

VT HOUSE HEALTHCARE COMMITTEE  
COMMENTS REGARDING S.28

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Thank you very much for the opportunity to submit testimony regarding S.28. I currently maintain a private primary care practice in Lyndonville, have been licensed in Vermont and continuously engaged in direct medical care to individuals of all ages since 1972. I am a founding member of Physicians for Informed Consent, and currently serve on the board of Health Choice Vermont.

My work on behalf of these organizations for over a decade has been strictly voluntary. At no time have I had an affiliation with any pregnancy center or Planned Parenthood.

S.28 should be opposed in its current form. I will be brief and limit my comments to addressing issues related to the Board's proposed expanded definition of "unprofessional conduct".

To my knowledge, I am the only MD in Vermont who has been willing to publicly question the state's guidance during the Covid-19 pandemic. Prompted by an article I wrote in the fall of 2022 ( which has since been scrubbed from the internet ), the Medical Board investigated me for the dissemination of so-called "misinformation. It took no action at that time, but warned me thus: ... while advising a patient in the privacy of my office my speech was is limited, but in public utterances I have more leeway and freedom to speak and express opinions.

Clearly, I have both a professional and personal stake in S.28, which proposes to "...clarify and expand the types of actions that could be considered unprofessional conduct for physicians, physician assistants, advanced practice registered nurses, and naturopathic physicians under their licensure statute".

Furthermore, S.28 asserts that the VT Attorney General would be the final arbiter of truth and potentially charge licensees with a civil crime in addition to any disciplinary action taken by the Vermont Medical Board.

On its face, S.28 would now deprive “persons” ?? and health providers of their ability to speak freely and honestly in public. Civil debate is the lifeblood of democracy and scientific progress, as acknowledged in the 1<sup>st</sup> Amendment. It also implies that even when providers disagree with the state’s health recommendations, they may feel obligated to relay them to those under their care, or in their public speech... i.e, to self- censor. Such “compelled speech” is itself unconstitutional. Physicians in CA and WA are currently litigating to preserve their right and obligation to speak freely and honestly in the best interest of their patients, whether in the privacy of their office, or in any public utterances.

The traditional role of the Medical Board has been to investigate complaints alleging unprofessional conduct and dispense appropriate discipline where appropriate. Involving the AG, carrying with it the threat and potential for a civil crime with penalties, and making the AG the final arbiter of medical truth, as Vermont’s very own “Ministry of Truth”, seems unnecessarily harsh and heavy handed, akin to driving a thumb tack with a sledge hammer. The current language imposes unnecessary censorship, clear and simple, and could well result in both provider and patient harm.

- “engaging in conduct of a character LIKELY to confuse, mislead, deceive, defraud, or harm the public”.
- “Advertising, including advertising about health services that is intended or HAS A TENDENCY to deceive or mislead”.

We all support telling the truth, but use of the words “likely” and “has a tendency to” in the definition of unprofessional conduct, being common legal phrases, is unnecessarily vague and open to very broad interpretation. The definition of unprofessional conduct could and should be clarified by recognition that it is only human to make mistakes, even for health workers. We all know, for example, that prominent politicians, and even some public health experts, regularly mislead and occasionally deceive the public, without accountability, whether intended or not.

Here is what I humbly suggest as a more honest basis for evaluating what defines professional conduct and misconduct.:

-“engaging in conduct of a character INTENDED to confuse, mislead, deceive, defraud, or harm the public”.

“ Advertising, including advertising about health services that is clearly INTENDED to deceive or mislead.” It would be incumbent on the state to prove such intentionality.

- Additionally, I do not believe the AG should have any role in determining what constitutes unprofessional conduct... or truth in science for that matter. That regulatory function has always belonged to the professional licensing boards and should remain there.

One final thought for context:

As a result of much questionable advice given by experts during the Covid pandemic, there has been a dramatic rise in so called "vaccine hesitancy" throughout the country. This trend has alarmed certain factions ... Pharma, numerous medical trade organizations, and other "experts". They reason that when persuasion of the individual fails, coercion targeting health providers becomes necessary, even at the price of abridging their all important 1<sup>st</sup> Amendment right to freedom of speech. Sadly, such censorship will only increase the current level of distrust and vaccine skepticism spawned during the pandemic.

I hope your committee will carefully consider my comments. I would be glad to appear before your committee answer any questions or concerns.

Thanks again for your willingness to listen.

Sincerely, Sandy Reider MD

