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LEGISLATIVE TESTIMONY

To: Members of the Joint Committee on the Judiciary
From: Edward F. Saunders, Jr., Esq., Executive Director
Re: Support of House 1670, “An Act Relative to a Woman’s Right to Know;” and
Opposition to House 1746 “An Act Relative to Consent and Counseling for Certain Minors,” and
House 1745/Senate 1610, “An Act Updating the Public Health Laws”
Date: July 14, 2009

The Massachusetts Catholic Conference (“Conference”) respectfully submits this testimony in support of House 1670, “An Act Relative to a Woman’s Right to Know” and in opposition to House 1746, “An Act Relative to Consent and Counseling for Certain Minors,” and House 1745/Senate 1610, “An Act Updating the Public Health Laws.”

Strengthening State Law by Protecting A Woman’s Right to Know

House 1670 requires the Department of Public Health (DPH) to make available a pamphlet, web page and telephone message describing a woman’s rights under the Massachusetts Patients Rights Act, detailing the risks of abortion, listing agencies providing abortion alternatives and prenatal care, and supplying scientifically accurate descriptions of fetal development. Abortion providers would have to let women know beforehand that such materials are available and give these materials to those who request them. Abortion facilities would have to allow women 24 hours to reflect before going through with the abortion. These requirements would not apply in medical emergencies.

A provision contained in section 2 of House 1670, the “Woman’s Right to Know” bill, would further require that access to ultrasound imaging of the unborn child and electronic audio recording of the unborn child’s heartbeat be offered to the pregnant woman. Thirty-one (31) states have enacted informed consent laws similar to House 1670, with fifteen (15) states specifically requiring information about the availability of ultrasound imaging. See Americans United for Life, State-By-State Legal Guide to Abortion, Bioethics, and the End of Life 153, 162 (2009).

Current law in Massachusetts allows women to obtain an abortion for any reason and at any stage of pregnancy, without affording women the right to full informed consent. The State’s mandatory version of the consent form merely describes abortion as a procedure where “the contents of the womb (uterus) are removed,” fails to include any reference to the potential for psychological or emotional problems after an abortion, and omits any listing of or contact information for agencies providing pregnancy assistance. See the attached form created by the Massachusetts Department of Public Health (for third trimester abortions, identical in relevant respects to forms created for first and second trimester abortions).

House 1670 would improve current policy regarding informed consent, and move our laws closer to providing equal protection for all human life. It would reinforce every woman’s right to know the complete facts about the new life developing within her, about significant psychological and emotional risks associated with a decision to take that life, and about the availability of agencies prepared to help women who choose life. In short, the bill would require those performing abortions to first offer women information that assures that women are fully aware of the consequences of the choice they are about to make and provides the information in a manner that respects women.

Opponents claim that this bill unfairly tilts the consent process against abortion, yet they fail to acknowledge that current industry practices are slanted towards abortion. Due to economic and ideological pressures, women are subjected to a counseling approach that emphasizes the virtues, so to speak, of the industry-preferred choice. See Daniel Avila, "The Right to Choose, Neutrality, and Abortion Consent in Massachusetts," 38 Suffolk U. L. Rev. 511, 530-47 (2005), available online at http://www.law.suffolk.edu/highlights/stuorgs/lawreview/documents/AvilaFinal_000.pdf. Those offering abortions in Massachusetts believe that they are providing a benefit. And none perform abortions expense-free. Thus abortion providers retain a vested interest in one outcome, abortion, and have every motivation to offer to potential consumers only such information that favors that outcome.

House 1670 ensures a level field for women by requiring information that an abortion purveyor otherwise has little incentive to provide. Imparting more balance to the consent process satisfies state constitutional requirements of neutrality. See, Avila, supra at 548-56.

The Roman Catholic Church joins other secular and religious organizations in affirming the dignity of all human life at every stage of existence from conception until natural death. The Conference, the public policy office of the Roman Catholic Bishops, supports the passage of House 1670.

Making State Law Even More Permissive

House 1746 and House 1745/Senate 1610, also being heard today before the Joint Committee on the Judiciary, seek to weaken existing statutes relative to abortion and contraception.

House 1746, "An Act Relative to Consent and Counseling for Certain Minors," would amend current law governing required consent for minors seeking abortion. The bill would remove existing statutory safeguards that ensure that a minor who does not want or cannot obtain parental consent be found by a court to be mature enough to make an abortion decision or that, lacking maturity, the minor is making a decision found to be in her best interests.

House 1746 would allow abortions to be performed on minors without any court finding of maturity or best interests as long as the minor obtains counseling from an adult designated within a category of eligible candidates, such as a social worker, guidance counselor, or teacher. The required verification of counseling need only indicate that "the alternative choices available to manage the pregnancy and the possibility of involving the woman's parent, guardian, or other adult family member in her decision making" were discussed. Thus, minors with insufficient maturity to understand the consequences of an abortion decision, or who are choosing an abortion against their best interests, would be free to obtain abortions without parental consent.

Parents have an irreplaceable role in the development and well-being of their children. The role of a parent should not be subverted by authorizing other adults in non-judicial settings, who may have ties to the abortion industry or who may have limited knowledge of the minor or her family situation, to facilitate a minor's access to an abortion without parental knowledge. The bill's passage would substantially weaken the protections for parents and their minor daughters under current law. For these reasons, the Conference opposes House 1746.

House 1745 and Senate 1610, a bill entitled "An Act Updating the Public Health Laws," would expressly repeal certain abortion and contraception-related restrictions in the Massachusetts General Laws barred from enforcement by judicial rulings, and makes certain findings about abortion and contraception.

Specifically, sections 1 through 5 would repeal portions of the current code by: 1) requiring abortions after 13 weeks to be performed in hospitals; 2) punishing attempts to cause miscarriage that lead to a

woman's death; 3) prohibiting advertising for contraception and abortion; 4) barring the provision of the means used by another to cause "self-abuse," contraception or abortion; and 5) limiting the provision of contraceptives to situations involving a physician's prescription for use by married persons.

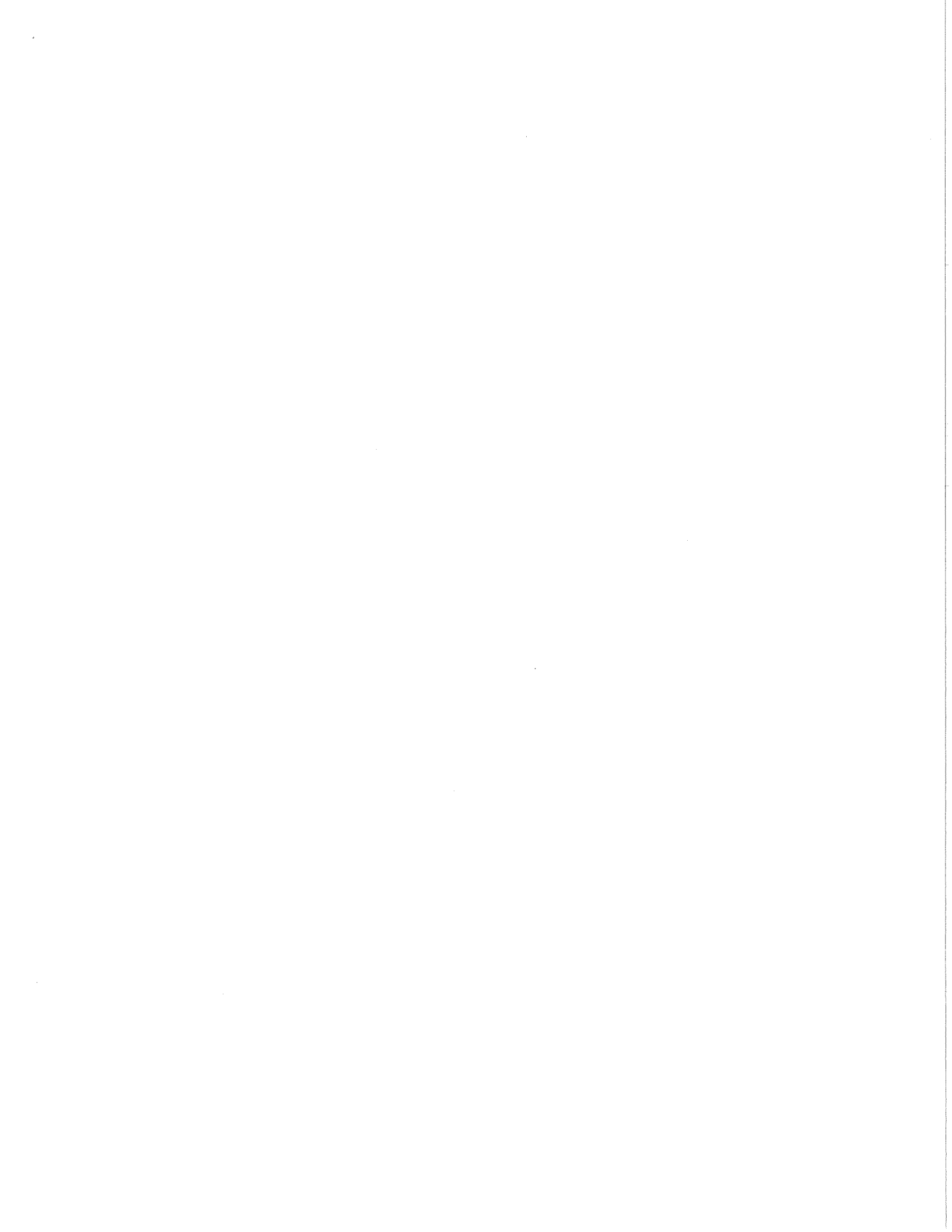
The bill's preamble would have the legislature endorse several "findings" essentially celebrating the legalization of abortion and contraception. The preamble asserts that "legal abortion has protected the health and lives of women in the United States." This "finding" overlooks the terrible costs associated with fetal deaths and resulting post-abortion grief. The preamble declares also that a "near-total" ban on abortion "would pose a grave threat to the public health." This "finding" ignores the untold harm to public health inflicted by the loss of millions of innocent unborn human lives as a result of abortion and the negative health impact on women caused by the physical and psychological trauma of abortion. Such "finding" also ignores the number of women who have lost their lives as a result of an abortion. In addition, the preamble states that "Contraceptive use and access is critical to being able to avoid unplanned pregnancy." This "finding" fails to account for the importance of strong moral values and the effectiveness of abstinence.

The preamble does not mention that the Massachusetts General Court was at the forefront in providing strong legal protection for unborn human lives and for women's informed consent, enacting bans against abortion funding and instituting stringent parental consent requirements, as well as placing limits on contraction, evidencing a legislative intent to regulate abortion and contraception to the greatest extent judicially allowable. If enacted, House 1745/Senate 1610 would insert language into the Massachusetts statutes that for the first time would endorse judicial rulings antithetical to the General Court's history of protecting life and promoting moral responsibility. The Conference thus opposes House 1745/Senate 1610.

Requested Committee Action

For the foregoing reasons, the Conference urges the Committee to give House 1670 a favorable report recommending the bill's passage, and to give House 1745 and 1746, and Senate 1610 an unfavorable report recommending that these latter bills ought not pass.

The Massachusetts Catholic Conference is the public policy office of the Roman Catholic Bishops in the Commonwealth, representing the Archdiocese of Boston and the Dioceses of Fall River, Springfield, and Worcester.



**Massachusetts Department of Public Health
Last Trimester Pregnancy Termination Consent Form**

Facility Name: _____

Patient Name: _____

Patient I.D. Number: _____

By state law, before a doctor may do an abortion, the doctor must get your written informed consent on a form prepared by the Massachusetts Department of Public Health (MDPH). This form contains information about:

- pregnancy termination procedures
- the possible medical problems
- the choices you have other than termination

When a pregnancy is ended in the last trimester, state law (G.L. c.112 §12P) requires that the doctor must take all reasonable steps within good medical practice, consistent with the procedure being used, to preserve the life and the health of the fetus.

Under Massachusetts law (G.L. c.112 §12M), pregnancy termination in the last trimester is allowed only when medically necessary to save your life or if continuing the pregnancy will cause a substantial risk of harm to your physical or mental health.

Last Trimester Pregnancy Termination

In a pregnancy termination, the contents of the womb (uterus) are removed or pushed out by the body, leaving the uterus to return to its non-pregnant state.

The following kinds of procedures are used to end a pregnancy of 24 weeks or more and are done in a hospital.

Dilation and Induction

Induction procedures cause contractions in the uterus. Contractions dilate the opening of the uterus (cervix) and help to push out the contents of the uterus. Contractions can be started by the use of medicines that are given through the vagina or through a vein. These procedures can take a few hours from the beginning to the end. Sometimes suction and/or other instruments are used to finish the procedure. Pain medicine usually is given to make you more comfortable.

Sometimes, to help in this procedure, different kinds of dilators are put into the cervix, where they stay for a few hours or up to a day before the procedure. This helps stretch the cervical canal. You may have cramps during or after the dilators are put in.

Cesarean Section (C-Section)

A C-Section is a type of surgery in which a cut is made through the belly and into the uterus. The contents of the uterus are removed through this opening. The opening is then stitched up.

General, spinal or epidural anesthesia is used for C-Sections. For spinal or epidural anesthesia, the medicine is injected in or near the spine. This causes numbness and stops pain. For general anesthesia, medicines usually are given through a vein in the arm (with an IV) and a gas is breathed through a mask. The gas stops the pain and makes you unconscious for a short time. *Your doctor should talk with you about your choices of pain medicine.*

Possible Medical Problems

As with any medical procedure, problems may happen. Problems with pregnancy terminations are rare but may include: infection, heavy bleeding (hemorrhage), retained tissue, continued pregnancy, reactions to the medicines, blood clotting problems, tear in the cervix or uterus, or injury to nearby organs.

In very rare situations, a termination may effect your ability to have children or may lead to major surgery, including hysterectomy, and colostomy (if your bowel is injured), or death.

Make sure your health care provider answers your questions about these risks.

Follow-up Care

It is important to return to the hospital or your health care provider 3 - 4 weeks after the termination procedure. At this time, your health care provider will make sure there are no signs of infection or other problems and will discuss any health care concerns you may have. If you don't have a doctor, ask a provider at the hospital to help you find one.

Choices You Have Other Than Pregnancy Termination

Pregnancy termination in the last trimester is allowed only when medically necessary to save your life or if continuing the pregnancy will cause a substantial risk of harm to your physical or mental health. If you decide to continue the pregnancy, you are advised to discuss the risks and options with your doctor.

Public Assistance

If you decide not to have an abortion, the state cannot deny **you** public assistance for this reason. For information on eligibility and benefits, contact the Massachusetts Department of Transitional Assistance (welfare).

I, _____
Name of Patient

have received the information prepared by the Massachusetts Department of Public Health that describes pregnancy termination procedures, the possible medical problems associated with these procedures and my pregnancy options. I have read and I understand the information provided. I have had the chance to ask questions and discuss my concerns.

I hereby authorize my doctor to perform a pregnancy termination by the following procedure:

Signature of Patient

Date

Signature of Witness

Date

This form shall be maintained solely by the facility as part of your confidential medical record and must be destroyed seven years after the procedure.