

April 4, 2024

RE: Support for HF4053

To Chair Tina Liebling and members of the Health Finance and Policy Committee:

Gender Justice is the organizational home of UnRestrict Minnesota, an expansive, diverse, and inclusive coalition for reproductive rights, health, and justice. UnRestrict Minnesota is a multi-racial coalition of more than 30 health care clinics, abortion funds, practical support groups, LGBTQ advocacy groups, faith communities, organizers, lawyers, doulas, and many more.

Our coalition represents the majority of Minnesotans. Across the state, Minnesotans have made their support for abortion rights abundantly clear — including by sending to the legislature our state’s first pro-reproductive-freedom majority ever. We believe that all people deserve affordable access to the healthcare they need, and we work to remove restrictions and barriers to care that single out abortion and interfere in the healthcare decisions of individuals and their families.

We are writing in support of the Abortion Coverage Act, HF4053 (Stephenson). Minnesotans value reproductive freedom and know that abortion is healthcare. But today, too many health insurance companies carve abortion coverage out of pregnancy care. This same behavior is illegal and unconstitutional in our public health care programs, and Minnesota is an outlier among states that otherwise protect access to abortion by allowing these exclusions in insurance coverage.

Eleven states require coverage of abortion<sup>1</sup>, including most of our peer “expanded access” states, as designated by the Center for Reproductive Rights.<sup>2</sup> As of 2020 Minnesota was one of only three state-exchange states with zero plans covering abortion on the exchange outside of the “Hyde exemptions” for certain instances of rape, incest and threat to the life of the pregnant person.<sup>3</sup> The other two are Idaho, where an extreme ban forbids abortion even in emergencies, and Nevada.

Abortion should be treated like any other healthcare procedure in our public health care programs and by insurance providers in our state. These exclusions cause real harm to Minnesotans and their providers. In 2021, 27% of Minnesotans seeking an abortion had to pay out of pocket,<sup>4</sup> despite an uninsurance rate of less than 5%. Based on national averages, tens

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<sup>1</sup> CA, CO, IL, ME, MD, MA, NJ, NY, OR, WA

<sup>2</sup> <https://reproductiverights.org/maps/abortion-laws-by-state/>

<sup>3</sup> <https://www.healthinsurance.org/faqs/do-health-insurance-plans-in-acas-exchanges-cover-abortion/>

<sup>4</sup> <https://www.health.state.mn.us/docs/people/womeninfants/abortion/summaryabortionmn.pdf>



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of thousands of Minnesotans are likely enrolled in fully-insured or individual market plans that currently exclude abortion and would be subject to state regulation. In 2023 Our Justice, an abortion fund providing direct financial and logistical support for people seeking abortion, paid \$36,000 for abortion care for *insured* Minnesotans who had decided to have an abortion but whose *insurance would not cover their care*. Cost barriers cause delays in care which can mean emotional and physical harm to patients, and more complicated and costly abortion care. With this Act, Minnesota would join 9 other states that currently require coverage of abortion without cost sharing.

By passing this act, Minnesota would prohibit insurers from playing politics with healthcare. We ask for your support,

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

Megan Peterson  
Executive Director, Gender Justice

**Testimony from Minnesota Citizens Concerned for Life**  
**In Opposition to HF 4053**  
**MN House Health and Policy Committee**  
**2023-2024 Regular Session**  
**April 4, 2024**

HF 4053 would create an untenable position for Minnesotans of many different convictions and faiths by prohibiting the provision of health insurance plans that do not cover elective abortions.

This would force people to, in effect, pay for the killing of unborn children through their health insurance premiums. It would deny them the option of procuring insurance coverage that does not go against their deeply held conviction that elective abortions involve the unjust killing of defenseless, innocent human beings, regardless of whether that conviction comes from:

- “following the science” of fetal development,
- understanding the fundamental right of every human being to be protected from lethal violence,
- or from their deeply held convictions on the sanctity of every human life from conception.

**The vast majority of Minnesotans, 68% of them, do not support Minnesota’s current law** allowing abortion for any reason throughout all nine months of pregnancy with absolute disregard and no recognition of the humanity of the unborn child at any point in pregnancy.<sup>1</sup> Mandating that all Minnesotans be compelled to pay for tens of thousands of elective abortions through our insurance premiums is a direct attack on the long-held protections for the consciences, creeds, and religious convictions of our citizens. Every Minnesotan has the right to live and work in accordance with their deeply held beliefs. Conscience clauses provide a necessary shield against injustices, allowing individuals to uphold their personal convictions without fear of reprisal or coercion. Conscience clauses uphold the inherent dignity and autonomy of the individual.

Furthermore, the courts have consistently upheld the fundamental right to conscience as guaranteed by our state and national constitutions, as well as in federal statutes.

- **The Minnesota State Constitution** gives protection for freedom of conscience. It states, “The right of every man to worship God according to the dictates of his own conscience

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<sup>1</sup> 1 “Survey USA Abortion.” KTSP, 10 Oct. 2022, [kstp.com/wp-content/uploads/2022/05/SurveyUSA-Poll-Results-May-11-2022.pdf](https://www.kstp.com/wp-content/uploads/2022/05/SurveyUSA-Poll-Results-May-11-2022.pdf).  
Minnesota Poll: Narrow majority opposes overturning Roe v. Wade ([startribune.com](https://www.startribune.com))

shall never be infringed; [...] nor shall any control of or interference with the rights of conscience be permitted.”<sup>2</sup>

- **The First Amendment of the United States Constitution** grants freedom of conscience, a fundamental principle of American ideals.
- **The Church Amendments** were enacted in the 1970s specifically to prohibit public officials and authorities from enacting any requirement that would threaten an individual's or entity's deeply held moral and religious beliefs when it came to assisting in abortion in any way.<sup>3</sup>
- **The Weldon Amendment** of the early 2000s provides further nondiscrimination protections for healthcare entities defined as: physicians and other healthcare professionals, a hospital, provider sponsored organization, health maintenance organization, a health insurance plan, or any other kinds of health care facility, organization or plans, who objects to providing, paying for, and providing coverage of and/or referring for elective abortions.<sup>4</sup>
- **The Coats Snowe Amendment** provides specific conscience protections for healthcare entities, in performing abortions, referring for abortions, training for abortions or any possible accreditation standards that relate to abortion.<sup>5</sup>
- **The Hyde Amendment** prohibits the use of federal funds to pay for elective abortions, protecting the conscience rights of federal taxpayers.<sup>6</sup>
- **The Affordable Healthcare Act**, or Obamacare, includes conscience protections for healthcare providers relating to abortion and assisted suicide or medical aid in dying.<sup>7</sup>

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<sup>2</sup> Minn. Const. art. I, § 16

<sup>3</sup> The Church Amendments [42 U.S.C. 300a-7]

“Guidance on Nondiscrimination Protections.” HHS.Gov, 3 Feb. 2023, [www.hhs.gov/conscience/conscience-protections/guidance-church-amendments-protections/index.html](http://www.hhs.gov/conscience/conscience-protections/guidance-church-amendments-protections/index.html).

<sup>4</sup>Weldon Amendment, Consolidated Appropriations Act, 2009, Pub. L. No. 111-117, 123 Stat 3034

“Understanding Conscience Protections.” HHS.Gov,

[www.hhs.gov/sites/default/files/ocr/civilrights/understanding/ConscienceProtect/publaw111\\_117\\_123\\_stat\\_3034.pdf](http://www.hhs.gov/sites/default/files/ocr/civilrights/understanding/ConscienceProtect/publaw111_117_123_stat_3034.pdf).

“HHS Publishes Final Rule Governing Healthcare Conscience Protections: Insights.” Holland & Knight,

[www.hkllaw.com/en/insights/publications/2024/02/hhs-publishes-final-rule-governing-healthcare-conscience-protections#:~:text=The%20Coats%2DSnowe%20Amendment%20provides,accreditation%20standards%20related%20to%20abortion.](http://www.hkllaw.com/en/insights/publications/2024/02/hhs-publishes-final-rule-governing-healthcare-conscience-protections#:~:text=The%20Coats%2DSnowe%20Amendment%20provides,accreditation%20standards%20related%20to%20abortion.)

ortion.

<sup>5</sup> Public Health Service Act Sec. 245 [42 U.S.C. 238n] (Coats-Snowe Amendment)

<sup>6</sup> Hyde Amendment Codification Act, S.142, 113th Cong. (2013),

“The Hyde Amendment and Coverage for Abortion Services under Medicaid in the Post-Roe Era.” KFF, 13 Mar. 2024,

[www.kff.org/womens-health-policy/issue-brief/the-hyde-amendment-and-coverage-for-abortion-services/](http://www.kff.org/womens-health-policy/issue-brief/the-hyde-amendment-and-coverage-for-abortion-services/).

<sup>7</sup> Affordable Care Act (ACA), 42 U.S.C. 18001 et seq.

“Understanding Conscience Protections.” HHS.Gov,

[www.hhs.gov/sites/default/files/ocr/civilrights/understanding/ConscienceProtect/publaw111\\_117\\_123\\_stat\\_3034.pdf](http://www.hhs.gov/sites/default/files/ocr/civilrights/understanding/ConscienceProtect/publaw111_117_123_stat_3034.pdf).

**Individuals, health care providers, and organizations purchasing health insurance have the right to not be complicit in elective abortions.** The blatant attempt in HF 4053 to force all Minnesotans to subsidize elective abortion throughout pregnancy with no regard to the reasonable convictions of most Minnesotans and will lead to unnecessary legal costs.

- In **Burwell v. Hobby Lobby**, the U.S. Supreme Court ruled Hobby Lobby would not be required to provide certain types of insurance coverage for employees that went against the beliefs of the privately held organization.<sup>8</sup>
- Currently, in **Anderson v. Aitkin Pharmacy**, a Minnesota pharmacist is fighting in the Minnesota Court of Appeals for his right to work in accordance with his own deeply held beliefs.<sup>9</sup> Lawsuits of this nature cost time and money, to both the individual and the state.

If enacted, this bill will also result in costly litigation. These cases will yet again be brought to the courts, who will yet again remind our legislators of the fundamental rights of conscience guaranteed across our nation at the state and federal level.

Conscience clauses serve as a vital safeguard, ensuring that no person is forced to compromise their deeply held religious or moral convictions in any aspect of their lives, whether personal or professional.

We ask members to be good stewards of our time and money by voting against this brazen assault on conscience rights and foregoing the need for such easily avoided lawsuits.

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<sup>8</sup> *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014)

<sup>9</sup> *Anderson v. Aitkin Pharm. Servs.*, No. A23-0374 (Minn. Ct. App. Mar. 18, 2024)

“MN Pharmacist Seeks Conscience Protection at Work.” Alliance Defending Freedom, Alliance Defending Freedom, 3 Jan. 2024, [adfllegal.org/press-release/mn-pharmacist-seeks-conscience-protection-work](https://adfllegal.org/press-release/mn-pharmacist-seeks-conscience-protection-work).



April 3, 2024

Members of the House Health Policy and Finance Committee

*Via Electronic Delivery*

**Re: Letter in Support of House File 4053**

Chair Liebling and Members of the Health Policy and Finance Committee:

Planned Parenthood North Central States (PPNCS) provides a full range of sexual and reproductive health care to Iowa, Minnesota, Nebraska, North Dakota, and South Dakota at 25 health centers, serving nearly 100,000 patients in the fiscal year 2023. As experts in reproductive health care, and as the largest provider of abortions in Minnesota, Planned Parenthood's mission is to ensure that Minnesotans have access to the care and resources they need to control their bodies, their lives, and their futures.

Founded in 1992, the Planned Parenthood Minnesota, North Dakota, South Dakota Action Fund is an independent, non-partisan, non-profit organization that advocates for the policy and support needed to make PPNCS's care possible. We work with supporters of all parties to defend and increase access to family planning services, fact based, medically accurate sexuality education, and healthcare abortion access. To that end, we're writing today in support of House File 4053 and insurance coverage for abortion.

Minnesota has already led the way to protect the right to abortion, and we can play a critical leading role in further safeguarding pregnant people's health by covering abortion in both public and private insurance plans. Expenses are a real barrier for patients accessing health care, and they disproportionately impact patients who already face increased barriers to care. New research analyzing nearly 4,000 abortion cases published by the Social Work in Health Care medical journal shows that the lack of coverage for abortion disproportionately impacts women of color. Although Black women make up only 36% of women obtaining abortion, they are half of all women seeking financial help to pay for abortion care.

Whether planned or unplanned, pregnancies can come with a lot of unexpected medical and health events. This is what insurance is for – to help Minnesotans manage the expenses associated with medical needs. Every pregnancy is different, and we need to set individuals up with the tools to manage the unexpected health needs that come with pregnancy, which includes abortion.

Abortion is health care, and health care is a human right. Now is the time to expand access and reduce barriers to health care. Please support House File 4053.

Sincerely,

Tim Stanley  
Executive Director



April 3, 2024

Representative Liebling  
Chair, House Health Finance & Policy Committee  
House Office Building  
St. Paul, MN

Dear Chair Liebling and Members,

As the President and CEO of the Women's Foundation of Minnesota, I write to express our support for HF4053 and HF2607, to expand access to health care coverage, including abortion and gender-affirming health care for Minnesotans. Our research with the Center on Women, Gender, & Public Policy at the University of Minnesota's Humphrey School shows that affordable access health care is not truly available for many patients in Minnesota.

Minnesota has distinguished itself as a place where bodily autonomy and human rights are protected. Now, we need to ensure coverage for the care that makes these rights real. Lack of access to care – including coverage for care – has significant consequences for the people most affected, especially our most marginalized Minnesotans – Black, Indigenous, refugees and immigrants, rural, and people with lower incomes.

HF4053 will ensure that all forms of health care insurance cover abortion and abortion-related care. Abortion is an essential component of women's health care and each person's ability to determine when, if, and how they become a parent. Safe, accessible abortion services save lives because pregnant people do not have to seek illegal, unsafe alternatives.

HF2607 will help Minnesotans access gender-affirming care by ensuring health insurance coverage. Prohibiting insurance companies from denying coverage for gender-affirming care will ensure health care decisions are made between patients and their medical professionals.

Living a safe and healthy life in Minnesota must include access to all types of health care including abortion and gender-affirming health care. We urge the committee to move these bills to make Minnesota a place where women, girls, and gender-expansive people from all backgrounds across the state can thrive.

Thank you,

A handwritten signature in black ink that reads 'Gloria Perez'. The signature is written in a cursive, flowing style.

Gloria Perez  
President and CEO  
Women's Foundation of Minnesota

04/03/2024

RE: Support for HF4035

To Chair Tina Liebling and members of the House Health Finance and Policy Committee:

My name is Eliza O'Brien and I have been the Clinic Manager at Whole Woman's Health of Minnesota for almost 2 years. I am also a licensed social worker in Minnesota. Whole Woman's Health of Minnesota provides medication and procedural abortions in Bloomington. We serve patients from the Midwest and other states where abortion is not accessible.

I am writing in support of the Abortion Coverage Act, HF\_4053 (Stephenson). Many patients who receive care at our clinic have private Minnesota health insurance. When private insurance does not cover abortion care, people must borrow from friends, dip into their savings, cut back on their own purchases, or rely on funding in order to pay for their abortion. Minnesotans have already established that safe and accessible abortion is a right, and if people are paying money for health insurance, it should cover the healthcare they need.

Without private insurance coverage, a patient's clinic visit may be longer than normal in order to secure funding to pay for their medical care. This additional time burden causes unnecessary stress for patients. Funding sources like Our Justice, an abortion fund providing direct financial and logistical support for people seeking abortion are being used by patients *who have health insurance*. If the Abortion Coverage Act passes, funding sources and staff time can be used for people who have no insurance coverage. Minnesota's abortion funds and practical support organizations, already stretched thin, spend resources supporting insured patients that could otherwise cover other needs. Abortion is essential healthcare and should be covered by insurance as such.

Without requiring private insurance covering abortion care services, the stigma and shame around abortion care continues. Abortion care is healthcare. By passing this act Minnesota can continue to be a North Star state for reproductive freedom and commonsense laws.

Thank you for your support,

Eliza O'Brien



April 4, 2024

Members of the House Health Finance and Policy Committee  
State Office Building  
100 Rev. Martin Luther King Jr. Blvd.  
St. Paul, Minnesota 55155

Chair Liebling and Members of the Committee,

True North Legal is a non-profit legal organization that advocates for life, family, and religious freedom on behalf of all Minnesotans. We offer the following high-level analysis regarding significant legal and policy concerns relating to HF 4053.

HF 4053's elimination of an insurance and public benefit coverage carveout for abortion funding violates the rights to free exercise of religion and conscience protected by the First Amendment to the United States Constitution and Article I, Section 16 of the Minnesota Constitution by forcing Minnesotans with religious and conscientious beliefs about abortion to be complicit in the act by mandating insurance coverage for abortion. Meanwhile, it leaves in place coverage gaps that are justified by the secular rationale of protecting the bottom line of insurance companies and the state Medicaid program, treating Minnesotans with sincerely held religious beliefs about abortion less favorably.

Existing Minnesota law mandates insurance and Medicaid coverage for some health care treatments and procedures, while coverage for other treatments and procedures is not required. These coverage mandates do not require coverage for all medically necessary health care procedures. Nor do they require that all elective procedures be excluded from coverage. These mandates reflect no "generally applicable" consistent rationale.<sup>1</sup> Presumably, where coverage gaps remain, they are justified by a secular financial rationale – that the gaps in coverage are justified by the limited resources of insurance carriers, employer sponsored plans and the state Medicaid program.

One part of the patchwork of insurance mandates that has remained consistent for decades is that Minnesota insurance policies and public benefit programs need not cover abortions. HF 4053 removes this abortion carveout impacting the religious liberties and rights of conscience of Minnesotans, such as employers who have religious or moral objections to funding abortions through their employer-sponsored health plans. As drafted, HF 4053 targets for elimination only the insurance coverage gap regarding abortion, leaving Minnesotans with deeply held religious beliefs and conscientious objections to facilitating abortion in a precarious position. Yet, HF 4053 leaves intact the innumerable other insurance health care coverage gaps that

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<sup>1</sup> See, generally, Minnesota Statutes Chapters related to health insurance and health maintenance organizations, 62A, 62D, 62Q, and Medicaid, 256B.



are grounded in the previously mentioned secular justification, namely protecting the bottom line of insurance companies or the state Medicaid budget.

As drafted, HF 4053's insurance mandate would force some employers whose religious beliefs forbid them from being complicit in abortion to pay for abortion.

A common principle of systems of culpability, for example laws that fix criminal responsibility, is that one who furnishes another with the means to commit a wrongful act is culpable for that act. Beliefs about being complicit in abortion are no different, including participation as mandated in HF 4053. Since Minnesota law now allows abortion up to birth without any restrictions and HF 4053 has no conscience exemptions or restrictions, will Minnesota employers be forced to participate in plans that pay for abortion at any stage of pregnancy, including up to 39 weeks into the pregnancy?

Moreover, this belief about abortion is not limited to a narrow, fanatical sect. It is shared by many Minnesotans as well as the U.S. Supreme Court. The Court has recognized, “[w]hatever one thinks of abortion, it cannot be denied that there are common and respectable reasons for opposing it, other than hatred of, or condescension toward (or indeed any view at all concerning) women as a class[.]” *Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263, 270 (1993); see also *Dobbs v. Jackson Women's Health Organization*, 142 S. Ct. 2228, 2240 (2022) (“Abortion presents a profound moral issue on which Americans hold sharply conflicting views. Some believe fervently that a human person comes into being at conception and that abortion ends an innocent life.”).

As drafted, HF 4053 can only represent a legislative determination that the conscientious objections of employers who do not wish to fund abortions are insubstantial or unworthy of protection. The U.S. Supreme Court has made clear that conscience rights, including conscience rights of business owners, may not be infringed in this way.

In *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 724 (2014), the Supreme Court struck down an HHS regulation that would have required business owners to provide health insurance coverage for their employees' contraceptives, when doing so conflicted with the business owners' religious beliefs. The court stated,

The [business owners] believe that providing [contraceptive coverage] is connected to the destruction of an embryo in a way that is sufficient to make it immoral for them to provide the coverage. This belief implicates a difficult and important question of religion and moral philosophy, namely, the circumstances under which it is wrong for a person to perform an act that is innocent in itself but that has the effect of enabling or facilitating the commission of an immoral act by another. Arrogating the authority to provide a binding national answer to this religious and philosophical question, HHS and the principal dissent in effect tell the plaintiffs that their beliefs are flawed. For good reason, we have repeatedly refused to take such a step... Repeatedly and in many different contexts, we have warned that courts must not presume to determine ... the plausibility of a religious claim.

*Burwell*, 573 U.S. at 724.

Though *Burwell* applied the requirements of the Religious Freedom Restoration Act (RFRA) to federal HHS mandates where a state law like HF 4053 is not a “generally applicable” law, courts apply the same strict



scrutiny applied under RFRA to determine whether the law satisfies the First Amendment. Such would likely be the case with respect to HF 4053 since the bill treats religious and conscience rights less favorably than coverage gaps based on secular financial considerations. HF 4053 is not a “generally applicable” law and if challenged in the courts would likely be subjected to the most stringent legal standard of strict scrutiny<sup>2</sup>, where it would face an uphill battle to find any justification for infringing on clearly established legal protections for rights of conscience.

Where strict scrutiny applies, government policy survives “only if it advances interests of the highest order and is narrowly tailored to achieve those interests,” meaning that “so long as the government can achieve its interests in a manner that does not burden religion, it must do so.” *Fulton v. City of Philadelphia, Penn.*, 141 S. Ct. 1868, 1881 (2021) (quotation omitted).

HF 4053 does not make clear what interest it is intended to further. Assuming it is intended to provide women with access to abortions irrespective of ability to pay, the state could at the very least explore other no cost or low cost means available to further that interest that do not force conscientious objectors to violate their beliefs by supplying the means of payment.

As drafted, this bill infringes on the constitutional rights of Minnesotans whose sincerely held religious beliefs compel them to support life by not being complicit in abortion. The state of Minnesota can do better by seeking to achieve its goals without forcing its citizens to choose between disobeying the law and violating their sincerely held religious beliefs.

Renee K. Carlson  
True North Legal, General Counsel

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<sup>2</sup> In determining whether a law is neutral or generally applicable, “[a] law is not generally applicable if it invites the government to consider the particular reasons for a person’s conduct by providing a mechanism for individualized exemptions.” *Fulton v. City of Philadelphia, Penn.*, 141 S. Ct. 1868, 1877 (2021) (quotation omitted). A law also fails to be generally applicable “if it prohibits religious conduct while permitting secular conduct that undermines the government’s asserted interests in a similar way.” *Id.* A policy is not neutral if it is “specifically directed at religious practice,” meaning that it either “discriminates on its face” or “religious exercise is otherwise its object.”