



Testimony of Sharon Toborg, Policy Analyst for the Vermont Right to Life Committee on S.37
Before the House Health Care Committee, April 4, 2023.

There are three main concerns with S.37 that I would like to address.

S.37 establishes in law lower standards for providers of so-called “legally protected health care” than for providers of other types of care

S.37 includes in the definition of “legally protected health care” gender-affirming and reproductive procedures provided in Vermont, as well as care provided by Vermont practitioners located in Vermont even if the patient is physically located in another state.

*[T]he provision of a health care service by a person duly licensed under the laws of this State and physically present in this State shall be legally protected if the service is permitted under the laws of this State, **regardless of the patient’s location or whether the health care provider is licensed in the state where the patient is located at the time the service is rendered.** [emphasis added]*

This proposed definition is in conflict with the Vermont Board of Medical Practice *Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* (adopted on March 1, 2023) which states:

The State of Vermont and the Board follow the rule on medical licensure recognized across the United States. A physician must be licensed, or appropriately authorized, by the medical board of the state where the patient is located. The practice of medicine occurs where the patient is located at the time that telemedicine technologies are used. **Physicians who diagnose, treat, or prescribe using online service sites are engaging in the practice medicine (sic) and must possess appropriate licensure in the jurisdiction where the patient receives care.** [emphasis added]

Currently, practicing medicine in a state without being properly licensed in that state constitutes unprofessional conduct under Vermont law. S.37 proposes to carve out an exception to that standard for providers of so-called “legally protected health care.” Under S.37, what would constitute unprofessional conduct for other health care providers, would be allowable for

providers of so-called “legally protected health care.” This lowering of standards is very concerning. It sets a dangerous precedent of loosening standards for those providing politically favored services. As S.37 acknowledges, this new standard is less protective of the public.

Vermont requires health care providers who treat patients located in Vermont to have appropriate licensing or approval; Vermont should not protect health care providers who treat patients in other states in violation of those states’ laws.

S.37 Unfairly and Unconstitutionally Targets Pregnancy Centers

Section 8 of S.37 unfairly and unconstitutionally targets pregnancy centers for their efforts to aid women facing unintended pregnancies, and that section should be struck from the Bill. VRLC takes issue with the “findings” of the General Assembly that imply that pregnancy centers provide confusing, misleading, or inaccurate information. Senate testimony indicated that no complaints have been filed against such centers, and the centers get high marks in client satisfaction surveys.

Section 8 pays lip service to the First Amendment rights of pregnancy centers, while allowing the Attorney General broad authority to establish rules, conduct investigations, and bring civil actions against them. This will have a chilling effect on the Centers’ speech, particularly since Vermont’s current Attorney General has been openly hostile towards them. Including this section will invite expensive and time-consuming litigation.

Further, if the State were truly concerned about unfair, deceptive, or misleading information and actions then *all* providers of similar services should be subject to the same regulations. The State should be particularly concerned that a patient might receive insufficient or misleading information about abortion, because that is a decision that cannot be reversed. A woman can change her mind about carrying a pregnancy to term if she receives new information.

While most pregnancy centers in Vermont have their own medical director, Planned Parenthood of Northern New England currently does not. PPNNE has an interim clinical director, who is not an M.D., who oversees 17 clinics in three states - Maine, New Hampshire, and Vermont. In addition, PPNNE employs non-physicians to perform surgical abortions and medication abortions. PPNNE also recruits and trains volunteers, including kids as young as 14 years old to serve as volunteer “sexual health educators” for their peers. If a Pregnancy Center medical director is to be held responsible, legally and professionally, for the activities of the staff and volunteers as proposed in S.37, why shouldn’t Planned Parenthood’s director be as well?

S.37 Should Provide at Least as Much Support for Carrying a Pregnancy to Term as it Does for Abortion

In Senate Testimony, Vermont Right to Life expressed concern that the Bill as introduced required UVM and the Vermont State Colleges to develop an “abortion services readiness plan,” rather than an abortion **and pregnancy services** readiness plan. The Senate subsequently

changed the language of the Bill from “abortion services readiness” to “reproductive health care readiness.” VRLC encourages this Committee to include in Section 2502 a provision that UVM and the Vermont State Colleges include in their required “Gender-Affirming Health Care and Reproductive Health Care Readiness” reports, information about the institutions’ efforts to assist pregnant and parenting students who are trying to complete their degree.

The University of Vermont has made some provisions under the requirements of Title IX, (which prevents discrimination against pregnant and parenting students) but much more can and should be done at both UVM and the Vermont State Colleges.

For example, the University of Massachusetts at Amherst has a website geared specifically for student parents, that opens with: “Welcome Student Parents - *Are you a pregnant or parenting student? Student Parent Programs is here for you!*”

Similarly, under the Insurance Coverage section of S 37, if the state is going to eliminate copays and coinsurance for abortion, copays for prenatal care and childbirth should be eliminated as well.