

From: Sara Teachout
Sent: Tuesday, January 31, 2023 4:02 PM
To: Martin LaLonde

Subject: H.89 Suggested Language

Dear Representative LaLonde,

Thank you for giving me time to talk through Blue Cross VT's concerns with H.89. Here are our suggestions:

Our concerns with H.89 As Introduced are:

Section 1 Definitions:

We prefer the statute to explicitly include insurance coverage and would ask that the definitions of both "reproductive health care services" and "gender-affirming health care services" (pages 4 and 5) to be amended to add: "including providing insurance coverage for any of the foregoing"

Sec 3 (page 6-7) Privilege from Arrest

Prefer more straightforward prohibition:

"the Attorney General (?) should not cooperate with or provide information to any individual or out-of-state agency or department regarding any case involving abusive litigation."

Sec 4 Tortious Interference (beginning on page 8)

Recommend reversing the Burden of Production (ie proof) to the entity seeking the Subpoena so it squarely puts the burden on the antagonizing entity. We suggest that the language is reversed to put the burden on the party seeking the subpoena. We also want the Standard of Review to be "clear and convincing evidence" rather than the default standard of "preponderance of the evidence."

Proposed language:

"The Court shall not enforce any subpoena, foreign or domestic, related to any abusive litigation, unless the party seeking the subpoena shows by clear and convincing evidence that the subpoena is not unreasonable, oppressive, or inconsistent with public policy."

If that is not possible, then we would like to be able to recover the costs for defending against these cases and would suggest including on the bottom of page 9 – subsection (d), "A party that succeeds in quashing any subpoena pursuant to this subsection shall be entitled to their reasonable attorney's fees and court costs."

Please expand “person” in line 8 to include:
“provider, **carrier**, or other entity”

We prefer to use the term “payer” over carrier to be as broad as possible to include anyone paying for the services and you may consider also explicitly including employers, as they can be held responsible for contributing to their employees’ care.

Thank you for considering these changes to your draft bill. We are in strong support of the work you are doing.
Sara

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