



WISCONSIN CATHOLIC CONFERENCE

TO: Representative Clint Moses, Chair

Members, Assembly Committee on Health, Aging, and Long-Term Care

FROM: David Earleywine, Associate Director for Education and Religious Liberty

DATE: February 14, 2024

RE: AB 953, Agreements for Direct Primary Care

The Wisconsin Catholic Conference (WCC), the public policy voice of the Catholic bishops of Wisconsin, urges you to oppose AB 953, which establishes agreements for direct primary care (DPC).

The Catholic Church supports universal access to health care and holds that health care must respect life and dignity, be accessible and affordable to all, honor conscience rights, and be comprehensive and of high quality. Catholic health care facilities exist to welcome and serve all people, no matter their age, sex, race, or religion. So, we are not opposed to direct primary care providers as such. In fact, it would be good if there were more of them.

We also want to stress that no matter a person's condition, abilities, or self-identification, every person is created in the image and likeness of God and deserves to be treated with dignity, respect, and compassion. No one should ever face harassment, mistreatment, or unjust discrimination.

Our objection to the bill stems solely from how it embeds gender identity into Wisconsin law. Doing so would separate gender from biology and lead to serious consequences. As Pope Francis has written, "'biological sex and the socio-cultural role of sex (gender) can be distinguished but not separated.'...It is one thing to be understanding of human weakness and the complexities of life, and another to accept ideologies that attempt to sunder what are inseparable aspects of reality."¹

When healthcare decisions are based on a patient's self-determined gender identity and not on the biological reality of sex as male and female, medicine suffers. For medical purposes, it is essential to record medical facts accurately and to provide appropriate care. A biological female has certain specific physiological conditions that a biological male does not, and vice versa.

If a medical professional declines to order a pap smear for a biological male, that is not an act of unjust discrimination. If the same medical professional declines to provide a flu shot simply because the patient identifies as transgender, that is discrimination.

¹ Pope Francis, *Amoris Laetitia*, no. 56; quoting the *Relatio Finalis*, no. 58.

In addition, there are free speech and religious and conscience rights that must be considered. Health care workers objecting on conscience and religious grounds should not have their constitutional rights violated. For example, the Catholic Church teaches that “Catholic health care services must not perform interventions, whether surgical or chemical, that aim to transform the sexual characteristics of a human body into those of the opposite sex or take part in the development of such procedures.”²

If AB 953 were to become law, Catholic and other medical professionals could find themselves accused of discrimination if they do not provide certain medical services or affirm the gender identity of their patients. For example, there are Catholic DPCs that prescribe certain hormones to biological females but decline to prescribe the same hormones to biological males. Objecting to gender transition services or procedures does not constitute unjust discrimination. The objection is focused on the action, not the person.

Similarly, no medical professional, nor anyone else, should be forced to say that a biological female is a male, or vice versa. It bears repeating that all patients must be treated with respect and never be scorned or mistreated. However, compelled speech is not the way to ensure this.

Some today will argue that the 2020 U.S. Supreme Court ruling in *Bostock v. Clayton County*, which held that gender identity discrimination in employment amounts to sex discrimination under Title VII of the Civil Rights Act of 1964, necessitates the inclusion of gender identity in this bill. But this is not true.

Justice Gorsuch and the majority in *Bostock* explicitly stated that *Bostock* does not apply to any other statute besides Title VII, or even to any other set of facts under Title VII. It is only about hiring and firing on the basis of sexual orientation or transgender status. As the majority opinion noted:

“The employers worry that our decision will sweep beyond Title VII to other federal or state laws that prohibit sex discrimination. And, under Title VII itself, they say sex-segregated bathrooms, locker rooms, and dress codes will prove unsustainable after our decision today. But...*we do not purport to address bathrooms, locker rooms, or anything else of the kind.* The only question before us is whether an employer who *fires* someone *simply for being homosexual or transgender* has discharged or otherwise discriminated against that individual ‘because of such individual's sex.’” *Bostock v. Clayton County*, 140 S. Ct. 1731, 1753 (2020) (emphasis added).

In short, *Bostock* was about how to construe a specific federal statute, not other federal or state statutes. While there have been several subsequent lower court rulings holding that other sex nondiscrimination statutes must also be interpreted in light of *Bostock* to prohibit sexual orientation and gender identity discrimination, other rulings found no such foundation.³ In short, this area of the law is far from settled.

² “Doctrinal Note on the Moral Limits to Technological Manipulation of the Human Body,” Committee on Doctrine, United States Conference of Catholic Bishops (March 20, 2023), <https://www.usccb.org/resources/Doctrinal%20Note%202023-03-20.pdf>.

³ See *Neece v. Becerra* (2022)

<https://law.justia.com/cases/federal/district-courts/texas/txndce/2:2021cv00163/352435/66/>

Once gender identity is enshrined into this health care law, it can and will be used to argue that objective biology, with all its attendant considerations, is secondary to subjective identity.

Views on human sexuality necessarily involve views about reality and the nature of the human person. No one should be forced to act in a manner contrary to his or her own conscience or religious beliefs, whether privately or publicly, whether alone or in association with others, within due limits. This right is especially in need of protection in the healthcare field, where decisions about life and death are made every day.

It is for this reason that conscience and religious rights are paramount.

Article I, Section 18 of the Wisconsin Constitution states that “[t]he right of every person to worship Almighty God according to the dictates of conscience shall never be infringed;...nor shall any control of, or interference with, the rights of conscience be permitted...” It should be noted that this language is even stronger than the First Amendment of the U.S. Constitution.

In conclusion, it is essential to find a way to treat each other with mutual respect. This can be done without enshrining in the law a view that opposes biological reality and forces compliance and compelled speech on those who have sound medical objections, conscience, and religious freedom claims.

We respectfully urge the committee to do one of three things: 1) remove the entire nondiscrimination clause, 2) remove gender identity, or 3) reject the bill in its current form.

Thank you.