



**TO: Members, Wisconsin State Senate**

**FROM: Wisconsin Right to Life, Wisconsin Catholic Conference, Wisconsin Family Action**

**DATE: March 4, 2022**

**RE: SB 1015, *right of health care providers to express professional opinions related to health or medical information or guidance.***

While Senate Bill 1015 and Assembly Bill 1007 provide a high degree of protection for health care providers by allowing them to express professional opinions without repercussion, these bills may also allow providers to circumvent existing patient protections and limit the ability of facilities to operate in accord with their mission and values, especially facilities that are committed to preserving and protecting all life.

Legal precedent has established that states may require medical professionals to obtain informed consent and provide certain disclosures to patients regarding diagnosis and treatment. In Wisconsin, Wisconsin Statutes s. 448.30 governs informed consent and already requires that “Any physician who treats a patient shall inform the patient about the availability of reasonable alternate medical modes of treatment and about the benefits and risks of these treatments.” While the physician holds the responsibility for obtaining informed consent, the health care facilities that employ those professionals must also develop policies regarding informed consent to comply with state and federal regulations, including the Centers for Medicare & Medicaid Services (CMS) Conditions of Participation and Interpretive Guidelines. Facilities may also limit physician engagement to a particular area of practice, such as limiting practice to the diagnosis and treatment of cancer at an oncology facility, or to the facility’s mission, such as barring referral for abortion in a Catholic hospital. These limitations are frequently identified and agreed to by medical providers and facilities through employment contracts and other agreements. However, it is unclear how SB 1015 and AB 1007 would impact these existing legal requirements and agreements.

For example, Wisconsin Statutes s. 253.10 requires a physician to provide certain information to a woman considering an abortion. However, would these bills protect a physician who opts to hang a poster in their examining room that states, “Please ignore the long explanation that I must legally provide you regarding your pregnancy and abortion, most of which I find completely medically unnecessary”? Should a facility or medical board find this behavior unprofessional, it is questionable whether they could reprimand the physician for this behavior, so long as the physician has complied with the informed consent disclosure requirements of s. 253.10.

This legislation has the potential to dramatically impact faith-based or mission-driven facilities, like pregnancy resource centers, which play a vital role in protecting innocent life and ensuring that women can receive life-affirming care. It legally protects physicians as they undermine the values of medical institutions, leaving the mission-driven medical provider without recourse to operate in accord with its principles.

Consider the following examples.

- 1) A vulnerable patient requires and wants lifesaving treatment, but the doctor feels the patient's quality of life is poor and recommends the patient consider physician assisted suicide by relocating to a new state in violation of hospital policy.
- 2) A medical provider shares his or her professional opinion that the risks of abortion are minor compared to the risks of childbirth.
- 3) A doctor recommends that parents discuss sterilization with their disabled child in violation of hospital policy.

Ultimately, the “right of health care providers to express professional opinions” would supersede the desires of patients and the mission of entire care systems.

Wisconsin Right to Life, Wisconsin Family Action, and the Wisconsin Catholic Conference are dedicated to protecting the sanctity of human life from conception to natural death. It is challenging for families to find medical institutions that provide them with life-affirming care, and therefore it is vital to support the institutions that provide this care. Our concern is that this legislation would further jeopardize the ability of families and institutions to be pro-life by undermining their autonomy and existing legal protections.