

## **Resolution to Stop State Legislators from Practicing Medicine Without a License**

WHEREAS the American Academy of Family Physicians (AAFP) states that, “Quality healthcare in family medicine is the achievement of optimal physical and mental health through accessible, safe, cost-effective care that is based on best evidence, responsive to the needs and preferences of patients and populations, and respectful of patients’ families, personal values, and beliefs,”<sup>1</sup> and

WHEREAS the AAFP “supports the use of evidence-based and explicitly stated clinical practice guidelines” that are “developed using rigorous evidence-based methodology,”<sup>2</sup> and

WHEREAS family physicians undergo over 20,000 hours of clinical training before being permitted to practice independently<sup>3</sup> and

WHEREAS state and federal legislators are not required to undergo any medical training or licensure, and

WHEREAS recent legislation has significantly and inappropriately interfered with information provided within the physician-patient relationship, for instance, five states currently require physicians to inform patients of a link between abortion and breast cancer<sup>4</sup> (contrary to the findings of the National Cancer Institute<sup>5</sup>), and seven states require patients to be told of a link between abortion and negative mental health outcomes<sup>6</sup> (contrary to the findings of an American Psychological Association task force<sup>7</sup>), and

WHEREAS recent legislation has significantly and inappropriately interfered with medical practice, for instance, seven states mandate that an ultrasound must be performed on each woman seeking abortion care<sup>8</sup>, even though safe and effective protocols exist for providing abortion without routine ultrasound<sup>9</sup>--significantly increasing cost without medical benefit, and

WHEREAS recent legislation has significantly and inappropriately interfered with a physician’s ability to use his or her trained judgment within the patient-physician relationship, for instance, 26 states require patients to wait a specified amount of time between the required counseling and the abortion procedure<sup>10</sup>—denying the physician’s expertise and ability to determine whether his or her patient is fully consented and ready for the procedure, and

WHEREAS recent legislation has interfered with physicians’ scope of practice—14 states prohibit abortion after a certain number of weeks<sup>11</sup>, even though the U.S. Supreme Court held in 1973 that a person has the right to abortion until the point of viability, and that it is the physician’s responsibility to determine, in each case, whether the fetus is viable,<sup>12</sup> and

WHEREAS though the above examples pertain to abortion care, a politically charged issue, they represent a slippery slope into other legislative incursions into the physician-patient relationship, and open the door for inappropriate legislation of other

controversial aspects of the physician-patient relationship, such as Florida's law, now blocked by a federal judge, that would have prohibited doctors from asking patients about guns in the home<sup>13</sup>, and

WHEREAS the AAFP "opposes legislation that infringes on the matter or breadth of information exchanged within the patient physician relationship because of the potential harm it can cause to the health of the individual, family and community," and states that, "Physicians should be free to have open and honest communication with patients about all aspects of health and safety,"<sup>14</sup> and

WHEREAS the American Medical Association (AMA) "vigorously and actively defends the physician-patient-family relationship and actively opposes state and/or federal efforts to interfere in the content of communication in clinical care delivery between clinicians and patients," and "strongly condemns any interference by government or other third parties that compromise a physician's ability to use his or her medical judgment as to the information or treatment that is in the best interest of their patients"<sup>15</sup> and

RESOLVED, that the NCSC strongly condemns any interference by government or other third parties that compromise a physician's ability to use his or her medical judgment as to the information or treatment that is in the best interest of their patients, and be it further

RESOLVED, that the NCSC supports litigation that may be necessary to block the implementation of newly enacted state and/or federal laws that restrict the privacy of physician-patient-family relationships and/or that violate the First Amendment rights of physicians in their practice of the art and science of medicine, and be it further

RESOLVED, that the NCSC will instruct its delegates to present this resolution to the AAFP Congress of Delegates.

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<sup>1</sup> American Academy of Family Physicians. (2000) (2011 COD) "Quality Healthcare in Family Medicine." <http://www.aafp.org/online/en/home/policy/policies/f/qualcare.html>

<sup>2</sup> AAFP Statement of Policy on Clinical Practice Guidelines. 1994, updated 2008 <http://www.aafp.org/online/en/home/policy/policies/c/clinicalpractguidelines.html>

<sup>3</sup> American Academy of Family Physicians. "Family Physician and Nurse Practitioner Training." [http://www.aafp.org/online/etc/medialib/aafp\\_org/documents/press/nurse-practitioners/np-training.Par.0001.File.tmp/NP\\_Info\\_FP-NPTraining-Compare-4pgs.pdf](http://www.aafp.org/online/etc/medialib/aafp_org/documents/press/nurse-practitioners/np-training.Par.0001.File.tmp/NP_Info_FP-NPTraining-Compare-4pgs.pdf)

<sup>4</sup> Guttmacher Institute. "State Policies in Brief: An overview of abortion laws." 5/1/2012. [http://www.guttmacher.org/statecenter/spibs/spib\\_OAL.pdf](http://www.guttmacher.org/statecenter/spibs/spib_OAL.pdf)

<sup>5</sup> National Cancer Institute. "Fact Sheet: Abortion, Miscarriage, and Breast Cancer Risk." <http://www.cancer.gov/cancertopics/factsheet/Risk/abortion-miscarriage>

<sup>6</sup> Guttmacher Institute. "State Policies in Brief: An overview of abortion laws." 5/1/2012. [http://www.guttmacher.org/statecenter/spibs/spib\\_OAL.pdf](http://www.guttmacher.org/statecenter/spibs/spib_OAL.pdf)

<sup>7</sup> American Psychological Association Task Force on Mental Health and Abortion. "Report of the APA Task Force on Mental Health and Abortion." 8/13/2008. <http://reproductiverights.org/sites/crr.civicactions.net/files/documents/American%20Psychological%20Association--Mental%20Health.pdf>

<sup>8</sup> Guttmacher Institute. "State Policies in Brief: Requirements for ultrasound." 5/1/2012. [http://www.guttmacher.org/statecenter/spibs/spib\\_RFU.pdf](http://www.guttmacher.org/statecenter/spibs/spib_RFU.pdf)

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<sup>9</sup> Clark W et al. "Medication abortion employing routine sequential measurements of serum hCG and sonography only when indicated." *Contraception*. 2007 Feb;75(2):131-5.

<http://www.ncbi.nlm.nih.gov/pubmed/17241843>

<sup>10</sup> Guttmacher Institute. "State Policies in Brief: Counseling and waiting periods for abortion." 5/1/2012.

[http://www.guttmacher.org/statecenter/spibs/spib\\_MWPA.pdf](http://www.guttmacher.org/statecenter/spibs/spib_MWPA.pdf)

<sup>11</sup> Guttmacher Institute. "State Policies in Brief: State policies on later abortions." 5/1/2012.

[http://www.guttmacher.org/statecenter/spibs/spib\\_PLTA.pdf](http://www.guttmacher.org/statecenter/spibs/spib_PLTA.pdf)

<sup>12</sup> Ibid.

<sup>13</sup> The Huffington Post. "Florida Doctor Gun Law Blocked by Federal Judge." 9/14/11.

[http://www.huffingtonpost.com/2011/09/14/florida-doctor-gun-law\\_n\\_962849.html](http://www.huffingtonpost.com/2011/09/14/florida-doctor-gun-law_n_962849.html)

<sup>14</sup> American Academy of Family Physicians. (2011 COD) "Infringement on Patient Physician Relationship."

<http://www.aafp.org/online/en/home/policy/policies/i/infringementonpatphyrelat.html>

<sup>15</sup> American Medical Association. "Government Interference in Patient Counseling." H-373.995.

<https://ssl3.ama-assn.org/apps/ecom/PolicyFinderForm.pl?site=www.ama-assn.org&uri=%2fresources%2fdoc%2fPolicyFinder%2fpolicyfiles%2fHnE%2fH-373.995.HTM>