



Abortion Omnibus Bill

Fact Sheet HB2564 – Abortion

Omnibus Bill

The Abortion Omnibus Bill, HB2564, will change many of the laws and regulations currently in place regarding abortion and redefines abortion to include many commonly used forms of birth control such as the birth control pill, the intrauterine device (IUD) and emergency contraception and makes birth control subject to the provisions of this bill as outlined below.

HB2564 redefines a fetus as an unborn child which is defined as a human being from conception until birth. Additionally, the bill mandates specific information to be read to a patient during counseling; mandates a 24-hour waiting period; requires notarized parental consent for minors to access abortion services; makes it harder for a minor to obtain a judicial bypass; prohibits nurse practitioners from performing surgical abortion; and allows all health care workers, including pharmacists, to refuse to provide information for or access to, abortion care and emergency contraception on personal or religious grounds.

Birth Control Defined as Abortion

In current law, the definition of abortion excludes contraception such as emergency contraception, birth control pills and IUDs that inhibit implantation of a fertilized egg. HB2564 does not exclude these widely used birth control methods and instead defines them as abortion and makes accessing birth control subject to the provisions in the bill.

Women have relied on birth control for decades to help plan their families. This bill ignores the needs of Arizona families to make the private decision about when to start a family. In 1965, *Griswold v. Connecticut* was a landmark case in which the Supreme Court of the United States ruled that the Constitution protected a right to privacy. The case involved a Connecticut law that prohibited the use of contraceptives. By a vote of 7-2, the Supreme Court invalidated the law on the grounds that it violated the "right to privacy."

78.9% of Arizona women rely on birth control to prevent unplanned pregnancies.ⁱ Since 1982, the pill is the leading contraceptive method overall in the United States. Virtually all women (98%) aged 15–44 who have ever have ever been sexually active have used at least one contraceptive method.ⁱⁱ

Mandated Counseling & Imposed Waiting Period

Mandated counseling laws are currently enforced in more than 20 states. HB2564 includes a provision which requires state mandated information regarding abortion to be given to a patient 24 hours prior to the procedure.

- A mandatory 24-hour delay, which does not offer any health benefits to the woman, will result in increased expenses, travel difficulties, and medical risks. Likewise, these requirements are especially burdensome to rural and poor women, who may not be able to take extra days off from work, travel long distances, or find appropriate childcare while they are away from home.
- Currently, a woman must give her informed consent before undergoing any surgical procedure, including abortion. The standards of the medical profession, as well as state laws, ensure that

health care practitioners provide women with accurate and unbiased information regarding the risks and benefits of their various treatment options and obtain their consent.

- State mandated counseling laws single out abortion from all other medical procedures. Implicit in the requirement of a mandated lecture is the assumption that women do not adequately think through their abortion decision and that the state must do their thinking for them. This assumption reflects a lack of respect for women's decision-making ability.
- A state-imposed litany may conflict with the health care provider's ethical obligation to give the best medical advice to the patient.
 - Medical providers are asked to provide non-medical information about the availability of child support, for example, about which they may not be qualified to speak and which is irrelevant to the professional's ethical obligation to provide the best medical care and advice to the patient.
- The American Medical Association opposes state mandated consent requirements because they are not medically indicated and never are appropriate areas for codification in law.ⁱⁱⁱ

Judicial Bypass

This legislation will allow a judge to grant a pregnant minor permission to have an abortion without parental consent only if the minor can provide clear and convincing evidence that she is sufficiently mature and capable of making an informed decision.

- The burden of proof and factors HB2564 specifies for the judge to consider are already in applicable case law. Putting the burden of proof into statute will only serve to limit judges from considering other factors indicating maturity, which might be more appropriate in each particular case.
- Restriction of adolescent access to abortion causes stress, fear, and anxiety for those adolescents who go to court to obtain a judicial bypass. Alternatively, for those minors who do not have parental consent or attempt a judicial bypass, the use of dangerous extralegal methods of abortion increases.^{iv, v}
- While the majority of minors seeking health care enjoy the support of their parents, this is not always the case. Minors may be facing family hardships or physical, psychological or sexual abuse that prevents them from consulting their parents, thereby making a judicial bypass necessary.^{vi}

Notarized Parental Consent

Requiring notarized parental consent for abortion necessitates the health care provider to secure the written and notarized consent of the minor's parent or guardian before performing an abortion. Given that, the majority of minors seeking abortion services have the support of one or both parents; this bill creates an undue barrier for young women trying to access health care.

- Consent mechanisms are already in place; in order for a young woman under 18 years of age in Arizona to receive an abortion, she must obtain the written consent of a parent or guardian. This consent must be presented to the health care provider.
- Good family communication cannot be legislated or imposed by the government. Without any legal compulsion, over 50 percent of adolescents consult a parent about contraceptive use and abortion decisions. Studies have also found that adolescents consult adult, non-parental relatives about reproductive health care and abortion-related decisions. Moreover, younger adolescents (age 13 and 14) are most likely to notify their parents about abortion decisions.^{vii}
- This bill violates the Arizona Constitution, it infringes on the Right to Privacy guaranteed by the Arizona Constitution by requiring a third party (a notary) to be involved in a young woman's private medical decision.
 - In *Rasmussen v. Fleming*, the Arizona Supreme Court recognized that under the privacy provision of the Arizona Constitution: "An individual's right to chart his or her own plan

of medical treatment deserves as much, if not more, constitutionally-protected privacy than does an individual's home or automobile."^{viii}

Abortion Providers:

Advanced practice clinicians, such as nurse practitioners, certified nurse midwives, and physician's assistants, have been providing surgical abortions with impressive safety records for over three decades in the United States and in Arizona. This legislation would overturn the will of the Arizona Board of Nursing and undermine its role in determining the scope of practice for Arizona nurses.

- Advanced practice clinicians are competent women's health care providers. The specialized training for an advanced practice clinician distinction includes graduate education, supervised clinical training, licensing, and national board certification.
 - The scope of practice already identified by the Arizona State Board of Nursing includes a variety of complex procedures considered as invasive or more so than surgical abortion, including:
 - Intrauterine device (IUD) insertions and endometrial biopsies, colposcopy, cryotherapy, and the loop electrosurgical excision procedure (LEEP), peripherally inserted external jugular catheter, lumbar puncture, bone marrow aspiration and biopsy.
 - The full continuum of care provided by gynecological nurse practitioners ranges from (a) well woman exams to (b) birth control dispensing to (c) disease testing and treatment to (d) cancer detection and treatment. Surgical abortion fits squarely within this continuum of care.
 - On May 14, 2008 the Arizona Board of Nursing ruled that performing first trimester; aspiration abortion is within the scope of practice of a properly trained nurse practitioner.
 - The American Public Health Association supports the provision of first trimester medical and surgical abortion by appropriately trained NPs, CNMs, and PAs.^{ix}
 - The National Association of Nurse Practitioners on Women's Health "believes that nurse practitioners, with appropriate preparation and medical collaboration, are qualified to perform abortions."^x

Provider Refusal:

The bill's provider refusal language makes it more difficult for women to find health care professionals who will provide her with complete and accurate information and access to abortion care and emergency contraception. This regulation would disrupt Arizona's health care delivery system at a time when more and more families are uninsured and under economic assault, fueling our health care crisis by denying women's access to quality, affordable basic care.

The bill jeopardizes a patient's right to know *all* her options by allowing providers to withhold critical health care services and information women need to make fully informed decisions about their health care, based on their personal biases; which means patients may not even be aware that they are not getting complete information. There are already federal and state laws in place that protect medical professionals.

ⁱ Center for Disease Control. *Surveillance Summaries*. 54(SS06):1-72. 2005.

ⁱⁱ Mosher WD et al., Use of contraception and use of family planning services in the United States: 1982–2002, *Advance Data from Vital and Health Statistics*, No. 350. 2004.

ⁱⁱⁱ American Medical Association, "AMA Opposition to 'Procedure Specific' Informed Consent," House of Delegates Resolution 226 (A-99)

^{iv} Crosby, M. C., & English, A. (1991). Mandatory parental involvement /judicial bypass laws: Do they promote adolescents' health? *Journal of Adolescent Health*, 12(2), 143-147.

^v O'Keefe, J., & Jones, J. M. (1990). Easing restrictions on minors' abortion rights. *Issues in Science and Technology*, 7(1), 74-80.

^{vi} Ambuel, B. (1995). Adolescents, unintended pregnancy, and abortion: The struggle for a compassionate social policy. *Current Directions in Psychological Science*, 4(1), 1-5.

^{vii} Pistella, C. L. ,& Bonati, F. A. (1998). Communication about sexual behavior among adolescent women, their family, and peers. *Families in Society*, 79(2), 206-211.

^{viii} Rasmussen, 154 Ariz. at 216, quoting *Schloendorff v. Society of New York Hospital*, 211 N.Y. 125, 129 - 130, 105 N.E. 92, 93 (1914).

^{ix} APHA Resolution No. 9917, 1999.

^x NANPRH Resolution no Nurse Practitioners as Abortion Providers, October 1991.