



February 19, 2021

Dear Senate Public Health, Welfare and Safety Committee:

Opposition to SB 245: “AN ACT PROVIDING PROTECTIONS FOR MEDICAL PRACTITIONERS, HEALTH CARE INSTITUTIONS, AND HEALTH CARE PAYERS OBJECTING TO PARTICIPATING IN HEALTH CARE SERVICES BASED ON CONSCIENCE; PROVIDING REMEDIES; PROVIDING PROTECTIONS FOR WHISTLEBLOWERS...

My name is Vicky Byrd, MSN, RN. I am a Montana Registered Nurse of 32 years and the CEO of the Montana Nurses Association (MNA). MNA is the recognized leader and advocate for the professional nurse in Montana. MNA promotes professional development, nursing practice, standards, and education; represents professional nurses; and provides nursing leadership in promoting high quality healthcare, safety, and overall public health.

Montana Nurses Association opposes SB 245 for the following reasons.

SB 245 fails to ensure that all people have equal access to comprehensive and nondiscriminatory services, and dangerously expands the ability of institutions and entities, including hospitals, pharmacies, doctors, nurses, even receptionists, to use their religious or moral beliefs to discriminate and deny patients health care. This subject has been dealt with successfully for many years through each professions’ code of ethics and oaths that support their health practice to care for patients. Unfortunately, discrimination in health care settings remains a grave and widespread problem for many, especially vulnerable populations and contributes to a wide range of health disparities. MNA stands for all patients deserving of universal affordable access to high quality healthcare and we, as one part of the many health care providers, must guard against any erosion of civil rights protections in health care that would lead to denied or delayed care.

I offer the following remarks from the Code of Ethics for Nurses and Moral and Ethical Obligations and statement (2018) from an ANA (American Nurses Association) letter in 2018 to the Office of Civil Rights in regards to protecting statutory conscience rights in healthcare.

The critical importance of the relationship between the patient and the nurse is inherent in the fact that the Code of Ethics for Nurses deals explicitly with these topics. Affirming Health through Relationships of Dignity and Respect: Provision 1 of the Code of Ethics: states that “The nurse practices with compassion and respect for the inherent dignity, worth, and unique attributes of every person.” This includes respect for the human dignity of the patient and the demand that nurses must never behave prejudicially – which is to say, with unjust discrimination. Nurses can and should base patient care on individual attributes, but only in the sense that those individual attributes inform the patient’s health plan; nurses must always respect the dignity of such individual attributes.

While the primacy of the patient is not the only consideration when a nurse makes a care decision, it is the consideration which carries by far the most relative weight. Nurses then must base care

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decisions primarily on patients' needs. If a nurse feels that a moral or ethical consideration prevents him or her from delivering health care services, then the nurse, the full medical/healthcare team, and/or the health practice, institution, health system, or agency, should make an exhaustive and good-faith effort to ensure that the patient easily and promptly receives those health care services.

There must be a balance between the rights of health care providers to follow their conscience, and the protection of patients' rights.

The evolution of the ANA Code of Ethics for Nurses dates from 1893 when the "Nightingale Pledge" was adopted. Since 1950, the Code has served as the primary source of ethical standards for nurses practicing across all levels, all roles, and all settings.

The nurse's primary commitment is to the patients of nursing and healthcare services—the patient—whether individuals, families, groups, communities, or populations.

MNA recognizes that nurses, like any health care providers, may face situations where certain health care options pose a conflict between the duty to provide patient care, and one's personal, moral, and religious or spiritual beliefs. There are already well defined processes in place. The Code of Ethics for Nurses allows nurses to refuse to engage in practices which they find morally objectionable. The conflicts are well known ahead of time and when nurses are placed in circumstances that exceed moral limits or that violate moral standards in any nursing practice setting, they must express to the appropriate authority their conscientious objection to participating in these situations. **When a particular decision or action is morally objectionable to the nurse, whether intrinsically (essential) so or because it may jeopardize a specific patient, family, community, or population, or when it may jeopardize nursing practice, the nurse is justified in refusing to participate on moral grounds. Conscience-based refusals to participate exclude personal preference, prejudice, bias, convenience, or arbitrariness.** An objection cannot be based on or determined by individual preference or convenience rather than by necessity.

Acts of conscientious objection may be acts of moral courage, however, may not insulate nurses from formal or informal consequences. **Nurses who decide not to participate on the grounds of conscientious objection must communicate this decision in a timely and appropriate manner. Such refusal should be made known as soon as possible, in advance and in time for alternate arrangements to be made for patient care.** Nurse executives, healthcare institutions, and entities should ensure the availability of policies that address conscientious objection. Nurses are obliged to provide for patient safety, to avoid patient abandonment, and to withdraw only when assured that nursing care is available to the patient.

Committee members, there is no need for this bill to interfere with what is already in place and has worked for centuries. Nurses across Montana encourage this committee to please vote no on SB 245.

Most Respectfully,

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