



**Written Testimony of Catherine Glenn Foster, Esq.  
President & CEO, Americans United for Life  
On H.B. 51  
Submitted to the Committee on House Consumer and Public Affairs  
January 25, 2019**

Dear Chair Thomson and Members of the Committee:

My name is Catherine Glenn Foster. I am a lawyer. I serve as President and CEO of Americans United for Life (AUL), America's oldest and most active pro-life nonprofit advocacy organization; established in 1971, AUL has dedicated nearly 50 years to advocating for comprehensive legal protections for human life from conception to natural death. And when I was 19 years old, I had an abortion. Thank you for the opportunity to provide legal testimony on H.B. 51, which removes protections for hospitals and healthcare providers who have a conscience objection to abortion and expands abortion beyond *Roe v. Wade* and its progeny.

I have thoroughly reviewed H.B. 51, and it is my legal opinion that the Act violates the First Amendment and will have severe consequences for the health of women.

First, H.B. 51 violates the First Amendment rights of conscience and the free exercise of religion. Even in *Doe v. Bolton*, while creating a constitutional right to abortion, the U.S. Supreme Court acknowledged the freedom to choose not to participate in an abortion procedure, explaining that provisions allowing hospitals to choose not to admit patients for abortions and allowing employees to choose not to participate for religious or moral reasons were "appropriate protection[s] to the individual and to the denominational hospital."<sup>1</sup> In violation of these freedoms, H.B. 51 strips away the conscience rights of healthcare providers to act in accordance with their sincerely held religious beliefs and moral convictions.<sup>2</sup> For example, if a practitioner objects to performing or participating in an abortion procedure, he or she could face disciplinary or recriminatory action without adequate protection or recourse. Likewise, a religiously affiliated hospital could be coerced into facilitating or providing abortion in violation of its mission and purpose. H.B. 51 should be rejected because it would leave healthcare providers with a choice to either perform or facilitate abortions in violation of their conscience or to stop providing health care altogether.

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<sup>1</sup> *Doe v. Bolton*, 410 U.S. 179, 198 (1973) (companion case to *Roe v. Wade*).

<sup>2</sup> Although N.M.S.A. § 24-7A-7 and § 28-22-3 address a healthcare practitioner's and institution's freedom of conscience and a person's free exercise of religion, respectively, both laws are narrow and do not explicitly apply to abortion. Moreover, neither contains a right of enforcement or a private right of action, and § 28-22-3 only applies to actions by a government agency.

Second, H.B. 51 harms women like me by removing common-sense protections for women's life and health. Without the current criminal abortion statute, N.M.S.A. § 30-5-3, abortion providers will no longer be held criminally accountable for coerced abortions, which are particularly prevalent in cases of domestic violence or sex trafficking,<sup>3</sup> and which I experienced. And if the issue of abortion is returned to the states, the passage of H.B. 51 would remove criminal liability for abortions that result in the death of the woman. Tragically, the actions of abortion providers have caused the death of all too many women.<sup>4</sup> The criminal abortion statute is one of the last remaining regulations in place that protect the life, health, and safety of the woman who chooses to have an abortion. Ultimately, H.B. 51 should be rejected because it decriminalizes forced abortions and strips away necessary protections for women.

In conclusion, I urge this Committee to further New Mexico's important state interests in protecting conscience rights, safeguarding women's health, and preserving human life, and reject H.B. 51.

Sincerely,



Catherine Glenn Foster, M.A., J.D.  
President and CEO  
Americans United for Life

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<sup>3</sup> See, e.g., AMS. UNITED FOR LIFE, UNSAFE (2d ed. 2018) (report documenting unsafe practices of abortion providers and harm to women's health and safety).

<sup>4</sup> Some examples include Kermit Gosnell, who was found guilty of involuntary manslaughter, and Robert Rho, who botched an abortion that led to the death of the young woman. See Conor Friedersdorf, *Why Dr. Kermit Gosnell's Trial Should Be a Front-Page Story*, ATLANTIC (Apr. 12, 2013), <https://www.theatlantic.com/national/archive/2013/04/why-dr-kermit-gosnells-trial-should-be-a-front-page-story/274944/>; Associated Press, *NY Doctor Pleads Guilty to Negligent Homicide in Botched Abortion Procedure that Killed Woman*, NY DAILY NEWS (May 5, 2018), <https://www.nydailynews.com/new-york/queens/ny-doctor-pleads-guilty-abortion-procedure-killed-woman-article-1.3972502>. In New Mexico, Keisha Atkins died following an elective 24-week abortion after the clinic instructed her to not seek emergency care. See Marian Camacho, *Wrongful Death Lawsuit Targets Albuquerque Abortion Clinic*, KOB 4 (Sept. 12, 2018), <https://www.kob.com/albuquerque-news/southwestern-womens-options-wrongful-death-lawsuit/5067812/>.