



March 8, 2021

Dear Senator,

I write to advise you that Susan B. Anthony List, on behalf of our more than 900,000 members, opposes H.R. 5, the Equality Act, unless it is amended to eliminate threats to the right to life. Buried within H.R. 5 are provisions that will have dire implications for the unborn and the conscience rights of health providers in relation to the provision of abortion. Together, these provisions could be used to greatly expand access to, and funding for, abortion, while also forcing health care providers to participate in abortion.

H.R. 5 amends the Civil Rights Act by adding “pregnancy, childbirth, or a related medical condition” to the definition of “sex,” which courts have interpreted broadly to include abortion. In *Doe v. C.A.R.S.*, the Third Circuit ruling specifically states, “We now hold that the term ‘related medical condition’ includes an abortion.” H.R. 5 then further specifies that “pregnancy, childbirth, or a related medical condition shall not receive less favorable treatment than other physical conditions.” Collectively, these provisions embed a right to abortion in the word “sex” throughout the Civil Rights Act. For confirmation, look no further than the words of the National Partnership for Women and Families, whose analysis of H.R. 5 states, “For example: Women would also be able to challenge denials of reproductive health care where a federally-funded entity otherwise provides comparable or comprehensive health care.”

In addition, H.R. 5 adds any “establishment that provides health care” to the list of entities that must meet the public accommodation requirements of the Civil Rights Act. This combined with the sweeping provisions defining a right to abortion into the word “sex” could result in requiring the provision of abortion or coverage by doctors, nurses, health insurers, hospitals and clinics.

H.R. 5 further stipulates that any attempt to withhold such services constitutes discrimination. State laws or policies regarding abortion could be superseded by this federal legislation. For example, H.R. 5 could override abortion funding restrictions, informed consent laws and abortion health and safety standards, or other regulations.

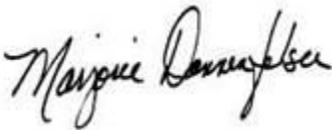
There are no provisions within this legislation allowing for conscientious objections to abortion. In fact, religious objection to abortion is explicitly blocked by stating that no claims can be made under the Religious Freedom Restoration Act. Absent conscience protections, the broad mandates in the bill are in direct conflict with many conscience rights provisions already in law,

such as the Weldon Amendment. These conflicts could cause significant legal confusion and chaos.

While the terms “pregnancy, childbirth, or related medical condition” were used in the Pregnancy Discrimination Act four decades ago, it was accompanied by language stating that employers could not be forced to cover abortion in health insurance benefits except to save the life of the mother. H.R. 5 does not override that limited safeguard but fails to extend equivalent safeguards to address its much broader, more sweeping reach.

Unless H.R. 5 is amended to address these concerns to ensure the bill stays neutral on the topic of abortion, Susan B. Anthony List opposes and will score against H.R. 5. Any amendments to mitigate the extreme abortion reach of this bill will be considered in our scorecard for the 117th Congress.

Sincerely,

A handwritten signature in black ink that reads "Marjorie Dannenfelser". The signature is written in a cursive, flowing style.

Marjorie Dannenfelser
President
Susan B. Anthony List