



AMERICAN ATHEISTS

February 19, 2020

The Honorable Sen. Whitney Westerfield
Chairperson, Senate Judiciary Committee
702 Capital Ave.
Frankfort, Kentucky 40601

Re: OPPOSE SB 90, Testimony from American Atheists in opposition to a bill relating to denial of medical care based on religious beliefs

Dear Chairperson Westerfield and Members of the Senate Judiciary Committee:

American Atheists, on behalf of its nearly 800 constituents in Kentucky, writes in opposition to SB 90, a controversial bill which would undermine the health and safety of Kentucky residents. SB 90 allows health care providers, institutions, and payers to place their religious beliefs above the health and safety of patients by allowing them to refuse to provide necessary medical care. We urge you to vote against this dangerous and discriminatory bill.

American Atheists is a national civil rights organization that works to achieve religious equality for all Americans by protecting what Thomas Jefferson called the “wall of separation” between government and religion created by the First Amendment. We strive to create an environment where atheism and atheists are accepted as members of our nation’s communities and where casual bigotry against our community is seen as abhorrent and unacceptable. We promote understanding of atheists through education, outreach, and community-building and work to end the stigma associated with being an atheist in America. As advocates for the health, safety, and well-being of all Americans, American Atheists objects to efforts to subordinate medical care to the religious beliefs of providers and institutions.

There is simply no evidence that health care workers are regularly forced to provide health services that violate their religious beliefs. In fact, the opposite is true. Hospitals and other health care institutions regularly accommodate the desire of workers to avoid certain procedures that do not align with their religious beliefs. The number of instances where a worker has been purportedly forced to engage in such activities unwillingly is shockingly low. At the federal level, the Department of Health and Human Services Office for Civil Rights reports that between 2008 and 2016, only 10 complaints were filed by health care workers related to religious belief. If passed, SB 90 would allow a wide spectrum of health care providers, institutions, and payers to deny access to procedures based on religious or moral objection. Providers and institutions affected would be able to refuse to perform, counsel for, or even refer patients for needed medical treatment, without warning, based on their religious beliefs.

Although it addresses a nonexistent problem, SB 90 will have a very real cost in terms of harm to Kentucky patients, particularly for women, older Americans, people living with HIV, LGBTQ people,

people living in rural areas, and people living in poverty. Religious refusals are not merely a matter of individual rights because they always affect someone else's health or access to care.

SB 90 is the broadest denial of care bill we have ever seen. It would allow any provider, institution, or payer to refuse to provide any health care service, and then to justify this denial with religious belief. Here are just a few of the potential ramifications of this expansive and dangerous bill:

- Due to the provisions allowing medical institutions to refuse to provide any service or referrals that are in conflict with their beliefs:
 - A receptionist will be able to refuse to check in a patient who is receiving care they disapprove of (for example, a single women receiving pregnancy care, an overweight person receiving care for heart disease, a person living with HIV, a young person receiving vaccination, or a smoker receiving care for lung cancer).
 - A professor in medical school may refuse to teach students about treatments or standards of care associated with conditions they disapprove of.
 - Hospitals will be able to restrict a doctor from performing gender conformation surgery, fertility treatments in their facility, or end-of-life palliative care.
 - Nursing homes will be able to refuse elderly people their ongoing treatment that they disagree with, such as contraception to prevent STIs, HIV care, or end-of-life palliative care.
- Because the bill would allow medical practitioners to refuse to provide any service or referrals that are in conflict with their beliefs:
 - A pharmacist will be able to refuse to fill any prescription with which they disagree, ranging from contraception to HIV medication and beyond, and then refuse to refer the prescription to allow the patient to get it filled elsewhere.
 - Doctors will be able to opt-out of providing any medical care with which they disagree, without warning and without referral to a different provider.
- By allowing healthcare payers to refuse to provide any service or referrals that are in conflict with their beliefs:
 - An insurance provider will be able to refuse to pay for any service and then claim it was due to religious beliefs. It will give them a ready excuse to refuse any claim, so long as it can be justified by a corporate guideline.
 - A health care plan will be able to place conditions on care before paying for medical services. For example, they could require an overweight man to lose weight before paying for care for heart disease or require a lesbian woman to have intercourse with a man for a year before covering fertility treatment.

Although advocates claim that SB 90 is about the religious freedom and consciences of individual health care workers, the bill is actually about denying care to anyone that seeks medical care with which they disagree, especially women and LGBTQ people. We can clearly see this bill is not about religious liberty – it does nothing to protect the health care worker or the patient whose beliefs dictate that abortion or hormone treatment services should be widely accessible, that contraception should be freely available to everyone, or that only the individuals involved should be able to determine if sterilization is the best option for them. Moreover, SB 90 specifically exempts religious healthcare institutions from the

requirements it establishes to protect the beliefs of health care workers! It specifically allows religious health care institutions to “[not] hire, terminate, or discipline an individual whose conduct or religious beliefs are inconsistent with those of the religious organization.”¹

Finally, SB 90 lacks even basic measures to ensure the safety of patients is not affected by a health care provider, institutions, or payer’s religious refusal. There is no obligation to inform the patient that their health is being subject to religious ideology rather than medical best practices or that certain services will not be provided even if medically warranted. There is no obligation to refer patients to other providers for relevant services. This bill, simply framed, will endanger countless lives in Kentucky under the guise of “religious freedom.”

We urge you, please do not put the interests of religious health care institutions above the health and safety of your citizens. Please do not pass this dangerous legislation. If you should have any questions regarding American Atheists’ opposition to SB 90, please contact me at 908.276.7300 x309 or by email at agill@atheists.org.

Sincerely,



Alison Gill, Esq.
Vice President, Legal & Policy
American Atheists

cc: All Members of the Kentucky Senate Judiciary Committee

¹ Kentucky SB 90, Section 2(4) (2020).