

NSSRH Student Activist Conference

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**Participating in Abortion Services and Advocacy
When Your Employer has Religious or Moral
Objections**

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ANSIRH

→ ADVANCING NEW STANDARDS IN REPRODUCTIVE HEALTH

UCSF University of California, San Francisco | Bixby Center for Global Reproductive Health

NWLC

NATIONAL WOMEN'S LAW CENTER

Objectives



Clinicians face employer hostility and discrimination when they participate in abortion services or advocacy.

In this combined panel discussion and small group session, we will

- Describe the problem
- Discuss potential law and policy protections that already exist
- Discuss ongoing work to support clinicians
- Identify ways that nurses can address workplace hostility and discrimination
- Explore actual cases in small groups
- Provide resources

The Problem



- Prohibitions on taking part in abortion services or advocacy.
 - Written or unwritten policies
 - Contractual clauses: restrictive covenants or morality clauses
- Hostility or stigma in the workplace
- Outright discrimination:
 - Clinicians are fired, demoted, threatened, assigned worse shifts, or denied jobs

The Problem



- Clinicians report having job offers rescinded once an employer discovers their past or present participation in abortion services or advocacy.
- An interviewer said to a physician in a job interview: “If I ever find out you did elective abortion any time in your professional life, you will never practice medicine in [this state] again.”



The Problem



- A physician planned to testify opposing a bill in the state legislature. When her hospital employer found out, an administrator told her that if she showed up to testify, she'd likely lose her job.
- A private practice physician moonlighted at an abortion clinic for many years. But when a Catholic hospital bought her practice, the physician was forced to choose between her job and continuing to provide abortion care.

What Nurses Can Do



Nurses can empower themselves by gaining *knowledge* about the problem and about the *tools* that they can use to ward against this kind of discrimination in their workplace.

The Law(s)



- **Several federal and state laws might provide protection. For example, they might mean that a health care institution cannot:**
 - Rescind a job offer because of your background in abortion services or advocacy;
 - Threaten your job because you want to speak publicly about abortion;
 - Forbid you from moonlighting or volunteering at a local abortion clinic simply because they don't want you to be involved in abortion;
 - Retaliate against you for giving a patient referrals for or information about abortion; or
 - Retaliate against you because you participated in providing abortion as the standard of care for a patient experiencing miscarriage or other pregnancy complication.

The Law(s)



- Laws that explicitly protect clinicians who provide or support abortion

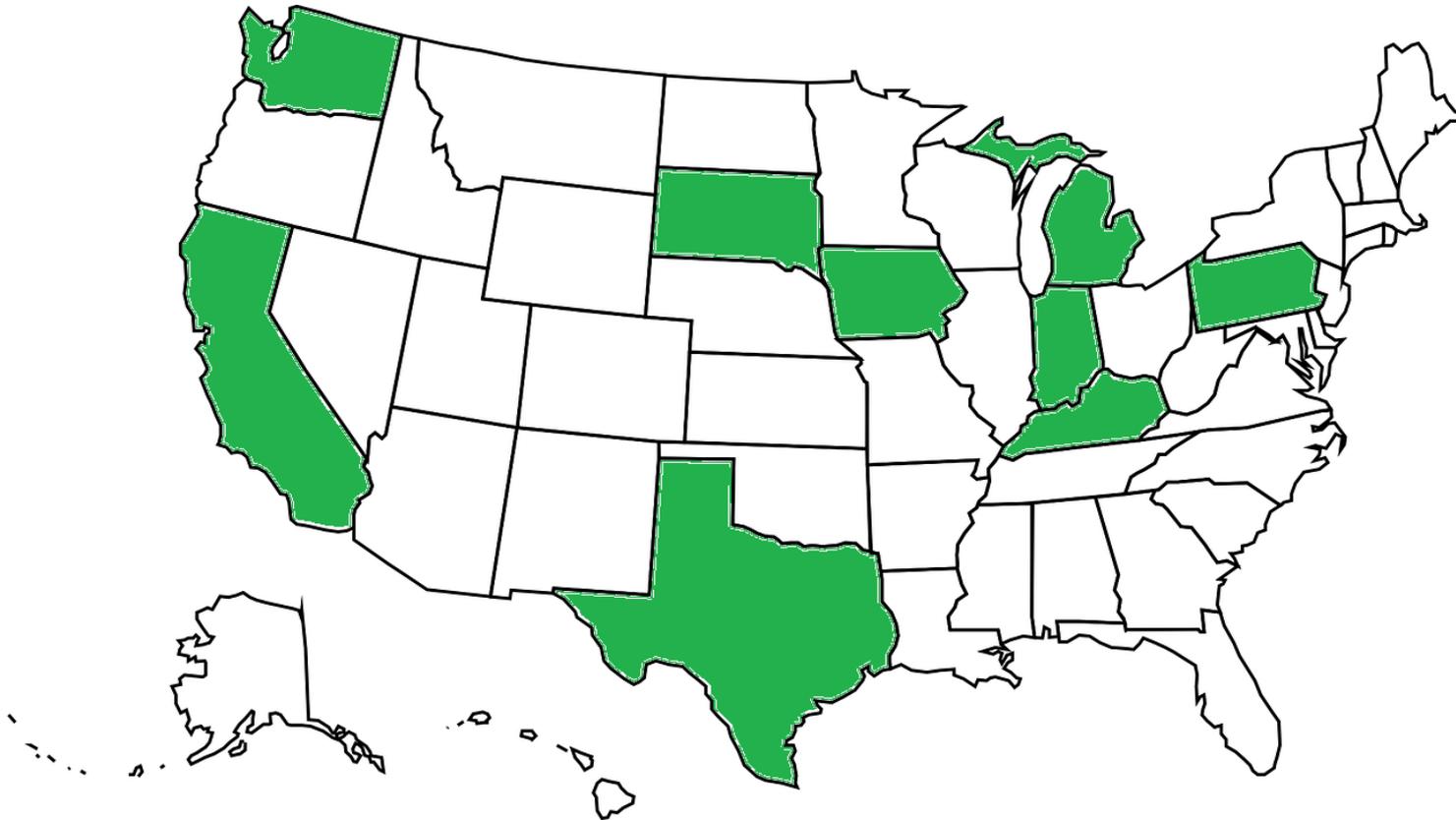
- The Church Amendments, 42 U.S.C. § 300a-7

“No entity which receives a grant, contract, loan, or loan guarantee under [certain federal health programs] may-- (A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or (B) discriminate in the extension of staff or other privileges to any physician or other health care personnel, ***because he performed or assisted in the performance of a lawful sterilization procedure or abortion***, because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his religious beliefs or moral convictions, ***or because of his religious beliefs or moral convictions respecting sterilization procedures or abortions.***”

The Law(s)



- Laws that explicitly protect clinicians who provide or support abortion
 - State laws – CA, IA, IN, KY, MI, PA, SD, TX, WA



More Law(s)



- The First Amendment (applies to government employers only)
- Labor & employment laws
 - State laws may provide protection against retaliation for:
 - Engaging in political activity outside work
 - Engaging in lawful activity outside working hours





More Law(s)



■ Title VII

- Protects individuals from being punished by an employer for failing to engage in the employer's religious practices

■ National Labor Relations Act (NLRA)

- The NLRA provides protection against retaliation for “concerted activity” – two or more employees discussing workplace issues with each other or with employer – even in instances where the employees do not belong to a union. So, you could be protected from retaliation for the following kinds of activity:
 - Discussing your hospital's abortion referral policy with a coworker
 - Submitting a request to your administration, along with one or more colleagues, for clarification on the hospital's media policy

<https://www.nlr.gov/rights-we-protect/employee-rights>

Employment Contracts



- **Non-compete clauses.** This kind of provision states you will not compete with the employer in a specified area for a specified time after you leave employment. Sometimes these clauses are explicitly written to also restrict your ability to moonlight while you are employed.
- **Full time devotion to duty.** This kind of clause explicitly states that while you are employed you are to devote your entire working time solely to your employer, and not to any other employment. It could be used to prevent you from “moonlighting” outside of your normal work, for example at an abortion clinic.
- **Morality clauses.** These clauses prohibit certain behavior. For example, some Catholic hospitals require employees to “live by Catholic values” and then sometimes point to these clauses to justify prohibiting employees from providing abortions even on their own time or in a second job, or from advocating publicly around abortion access.

Professional Association Policy Statements



- “[R]estrictive covenants have the potential to restrict competition, disrupt continuity of care, and deprive the public of medical services.”
- “Physicians should not enter into covenants that... do not make reasonable accommodation for patients’ choice of physician.”

Professional Association Ethics Guidelines



■ American Nurses Association

- ANA Code of Ethics for Nurses (1893, 1950, 2015): Non-negotiable obligation of nurses to recognize patient autonomy and the right to self-determination. Nurses are required to provide for patient safety, to avoid patient abandonment, and to withdraw only when assured that nursing care is available to the patient. The Code also provides guidance for objections of conscience.
- ANA position on reproductive health (1989, 2010): “ANA believes that healthcare clients have the right to privacy and the right to make decisions about personal health care based on full information and without coercion. Also, nurses have the right to refuse to participate in a particular case on ethical grounds. However, nurses are obligated to provide for the client's safety and to avoid abandonment.”

■ ACNM, AWHONN

Professional Association Policies



■ Professional Practice Standards

- Nursing Standards/Scope ([ANA](#))
- SRH Standards of Care ([WHO](#)/ [US SRH](#) competencies and guidelines)
 - [SRH Competencies](#) for Nurses
 - [Conscientious Commitment to Care](#) vs [Objection](#)
- Education [Standards/Competencies](#)
- Institutional Policies/Standards ([JCO Standards](#), [Healthcare Refusals](#), [Religious Directives](#), [Standard of Care](#))

■ Nursing union policy statements

- [Religiously affiliated hospital contracts](#)
- [History of nurses unions](#)

Organizing and Opportunities for Advocacy



- Legislative advocacy
- Your employer's policies
- Nursing/Midwifery professional associations
- Workplace Practice Committees
- Nursing unions
- NSSRH
- Reproductive Freedom Coalitions
- Each other!

Legislative Advocacy

Nov. 7 – DC Abortion Provider Nondiscrimination Amendment Act

DID YOU KNOW?
PROVIDERS HAVE:

- X BEEN FIRED**
- X BEEN DEMOTED**
- X HAD JOB OFFERS RESCINDED**

JUST FOR PROVIDING AND SUPPORTING ABORTION.

THIS IS NOT OKAY.



NATIONAL WOMEN'S LAW CENTER
EXPANDING THE POSSIBILITIES



David Grosso @cmdgrosso · Nov 7

So today I'm introducing the Abortion Provider Non Discrimination Amendment Act of 2017 [#ProtectProviders](#) bit.ly/2hPd0Za

David Grosso @cmdgrosso

A health practitioner shouldn't fear for their job based on their support for the right to choose or willingness to participate in abortion

4

19

48



CenterforReproRights @ReproRights · Nov 7

Health care providers should never fear discrimination or losing their jobs for providing full access to repro care. [#ProtectProviders](#)



beyoncepadthai @beyoncepadthai4 · Nov 7

No one should face retaliation because they advocate for women's right to privacy, dignity, and respect [#ProtectProviders](#) @cmdgrosso bill



PPGP Votes Arkansas and 3 others follow



Catholics for Choice @Catholic4Choice · Nov 7

Hospitals should NEVER use religious beliefs to discriminate against employees who provide abortion care. We must [#ProtectProviders](#).



DC Abortion Fund @DCAbortionFund · Nov 7

45k DC residents work in health care. Whether they're providers or simply support abortion access, they deserve protection [#ProtectProviders](#)

Professional Competencies: Knowledge, Responsibilities & Activism



*Providing Abortion Care: A Professional Toolkit
for NPs, CNMs, & PAs* Taylor, Safriet, Dempsey, Kruse

- **Strategies for working within your professional organizations (PAGE 33-37) and regulatory boards (PAGE 59-60)**
- Evidence of legislative, legal & regulatory environments PAGE 50-56
- **Institutional/administrative body opinions and policies. PAGE 53-56**
- Practice portfolio -- summarizes essential evidence for individual practice documentation (education, competence, experience, regulatory adherence). PAGE 78-80

www.apctoolkit.org



Working in Coalition to Overcome Challenges & Challengers

CCRF

California Coalition for Reproductive Freedom

A woman knows what's best for her and her family





The California Women's Health Alliance comprises more than 30 organizations that are dedicated to protecting and improving women's reproductive health in the state.

California Women's Health Alliance members:

ACCESS Women's Health Justice, ACLU of California, ACT for Women and Girls, **American Nurses Association/California**, Bay Area Communities for Health Education, Black Women for Wellness, Business & Professional Women of Nevada County, California Church IMPACT, California Family Health Council, California Latinas for Reproductive Justice, **California NP Association**, **California Nurse-Midwives Association**, California Women's Law Center, Cardea Institute, Center on Reproductive Rights and Justice, Choice USA, Forward Together, Fresno Barrios Unidos, Khmer Girls in Action, League of Women Voters of California, NARAL Pro-Choice California, National Asian Pacific American Women's Forum, National Center for Lesbian Rights, National Council of Jewish Women - California, National Health Law Program, National Latina Institute for Reproductive Health, National Network of Abortion Funds, Nevada County Citizens for Choice, Nursing Students for Choice, Physicians for Reproductive Health, Planned Parenthood Affiliates of California, Reproductive Justice Coalition of Los Angeles, Women's Community Clinic, Women's Health Specialists of California

NWLC messaging to support advocacy



- Voters support policies that protect health care workers from discrimination and ensure patients receive the standard of care:
 - **82%** favor policies making sure hospitals, doctors, and nurses provide patients with medical services including abortion when a patient's life or health is at risk.
 - **80%** favor policies that make sure that a hospital that does not provide abortion still provides a woman with correct and complete information and referrals for abortion so that a patient is not left with nowhere to turn.
 - **60%** favor policies that stop hospitals from firing, demoting, or otherwise retaliating against doctors or nurses because they treated a woman seeking an abortion or gave her information or referrals for abortion.

Small Group Work



3 groups, 3 scenarios

“How would you deal with...?”

- Retaliation for an abortion referral
- Prohibition on political advocacy
- Denial of a job because of participation in abortion services or advocacy

Scenario 1



Sean, an emergency room nurse, is forced to turn his patient away from receiving the care she needs for a miscarriage because Sean's hospital employer has a policy against providing that care because it involves terminating the fetal life. The hospital does not have a policy on referral for abortion, so Sean gives the patient information about another institution where he knows she will be able to get the care she needs. One of Sean's colleagues, who is vocally anti-abortion, sees him provide his patient with this information and reports it to their supervisor who creates the ER schedules. For the next few months, Sean is put exclusively on the least desirable shifts, even though he has had a more balanced schedule for years.

Scenario 2



Alexa, an ob/gyn nurse, wants to testify before the state legislature in support of a bill that would increase access to abortion. The night before she is scheduled to testify, an administrator from her hospital employer calls her and says, “We don’t want you to testify tomorrow on that abortion bill. If you do decide to testify, we unfortunately may have to let you go.”

Scenario 3



Sarah graduated from nursing school last year. She is now applying for a position at a family practice clinic. Everything goes well – the practice indicates that her hiring is basically a done deal, and that she just needs to come in for an interview as a formality before a formal offer is extended. During her interview, she seems to get along with everyone very well. One interviewer asks what her favorite part of nursing school was, and she says it was her part-time work at a local Planned Parenthood where she assisted patients coming in for abortions, and her time as chapter leader of her NSSRH chapter. The mood in the interview room suddenly becomes less enthusiastic, and the interview ends soon thereafter. An hour later, Sarah gets an email from the family practice saying that they are unfortunately not able to hire her after all.

Q&A with Large Group



Thank you!



■ Resources

- NWLC *Know Your Rights*
- Professional Toolkit www.apctoolkit.org
- Nursing Code of Ethics with Interpretive Statements
<http://nursingworld.org/DocumentVault/Ethics-1/Code-of-Ethics-for-Nurses.html>
- [Professional Ethics & SRH](#)
- [Political Action](#), [Advocacy](#), [Ethics](#), Activism
- [SRH/Unintended Pregnancy Prevention ed/training](#)
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