

March 17, 2021

The Honorable Dick Durbin
Chairman
Senate Committee on the Judiciary
U.S. Senate
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member
Senate Committee on the Judiciary
U.S. Senate
Washington, DC 20510

Dear Senators,

We write to you as pro-life organizations united in opposition to the Equality Act (H.R.5/S.393). If passed, this legislation would be a severe bludgeon to efforts to protect the unborn by establishing abortion rights under the auspices of addressing pregnancy-related conditions. Despite the bill's sponsors' claims that this bill has nothing to do with abortion, the language in both the House and Senate versions of the bill lack critical abortion neutral language. Without such language, the bill will open a Pandora's box of abortion-related policy concerns, from taxpayer funding for abortions to abortion coverage mandates in health plans. Furthermore, under the expanded terms for public accommodation and diminished conscience protections for medical professionals, many doctors, nurses, pharmacists, and other health care providers could be forced to participate in abortions under penalty of law. We call on Senators to oppose this radical bill.

This legislation redefines "sex" as found in the Civil Rights Act. As enacted, the Civil Rights Act of 1964 offered protections by banning discrimination on the basis of race, color, religion, sex, or national origin in areas such as employment, housing, and public accommodations. For decades, the Civil Rights Act has been further protected by the addition of important guardrails¹ dictating that such definitions may not be used to construe a right to abortion. However, by prohibiting "less favorable treatment" on the basis of "sex" including provisions related to "pregnancy, childbirth, and related medical conditions," and erasing the longstanding pro-life protections, the so-called Equality Act creates a path to impose onerous abortion mandates. In *Doe v. C.A.R.S.*, the 3rd Circuit ruled "that the term 'related medical condition' includes an abortion."² Accompanied with the new provisions relating to no "less favorable treatment" to that of the other "medical conditions," abortion would likely be labeled a protected procedure. The National Partnership for Women and Families has stated that the Equality Act would provide an avenue for women "to challenge denials of reproductive health," which is of course a misleading euphemism for abortion.³

¹ 42 U.S.C. § 2000e(k) ("This subsection shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion")

² *Doe v. C.A.R.S. Protection Plus, Inc.*, No. 06-3625, (3d Cir. 2008)

³ The Equality Act (H.R. 5/S. 788): Providing Critical Protection Against Discrimination for LGBTQ People and Women [[Fact Sheet](#)]. (April 2019). *The National Partnership for Women & Families*.

The Equality Act’s expansive language requiring “any establishment that offers ... health ... care services or any federally-funded programs to follow the same definitions of “sex,” again including “pregnancy, childbirth, and related medical conditions” would place public and private health facilities under the provisions of this act thereby endangering state and local pro-life protections.

Not only the facilities, but also each and every medical professional would be under the threat of discrimination charges for withholding services. The Equality Act explicitly blocks the use of the Religious Freedom Restoration Act (RFRA) claims for conscientious objection. Without RFRA protection there would be little recourse for medical professionals being forced to choose between following their consciences and being subjected to lawsuits, fines, and other penalties. This would be in direct conflict with conscience rights provisions already in law such as the longstanding Weldon and Church amendments and could set up a significant legal dilemma that will be litigated for years to come.

Without one explicit mention of abortion in its text, this legislation could be the biggest setback to the pro-life movement since *Roe v. Wade*. The Equality Act would present an open door for legal challenges to reasonable, widely supported restrictions on abortion and abortion funding across public and private entities.⁴ It would punish religious believers and treat them as second-class citizens who must violate their fundamental moral convictions to serve the goals of the pro-abortion movement. We call on the Senate to stand opposed to this manipulation of the Civil Rights Act that would strip away the rights of countless unborn children and the conscience rights of pro-life Americans.

Sincerely,

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⁴ <https://www.kofc.org/en/news-room/polls/american-abortion-opinions-remain-consistent.html>

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