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Oppose HB 19 / SB 1140, Abortion Provider Liability

HB 19 / SB 1140 would create a new section of law outside of well-established medical malpractice statutes that allows a woman to sue her physician for damages for any physical injuries or "emotional distress" she claims to have suffered after obtaining an abortion.

HB 19 / SB 1140 is a blatant attempt to intimidate and shutter safe and law-abiding abortion providers

This bill is designed to make the legal landscape too risky for doctors to do their job by increasing their exposure to frivolous lawsuits and the expense of defending each one.

An increase in risk for the provider means an increase in the cost of providing care, including the cost of carrying malpractice insurance.

The bill would significantly increase the risk physicians face in providing safe and legal abortion care:

- It would create a separate legal claim related only to abortions, despite the fact that any patient injured during an abortion can already sue under Florida law for medical malpractice.
- It would increase the amount of time a patient has to sue to at least double what current law allows for all other medical negligence claims.
- It would allow a claim to proceed even if a patient acknowledges that the risks associated with the procedure were explained to her in advance and she signed an informed consent form.

Let's be clear: abortion is an extremely safe procedure and serious complications are exceedingly rare. Health care providers who perform abortions should not be singled out for harsher and discriminatory treatment. In the rare case of negligence or other harm, there are already a variety of well-established laws that address how patients can recover damages. The nature of one's specific medical practice should not create what is essentially double-liability.

HB 19 could be unconstitutional as well. By singling out physicians who provide abortions for treatment disparate from that accorded to all other providers in the state, HB 19 could violate the Equal Protection Clause of the 14th Amendment.

HB 19 / SB 1140 is broadly worded and opens physicians up to broad, dangerous liability

There is no exception for abortions performed due to medical emergency – even though current law recognizes that full informed consent may not always be feasible in a medical emergency.

This essentially means that a woman who suffers "emotional distress" after a severe medical emergency where a physician did not have time to secure informed consent could have no limits on suing that provider for any emotional distress claimed. Current medical malpractice law recognizes that this is unfair to health care providers who provide emergency care to their patients, but HB 19 subverts current law on this topic.

Furthermore, without a definition of "emotional distress," the bill provides no limiting principle on the types of frivolous lawsuits that could be filed.