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**To:** House Human Services Committee  
**From:** Jessa Barnard, Executive Director  
**Date:** January 20, 2022  
**RE:** Support for Vermont's Reproductive Liberty  
Amendment, Proposition 5

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**The Vermont Medical Society** is the largest physician membership organization in the state, representing over 2400 physicians, physician assistants and medical students across all specialties and geographic locations. The mission of the Vermont Medical Society is to optimize the health of all Vermonters and the health care environment in which Vermont physicians and physician assistants practice medicine.

### **Prop 5 Protects Personal Reproductive Liberty**

After an inclusive process including a full member survey and vote, the Vermont Medical Society adopted a position in 2019 to support a Vermont Constitutional amendment to protect reproductive rights.<sup>1</sup> VMS supports Proposition 5 as this proposed amendment to the Vermont Constitution would protect the legal right of Vermont patients to the full range of evidence-based, reproductive health care in alignment with a patient's needs and goals. This proposal would recognize a patient's fundamental right and liberty to make their own health care decisions without governmental interference. For over 45 years, Vermonters have had the personal autonomy to make family-planning decisions regarding abortion along with other decisions regarding pregnancy, infertility treatment, contraception, sterilization and the treatment of sexually transmitted diseases. Once adopted, this proposal will safeguard the sanctity of the relationship between a patient and their health care professional and will keep reproductive health care decisions based in private discussions of risks and benefits between patients and healthcare practitioners.

### **Background Information about Abortion Health Care in Vermont**

#### **Vermont Abortion Rates**

Overall, Vermont has seen a downward trend in state abortion rates since the 1980s, which generally follows the national trend. According to the Vermont Department of Health 2019 Vital Statistics report<sup>2</sup> there were 1,195 abortions performed in Vermont in 2019, which is a decline from 1,204 in 2018. Vermont residents accounted for 930, or 77.8 percent of the abortions. In 2019, 90.5 percent of all Vermont abortions happened within the first trimester (12 weeks or less) and 73.3 percent of all Vermont abortions were for pregnancies of less than 9 weeks duration. Only 112 abortions were performed in a hospital setting in 2019, while the overwhelming majority of abortions were performed in Vermont clinics and a smattering were performed in doctor's offices.

#### **Regulatory Standards**

Only 18 or 1.5 percent of Vermont abortions in 2019 occurred after 21 weeks and there are no health care practitioners in Vermont that perform elective abortions after 23 weeks. Terminating any pregnancy is an extremely difficult, deeply personal decision. Abortions needed later in pregnancy often involve severe, medical implications for either the mother or the fetus and is a complex decision for the mother, physicians and families involved. Such decisions in Vermont frequently involve multi-disciplinary ethics consultations. Physicians enter such decisions not only considering ethical considerations but bound by

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[https://vtmd.org/client\\_media/files/vms\\_resolutions/2019%20Codifying%20Protection%20for%20Womens%20Reproductive%20Rights\\_Final.pdf](https://vtmd.org/client_media/files/vms_resolutions/2019%20Codifying%20Protection%20for%20Womens%20Reproductive%20Rights_Final.pdf)

<sup>2</sup> [https://www.healthvermont.gov/sites/default/files/documents/pdf/HS-VR-2019VSB\\_final.pdf](https://www.healthvermont.gov/sites/default/files/documents/pdf/HS-VR-2019VSB_final.pdf) (pages 130-142 - this is the most recent VT data on abortion)

medical standards of care on individual, state, federal and institutional levels. Physicians who fail to “to conform to the essential standards of acceptable and prevailing practice” can be subject to discipline by the Vermont Board of Medical Practice. [26 V.S.A. § 1354 \(b\) \(2\)](#). And the failure to deliver health care with the same degree of care and skill that is ordinarily possessed and exercised in like cases by professionals in the same general line of practice is medical malpractice. [12 V.S.A. § 1908](#).

### **Voluntary clinician involvement**

Vermont facilities that offer termination services allow staff to choose whether to participate in any medical care that may for a variety of reasons not be in alignment with their core values and beliefs. The passage of the Reproductive Liberty Amendment would not impact those policies. Federal statutes also protect health care professional conscience rights and prohibit recipients of certain federal funds from discriminating against health care providers who choose not to participate in the delivery of abortion-related health care services.<sup>3</sup> All hospitals in Vermont are recipients of federal funding and are therefore required to comply with these federal statutes, which protect health care providers’ rights of conscience to refuse to participate in providing care that violates their religious or moral convictions. The passage of the Reproductive Liberty Amendment would not impact the application of these statutes. VMS also has adopted a policy regarding clinician conscience objection and ethical care for patients.<sup>4</sup>

### **Please Support Prop 5**

Important reproductive health care decisions should be guided by a patient's health and wellbeing. Leading national medical societies support access to the full range of reproductive health services. According to the American College of Obstetricians and Gynecologists, “The benefits of contraception, named as one of the 10 great public health achievements of the 20th century by the Centers for Disease Control and Prevention, are widely recognized and include improved health and well-being, reduced global maternal mortality, health benefits of pregnancy spacing for maternal and child health, female engagement in the work force and economic self-sufficiency for women. Further, “when restrictions are placed on abortion access, women’s health suffers.”

If Prop 5, the Reproductive Liberty Amendment, is adopted by the voters of Vermont, it will continue Vermont’s tradition of non-governmental interference in private, medical decisions about reproductive health care. It will allow doctors to use their best judgement when practicing medicine and protect patients’ access to evidence-based health care services.

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<sup>3</sup> <https://www.hhs.gov/conscience/conscience-protections/index.html>

<sup>4</sup>

[https://vtmd.org/client\\_media/files/vms\\_resolutions/2019%20Clinician%20Conscience%20Objection%20and%20Ethical%20Care%20of%20Patients.pdf](https://vtmd.org/client_media/files/vms_resolutions/2019%20Clinician%20Conscience%20Objection%20and%20Ethical%20Care%20of%20Patients.pdf)