, *Abortion Practice* (Philadelphia: J.B. Lippincott Co., 1984), 23-24, citing JE Wennberg et al., "The Need for Assessing the Outcome of Common Medical Practices," *Ann. Rev. Public Health*, vol. 1 (1980): 291.
- viii. Nancy Felipe Russo, "Unwanted Childbearing, Abortion, and Women's Mental Health: Research Findings, Policy Implications," Summary of Presidential Address, *Rocky Mountain Psychologist* (1992): 9.



Diocese of Manchester

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January 19, 2010

The Honorable David E. Cote
Judiciary Committee
New Hampshire House of Representatives
Legislative Office Building, Room 208
Concord, New Hampshire 03301

RE: HB 1662 (relative to informed consent for abortions)

Dear Representative Cote and Members of the Committee:

As a citizen of the State and the Director of Respect Life for the Diocese of Manchester, I write to your Committee to express my support and the **support** of Bishop John B. McCormack for House Bill 1662.

I would like to preface my comments by stating that we do not express our support for HB 1662 as a matter of religious doctrine valid only for those who assent to Catholic teaching. Rather, the issue raised by HB 1662 involves demonstrable scientific evidence, universal values concerning human life, and respect for informed consent. It is precisely for these reasons that we wish to make our opinion and recommendations known.

Every human being is endowed with the capacities of intellect and free will. These powers are uniquely constitutive of the human being and are the basis of human dignity. So fundamental are the powers of intellect and free will, that they form the foundation of every human right and the whole moral life. All of our obligations regarding informed consent are ultimately rooted in the fact that humans are made to know and choose in freedom. This truth about human nature is no less true about the woman who regrettably contemplates abortion.

Out of respect for her human dignity and that of the child she carries, the state has at a minimum the obligation to ensure that her decision is fully informed and voluntary. As with any medical procedure, HB 1662 provides for reasonable information about the risks, side-effects, or consequences of abortion and the reasonable and legitimate alternatives to this procedure. Consistent with the purpose of informed consent, HB 1662 also ensures that information is given about medical risks associated with carrying a child to term. HB 1662 is not unduly burdensome but is entirely consistent with the principle of informed consent in medicine.

HB 1662 is needed and justified not only because of the fundamental principle of informed consent but all the more because of what the consent concerns. This is not consent about minor or major surgeries which have acceptable risks. Rather, this is consent to a procedure that has a one hundred percent fatal risk to another human being. Is it too much to ask that a woman be

The Honorable David E. Cote
January 19, 2010
Page 2

informed not even about that risk but the possible risks to herself and the alternatives to this procedure?

There should be no mistake. The fetus that a woman carries is a human individual as is any one of us in this room today and possesses the same inviolability. The human fetus is an actual, not potential, self-integrating and self-directing individual human being with a human nature. A pregnant woman contemplating an abortion is not giving consent to terminating a mass of tissue, but a fellow human being. Surely, the very least that should be done is to ensure that a pregnant woman contemplating such a grave decision be given the opportunity for proper informed consent.

For the foregoing reasons, and the reasons expressed in my letter in support of HB 1454, HB 1662 also recognizes the fundamental role of parents in caring for their children in requiring parental consent. A pregnant minor will benefit from parental involvement as she faces a life-altering decision that involves not only her unborn child, but also her own physical and emotional well-being.

For these reasons we urge the Committee to vote that HB 1662 ought to pass. We thank you for your consideration and for your dedication to public service.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter J. Cataldo". The signature is fluid and cursive, with a prominent initial "P" and "C".

Peter J. Cataldo, Ph.D.

Testimony by Representative Carl Seidel – Hillsborough 20-Nashua
HB – 1662 – FN

Most of you are probably a parent, grandparent or even a great grandparent of a minor young lady. This proposed legislation is focused on two issues, the health and medical treatment of the young lady and the possibility that the adult bringing the young lady to an abortion facility may not be her parent or legal guardian.

It has been the right of the state to require parental consent for a minor to get tattoos, ear piercings, donate blood and take medicine in school because the parent (or legal guardian) is responsible for the health and welfare of the minor. This is a responsibility that should not be taken lightly especially since this is a medical procedure that may be performed in a facility that is not licensed by the state and may not have a doctor present for the operation. It is a procedure where it is not unknown to have serious complications that could even lead to death.

The parent or legal guardian is concerned that a capable practitioner performs the procedure in a proper facility with a history of successful completion and with a capable backup hospital if complications occur. Records should be kept on the patient along with the signature of the parent or legal guardian and with the approximate age of the unborn.

These records shall be kept available for the law enforcement authorities if they suspect that the minor is the victim of statutory rape or other illegal acts and the signer of the consent is not a parent or legal guardian and may actually be the impregnator of the minor.

There have been a number of incidents written up by the media where issues have arisen where older men (whether the impregnator or a well meaning friend or relative) have taken a young, probably frightened minor female into an abortion facility and claimed to be the parent. This legislation will aid the law enforcement authorities in obtaining necessary evidence to support any prosecution of the guilty party.

Thank you for your careful consideration of this proposed legislation.
Representative Carl Seidel
598-2795

INTOLERANCE OF
TRADITIONAL JUDEO-CHRISTIAN
RELIGIOUS VALUES & FREEDOMS

A Summary of News Reports

New Hampshire News Reports

Laconia- School girl ordered by the courts to attend public school full time to be exposed to other value systems because of her strongly held religious beliefs after being home schooled by her mother. (8/27/09, www.onenewsnow.com)

Keene- A local church suffered \$15,000 to \$20,000 in damages from graffiti containing anti-Christian and anti-religious signs. (7/12/09, New Hampshire Union Leader)

Concord- Unidentified family filed law suit over the words "under God" in the Pledge of Allegiance recited by the students and teachers in the Hanover School District. (1/19/08, New Hampshire Union Leader)

University of New Hampshire- Director of the Memorial Union Building denied the request of a Jewish student that a menorah be placed in the building during Hanukkah. (12/10/07, New Hampshire Union Leader)

Plaistow- A figure of the baby Jesus was stolen from a manger scene and replaced with a beer can. (12/10/06, New Hampshire Sunday News)

Hillsborough- Chamber of Commerce canceled the holiday tea as part of its annual Old Fashioned Christmas event rather than allow a five minute Bible story to be read. (12/1/06, New Hampshire Union Leader)

Milford- Some members of the community charged the Board of Selectmen with an infringement on the separation of church and state due to the board's plan to set aside five minutes at the start of each meeting for those who wish to take part in a prayer and Pledge of Allegiance. (10/2/06, New Hampshire Union Leader)

Somersworth- One resident lodged a complaint with city officials charging that the Ten Commandments monument, which has stood on city land for nearly 50 years, was an unconstitutional promotion of religion. (1/5/05, New Hampshire Union Leader)

Seabrook- Students were allowed to excuse themselves from saying the Pledge of Allegiance after a middle School teacher refused to stand for its recitation. (1/6/05, New Hampshire Union Leader)

Deerfield- A six year old ban on the placement of religious displays, such as a crèche on town land, was finally settled by the American Legion agreeing to serve as host for the display. (11/29/05, New Hampshire Union Leader)

Londonderry- A family's nativity scene in their front yard was badly vandalized. (12/18/05, New Hampshire Sunday News)

Nationwide News Reports

Public Prayer

Fredericksburg, VA- City council ruled that any prayer given in the name of Jesus, such as had been done by Council Member Reverend Hashmel Turner, is disorderly conduct which would subject him to punishment and fines. (6/09, Rutherford Institute)

Santa Rosa County, FL- ACLU demanded the school censor students from offering prayers or saying anything religious. (6/09, Liberty Council)

Santa Rosa County, FL- Criminal contempt charges were filed against the Pace High School principle and the athletic director for offering a lunch time prayer at a school building dedication. (8/09, www.onenewsnow.com)

East Brunswick High School, NJ- Football coach Marcus Borden was prohibited from silently bowing his head and bending his knee while members of the football team engaged in student-initiated pre-game prayer claiming he has no constitutionally protected right to pray as a coach. (10/06, Rutherford Institute)

Lexington, KY- School administrators threatened to call police and have 8th grade students arrested for saying a prayer during a non-instructional time. (www.valuesvotersnews.com)

Religious Expression in Schools and Universities

Syracuse, NY- Kindergarten student was punished for religious content in an assigned art project and had the second project censored because of drawings deemed to have religious content. (4/09, Liberty Council)

Henderson, NV- Foothill High School censored the speech to be given by the graduating senior who was chosen valedictorian because she included several religious references. When she attempted to deliver her speech, including reference to her religious beliefs, school officials pulled the plug on her microphone. (6/06)

Snohomish Country, WA- High School officials bared the woodwind ensemble, the school's top performing instrumental group, from playing Franz Biebl's Ave Maria at a public concert, even though no lyrics were to be sung. (6/09, The Rutherford Institute)

Eastern Michigan University- Graduate student Julia Ward was kicked out of college when she requested a different assignment from that of counseling a homosexual since she felt she could not affirm the person's life style because of her Christian beliefs. (5/09, www.onenewsnow.com)

Butte, MT- High school administration refused to allow the valedictorian to include God and Christ in her valedictorian speech, even though she had been allowed to prepare her own remarks. (www.valuesvotersnews.com)

Mont Clair State University, NJ- Student government denied Campus Crusade for Christ status as a student group, citing the groups religious views. (www.ccci.org)

Nampa Classical Academy, ID- School was threatened with potential loss of its charter if it followed through with its plan of incorporating the Bible into the school curriculum along with the writings of other religions. (8/09, www.onenewssource.com)

Freedom of Speech, Religion and Association

Warroard, MN- The IRS withdrew its investigation of the pastor of the Warroard Community Church for preaching so it would avoid a court case on its guidelines which limit the first amendment rights of pastors speaking from the pulpit. (7/09, Alliance Defense Fund)

Wichita, KA- The Spirit One Christian Center was targeted by the IRS for engaging in political activities by relating its Biblical messages to campaign issues. The IRS dropped its investigation to avoid exposure in a court case. (7/09, World Net Daily)

Augusta, GA- A Christian man was arrested for sharing his faith in a “free speech area” on the campus of Georgia Southern University. (7/09, Alliance Defense Fund)

Miss USA Pageant, CA- Contestant, Carrie Prejean, was vilified after expressing her opinion, based on her religious beliefs, that marriage should be between a man and a woman in response to a question from a pageant official. (4/09, World Net Daily)

San Francisco, CA- The Christian Legal Society at Hastings College of Law lost its attempt to gain recognition as a student group while excluding non-Christians and those whose sexual activity violate Christian beliefs. (4/06, www.sfgate.com)

Ann Arbor, MI- A lower court decision barring the Center for Bioethical Reform from driving a truck with photos showing first term abortions on its sides is overturned by the Ninth Circuit Court of Appeals which ruled that the deputy sheriff violated the organization’s first amendment rights to freedom of speech. (7/08, Thomas More Law Center)

Washington, DC- Members of Congress attempted to introduce an amendment to the funding of the Head Start Program that would change the program’s prohibition on discriminating on the basis of religion, and allow religious discrimination in the hiring of teachers. (9/05, NH Union Leader)

Religious Symbols and Mottos

California Desert- The ACLU seeks to remove a small war memorial cross originally erected by the Veterans of Foreign Wars in 1934 in a remote area of the Mojave Desert in California. (6/09, Thomas More Law Center)

Ann Arbor, MI- A middle school student was warned over a dozen times not to wear a pro-life T-shirt, and was singled out for public ridicule in front of his class mates. It took an injunction by a federal judge to secure the students free speech rights. (10/08, Thomas More Law Center)

Blue River, OR- School officials banned a graduating high school class from using a class motto containing a religious reference to “eagles” from the Bible as a memorial to a fellow student who was killed in a car crash. This despite the fact that the schools mascot name is the Eagles. (1/08)

Washington, DC- The Supreme Court struck down the display of the Ten Commandments in two court houses in Kentucky. Justice Scalia, a member of the minority in the decision, blasted the majority for ignoring the rule of law to push their own policy preferences. (6/05, www.covenantnews.com)

Pasco County, FL- Officials have banned Christmas Trees from public buildings after the county attorney decided they were religious symbols. (12/04, Associated Press)

Atlanta, GA- The ACLU filed a law suit against Barrow County after county officials voted unanimously to keep a parchment copy of the Ten Commandments on display. (9/03, The Associated Press)

Mobile, AL- District court judge ruled that a granite monument of the Ten Commandments must be removed from Alabama’s judicial building rotunda. According to the judge that made the ruling, the case turned on whether the state can acknowledge God. (11/02, www.religionlink.com)

New York, NY- A Catholic organization charged New York City with discriminating against Christians’ by allowing Islamic and Jewish symbols to be displayed in public schools while banning nativity scenes. The President of the Catholic League stated, “All we are asking for of the city of New York to do is to treat Catholics the same way they do Jews and Muslims.” (12/02, The Associated Press)

Denver, CO- The 10th Circuit Court decided to let stand a three judge panel’s determination that a Ten Commandments display at the Haskell County, Oklahoma, Courthouse is unconstitutional. This resulted from a law suit filed by the ACLU to have the monument removed. (7/09, Alliance Defense Fund)

Montgomery, AL- Alabama’s Judicial Ethics Panel removed Chief Justice Roy Moore from office for defying a federal judge’s order to move a Ten Commandments monument from the state’s Supreme Court building. (8/03, CNN.com)

Public Access

Elk River, MN- The City of Elk River was sued for its discriminatory policy restricting the use of its public library and park for religious purposes. (8/09), Alliance Defense Fund)

Pensacola, FL- A lawsuit against the City of Pensacola resulted in the city having to change its policy on church groups using a public park in downtown Pensacola after the city police told a church's pastor to stop holding picnics in the park, even though thousands of people took part in the events. (7/09, Alliance Defense Fund)

San Francisco, CA- A San Francisco City board's resolution virtually condemning the Catholic Church because of its moral teaching on homosexuality and referring to the Vatican as a foreign country meddling in the affairs of the city was upheld by the 9th Circuit Court of Appeals. (6/-9, Thomas More Law Center)

Philadelphia, PA- The State of New Jersey found that a Christian camp meeting association violated the state's non-discrimination law when it declined an application for a civil union ceremony at one of the ministry's places of worship. (7/09, Alliance Defense Fund)

Violence Against Churches

Maryville, IL- Man gunned down the pastor of the First Baptist Church on a Sunday morning in front of horrified church goers. The preacher collapsed and bled to death. A day-planner found in the man's dresser referred to Sunday as "death day", suggesting he planned the attack in advance. (3/09, ABC News)

Anchorage, AK- The Wasilla Bible Church, the home church of Governor Sarah Palin, was badly damaged by arson to the tune of a million dollars in damages. The fire was set at the church entrance while people, including children, were still inside. (12/08)

Wichita, KS- The pastor of the Reformation Lutheran Church was fatally shot in his church on a Sunday. This caused some churches to reevaluate their churches' security plans and explore new ways to keep their members safe. (1/09, Wichita Eagle)

Clifton, NJ- A weekend church shooting left two people dead and another survivor in critical condition. (2008, USA Today)

North Portland, OR- A man was shot at least three times inside a church while he was attending the funeral services for his friend's mother. The man was declared brain dead. (12/08, The Oregonian)

Detroit, MI- Detroit pastors are packing pistols in the pulpit to protect their parishioners as a result of a mounting crime wave and church goers becoming targets for violent attacks over the last several years. (10/09, Associated Press)

Indianapolis, IN- Federal Marshals seized a Baptist church for back taxes and physically carried out the pastor and praying members of the congregation. (2/01, ABC News)

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 1662-FN

BILL TITLE: relative to consent for abortions

DATE: January 27, 2010

LOB ROOM: 208

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Elliott

Seconded by Rep. O'Brien

Vote: 7-11 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Preston

Seconded by Rep. Weber

Vote: 12-6 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk

HOUSE COMMITTEE ON JUDICIARY
EXECUTIVE SESSION on HB 1662-FN

BILL TITLE: relative to consent for abortions

DATE: JANUARY 27, 2010

LOB ROOM: 208

Amendments:

Sponsor: Rep. OLS Document #:
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Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL Interim Study (Please circle one.)

Moved by Rep. Elliott

Seconded by Rep. O'Brien

Vote: ~~12/6~~ 7/11 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL Interim Study (Please circle one.)

Moved by Rep. Preston

Seconded by Rep. Weber

Vote: 12/6 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk



JUDICIARY

Bill #: HB1662-FN Title: _____

PH Date: ____/____/____

Exec Session Date: 01 / 27 / 2010

Motion: Refer to Interim Study

Amendment #: _____

MEMBER	YEAS	NAYS
Cote, David E, Chairman		N
Wall, Janet G, V Chairman		N
Potter, Frances D		N
Hackel, Paul L		N
Preston, Philip, Clerk		N
Richardson, Gary B		N
Weber, Lucy M		N
Brown, Brendon S <u>READ, ROBIN</u>		N
Nixon, David L		N
Thompson, Robert B		N
Watrous, Rick H		N
Rowe, Robert H <i>abs</i>	Y	
Elliott, Nancy J	Y	
DiFruscia, Anthony R	Y	
Mead, Robert D	Y	
O'Brien, William L	Y	
Hagan, Joseph M <i>abs</i>		
Perkins, Lawrence B	Y	
Silva, Peter L	Y	
Smith, William B	Y	
TOTAL VOTE:	7	11

Committee Report

REGULAR CALENDAR

February 10, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on JUDICIARY to which was referred HB1662-FN,

AN ACT relative to consent for abortions. Having considered the same, report the same with the following Resolution:

RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Philip Preston

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee: JUDICIARY
Bill Number: HB1662-FN
Title: relative to consent for abortions.
Date: February 2, 2010
Consent Calendar: NO
Recommendation: INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The restrictions on minors seeking an abortion as outlined in the blurb for HB 1454 also are to be found in HB 1662. But the restrictive provisions of this bill apply to all women from puberty to menopause. It is full of inaccurate or irrelevant information. It requires biased state-sanctioned counseling, and it encourages providers of medical services to ignore the health and well-being of their patients or customers in order to satisfy personally held beliefs. It contains provisions of questionable constitutionality, it redefines medical terms and requires spousal notification in almost all instances when a married woman seeks an abortion. A thorough reading and acceptance of the provisions of this legislation would lead one to conclude that women are incapable of making their own decisions. The majority, however, believes that women should not be subject to the provisions of this bill.
Vote 12-6

Vote 12-6

Rep. Philip Preston
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB1662-FN, relative to consent for abortions. **INEXPEDIENT TO LEGISLATE.**

Rep. Philip Preston for the **Majority** of JUDICIARY.

The restrictions on minors seeking an abortion as outlined in the blurb for HB 1454 also are to be found in HB 1662. But the restrictive provisions of this bill apply to all women from puberty to menopause. It is full of inaccurate or irrelevant information. It requires biased state-sanctioned counseling, and it encourages providers of medical services to ignore the health and well-being of their patients or customers in order to satisfy personally held beliefs. It contains provisions of questionable constitutionality, it redefines medical terms and requires spousal notification in almost all instances when a married woman seeks an abortion. A thorough reading and acceptance of the provisions of this legislation would lead one to conclude that women are incapable of making their own decisions. The majority, however, believes that women should not be subject to the provisions of this bill. Vote 12-6 Vote 12-6.

Original: House Clerk
Cc: Committee Bill File

REGULAR MAJORITY REPORT

HB 1662, relative to consent for abortions.

RECOMMENDATION: INEXPEDIENT TO LEGISLATE

VOTE: 12-6

REP. PHILIP PRESTON

The restrictions on minors seeking an abortion as outlined in the blurb for HB 1454 also are to be found in HB 1662. But the restrictive provisions of this bill apply to all women from puberty to menopause. It is full of inaccurate or irrelevant information. It requires biased state-sanctioned counseling, and it encourages providers of medical services to ignore the health and well-being of their patients or customers in order to satisfy personally held beliefs. It contains provisions of questionable constitutionality, it redefines medical terms and requires spousal notification in almost all instances when a married woman seeks an abortion. A thorough reading and acceptance of the provisions of this legislation would lead one to conclude that women are incapable of making their own decisions. The majority, however, believes that women should not be subject to the provisions of this bill. Vote 12-6

REGULAR CALENDAR

February 10, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on JUDICIARY to which was referred HB 1662-FN,

AN ACT relative to consent for abortions. Having considered the same, and being unable to agree with the Majority, report with the following recommendation that the bill be REFERRED FOR INTERIM STUDY.

Rep. Peter L. Silva

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee: JUDICIARY
Bill Number: HB1662-FN
Title: relative to consent for abortions.
Date: February 2, 2010
Consent Calendar: NO
Recommendation: REFER TO COMMITTEE FOR INTERIM STUDY

STATEMENT OF INTENT

The minority was in agreement with the objective of this bill. However, we felt there was a need for improvement in its language and study of the important issues it raises.

The minority believes this bill would bring some regulation to the invasive medical procedure of an abortion. Presently, neither the person performing the abortion nor the facility are regulated. This bill would simply help regulate this procedure like all other medical procedures performed in this state.

Rep. Peter L Silva
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB1662-FN, relative to consent for abortions. **REFER TO COMMITTEE FOR INTERIM STUDY.**
Rep. Peter L Silva for the **Minority** of JUDICIARY. The minority was in agreement with the objective of this bill. However, we felt there was a need for improvement in its language and study of the important issues it raises.

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Original: House Clerk
Cc: Committee Bill File

REGULAR MINORITY REPORT

HB 1662 relative to consent for abortions.

RECOMMENDATION: INTERIM STUDY

REP. PETER L. SILVA

The minority was in agreement with the objective of this bill. However, we felt there was a need for improvement in its language and study of the important issues it raises.

The minority believes this bill would bring some regulation to the invasive medical procedure of an abortion. Presently, neither the person performing the abortion nor the facility are regulated. This bill would simply help regulate this procedure like all other medical procedures performed in this state.