



WISCONSIN FAMILY ACTION
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TESTIMONY IN OPPOSITION TO ASSEMBLY BILL 36
ASSEMBLY COMMITTEE ON HEALTH
THURSDAY, OCTOBER 7, 2021
JULAIN K. APPLING, PRESIDENT

Thank you, Chairman Sanfelippo and committee members, for the opportunity to testify on Assembly Bill 36. Wisconsin Family Action opposes this bill. We acknowledge the stated intent of the authors, but we believe the problems that come with this proposal far outweigh the good intentions.

First, let me clarify our organizational position on contraceptives in general. We do not take a position on whether or not a married couple should use contraception, unless a contraceptive method can result in the destruction of the fertilized egg, which generally happens because a contraceptive drug or device often prevents a fertilized egg from implanting in the uterine wall. We have never promoted contraception for unmarried persons because that position is inconsistent with our belief that what is in the best interest of unmarried individuals is to remain sexually abstinent until marriage and faithful to their spouse when they do marry.

At the outset, I would like to address one of the main arguments posited by this bill's authors. You will hear today that passing this bill will help reduce poverty because it will reduce unwanted pregnancies which come with a public cost in addition to the very real costs in human terms. We acknowledge the public and personal cost of babies born to single moms, but allowing pharmacists to prescribe contraception is not the answer. One of, if not the best, antidotes to poverty is marriage. It certainly is not contraception. If this body is truly interested in reducing poverty in any kind of meaningful way, it will promote the Success Sequence, which is finish school, get a job, marry, and then have children.

Allowing pharmacists to prescribe and dispense contraception, at least to some degree, promotes unmarried individuals engaging in sexual activity. The argument that these individuals will get contraceptives somewhere, and it may as well be from a pharmacist who cannot perform an abortion, rings hollow. Pharmacies often are much more convenient in location and hours than are other places where contraceptives might be obtained, increasing the likelihood that more women will turn to pharmacists for their prescriptions. Should the contraception fail, and studies show it surely does at times, and a woman becomes pregnant, that the woman received the contraception from a pharmacist rather than from an organization that performs abortions will not deter the woman from having an abortion if that is what she is determined to do.

We find it more than interesting that this bill never uses the word *woman*, but rather uses *person*. As we know, men do not use the kind of contraceptives this bill addresses. Yet, the wording of the bill appears to allow a man to go through the process and get a prescription for a contraceptive drug or device. For what purpose might that be? We know pimps and Johns are concerned that their "girls" do not get pregnant. This bill seems to open the door for these individuals to pretty easily get contraceptives. Admittedly, the bill says a pharmacist "may prescribe and dispense" (p.3, l. 17). However, nothing in the bill clearly prevents the above scenario from happening.

I think it is also important to note that this proposed change in the scope of practice for pharmacists is not about health-care. Contraception is not health care. Contraception is about the personal choices and decisions of individual women, typically made under the advice and guidance of a doctor because of the potency of the pharmaceuticals involved. To talk in terms of this being about women's health care is, at a minimum, disingenuous.

In addition, some contraceptives are known to cause a pre-implantation chemical abortion, as I referenced earlier. Scientifically, we know life begins at conception. Contraceptives that make it impossible for this newly conceived human being to implant in the uterine wall destroy the human being in the earliest stages of development.

Further, we are concerned about the well-being of the individual woman seeking the contraception. The bill provides that the person must complete “a self-assessment questionnaire and undergo a blood pressure screening.” Based on this very limited information, most of which is self-reporting, the pharmacist must determine whether it is safe to prescribe a contraceptive for a given individual. The presumption is, of course, that the individual is accurately reporting his/her medical situation historically and currently. Inaccurate medical information could be dangerous, even in some instances fatal.

This same law is in effect in Colorado, and the self-assessment questionnaire that state uses is available online, as is the Summary Chart of U.S. Medical Eligibility Criteria for Contraceptive Use (copy attached). That chart makes it clear a significant number of medical conditions pose a “theoretical or proven risk” or even an “unacceptable health risk” for contraceptives. If the individual has an undisclosed condition that dictates that contraceptives should not be used and the pharmacist, in good faith, prescribes and dispenses some form of contraception, the individual’s health is at a minimum compromised.

Should this burden rest on a pharmacist who is severely limited in what he or she can learn about the real health of the individual seeking the contraception? Blood pressure is only one measure of one’s health; it is certainly not something physicians typically rely on in isolation (or even in conjunction with a self-administered assessment) to determine one’s overall health or the appropriateness of a certain prescription. Pharmacists cannot do further diagnostic testing or assessments.

Additionally, what is to prevent a woman who has a severe reaction to the prescribed and dispensed contraception from suing the pharmacist and/or the pharmacy? The language of the bill does not address the liability of the pharmacist or the pharmacy, which presumably would have some culpability since the pharmacist is acting in his/her official capacity as an employee of the pharmacy. Last session during a public hearing, a committee member asked a testifying pharmacist about liability. The pharmacist speaking in support of the proposal said, “We don’t know about liability.” When I followed up with my testimony and addressed this issue, a committee member responded to me by saying, “You know we frequently pass bills where we don’t know who is liable.” I suggested that perhaps this is not the wisest course of action for the state legislature, particularly in this instance and especially in the ultra-litigious society in which we live.

We also oppose this bill because it puts pharmacists who may have religious or conscience objections to prescribing contraception in general and in particular contraception that is known to be abortifacient, in a difficult position. We currently have no specific statutory protection for the religious or conscience rights of pharmacists. While the bill does not force any pharmacy to take part in this prescription-writing authority, it is safe to say many will. Imagine a pharmacist working for a pharmacy that decides to do this and thereby requires its pharmacists to either write prescriptions for contraception or face disciplinary action, which could even involve dismissal.

For these reasons, we urge this committee to oppose this bill that is not in the best interest of those seeking contraception or in the best interest of the pharmacists.

Thank you for your attention and thoughtful consideration of our position on this proposal.