Keeping Bosses out of the Exam Room

What the Bill Does

This bill would protect an individual’s reproductive health decision making from a boss’s interference. For example, it would prohibit an employer from firing an employee for her personal reproductive health decisions, such as using in vitro fertilization or birth control.

Examples of Impact of the Legislation

We have recently seen a number of disturbing examples of bosses retaliating against employees for their reproductive health care decisions. These types of actions would be specifically prohibited by this legislation. Examples include:

- In Wisconsin, after the state passed a law requiring insurance plans to cover contraception, the Catholic diocese told employees that if they used the contraceptive benefit, they would be fired.

- Teachers have been fired from their jobs on the basis of their personal reproductive health decisions, including the decision to become pregnant.¹
  - They were dedicated to their jobs and fully qualified for their positions. None had any religious duties or responsibilities as part of their jobs. It is unfair that these women would be fired simply because of their decisions to start a family.

- In 2012, Arizona legislators revised a decade-old law to make it easier for a boss to penalize an employee for using birth control.

Polling Information

67% of voters support legislation that would bar employers from interfering in an employee’s reproductive health decisions or discriminating against them because of their reproductive health decisions (55% strongly; 12% somewhat favor).

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¹ Emily Herx was fired from her teaching job at a Catholic school in Indiana after she requested time off to receive in vitro fertilization (IVF) treatment. Another teacher at a Catholic school in Cincinnati, Christa Dias, was fired—supposedly for becoming pregnant while unmarried—although her employers later said that she was fired for becoming pregnant using IVF. A third teacher, known as Jane Doe, was fired from a Catholic school in Missouri because she became pregnant without being married. Teacher Jennifer Maudlin was fired from a religiously-affiliated community organization in Ohio because she became pregnant while unmarried.
**Statements by Medical Groups**

- **American College of Obstetricians and Gynecologists, American Academy of Pediatrics, American Nurses Association, American College of Nurse-Midwives, National Physicians Alliance, Society for Adolescent Health and Medicine, and other major medical organizations** in a brief filed with the Supreme Court in support of the federal contraceptive coverage requirement, January 2014
  - “Decisions regarding contraception have a profound impact on a woman’s health as well as on the health of her children. These important, private, medical decisions should be made by a patient in consultation with her health care provider. There is no role for a woman’s employer in these decisions.”

- **Testimony submitted to the D.C. Council by Constance Bohon, MD, FACOG, American Congress of Obstetricians and Gynecologists (ACOG) DC Fellow Section Chair, in support of D.C.’s bill to prohibit employment discrimination on the basis of reproductive health decisions:**
  - “Health care decisions, including reproductive health choices, should be made by patients in consultation with their health care providers and be based solely on the best interests of the patient. Allowing an employer or employment agency to influence these health decisions or deny access to medically indicated care interferes in the provider-patient relationship and hinders our ability to carry out our duties to our patients.”
  - “Reproductive health services are an essential component of the medical care that a woman receives over the course of her lifetime. It is critical to women’s health that employers and employment agencies do not discriminate against women based on their reproductive health choices or act to constrain workers’ access to necessary medical services.”

**Talking Points (general)**

- People should be judged at work by their performance, not based on their personal, private health care decisions.

- Religious freedom gives everyone the right to make personal decisions, based on our own beliefs. It doesn’t give bosses the right to impose their beliefs on employees and their families.

- Given the recent threats to women’s reproductive health care, now is the time for our lawmakers to show that they support the idea that it is women and their doctors—not bosses—who should make personal health care decisions.

- This bill is about simple fairness. This bill makes it clear that [this state] will protect the right of workers to make reproductive health care decisions without fear of getting fired.
Talking Points (answering hard questions)

• How does this bill relate to the cases against the contraceptive coverage benefit in the Affordable Care Act?
  o The federal Affordable Care Act (ACA) requires that health insurance plans cover all FDA-approved birth control methods and related education and counseling, without out-of-pocket costs. This benefit is a huge step forward for women’s health and equality.
  o Over 48 million women now are eligible for this benefit.
  o Now is the time for [state] to make it clear that a boss’s religious beliefs should not trump our medical advice or hinder our patients’ access to care.

• What about religious freedom?
  o While ACOG recognizes and respects that individuals may be personally opposed to certain forms of health care, physicians should not seek to impose their personal beliefs upon their patients nor allow personal beliefs to compromise patient health, access to care, or informed consent.
  o A boss’s religious beliefs should not trump an employee’s health and access to the health care they and their families need.

Basic Legislative Language

I. Individuals have a right to make their own reproductive health care decisions without interference by an employer.

II. An employer shall not discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of or on the basis of the individual’s or a dependent’s reproductive health decisions, including whether to use a particular drug or medical service, or because of or on the basis of an employer’s personal beliefs on such services.

III. Nothing in this Act shall be construed to limit or restrict any protections against employment discrimination that already exist in federal or state law.

Social Media Options

• Some groups have used the following social media graphics:
• Do these work for your ACOG Section? Are there other messages you prefer? See also