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**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

13 February 2013

Case No. 6

**International Planned Parenthood Federation European Network (IPPF-EN) v.
Italy**
Complaint No. 87/2012

**APPENDIX TO THE
OBSERVATION FROM ECLJ (1/2)**

Registered at the Secretariat on 17 January 2012



Specific Regulations and Legislations on the Right to Conscientious Objection

Submitted to the European Committee of Social Rights in the case of
*International Planned Parenthood Federation European Network (IPPF
EN) v. Italy*, No. 87/2012

17 January 2013

On the first part, we provide descriptions of two bodies: the **International Federation of Gynecology and Obstetrics** and the **World Health Organization**, which provide, *inter alia*, ethical guidance regulations for medical professionals which pertain to a medical professional's right to conscientiously object to performing abortions. On the second part, we will present the current **Council of Europe Member States status of the law pertaining to conscientious objection for medical professionals**. On the third part, we will describe the **protection of conscience for health care professionals under the laws of the United States & Individual States**.

I. International Federation of Gynecology and Obstetrics And World Health Organization

The International Federation of Gynecology and Obstetrics (“FIGO”) “is a benevolent, non-profit organisation funded through subscriptions received from member societies, grants and the proceeds of its triennial World Congress.”¹ FIGO is composed of 124 member societies,² including most of the Council of Europe Member States.³ Article 3 of the FIGO Constitution requires each member society to make a declaration of intention to abide by the constitution of FIGO.⁴ Most of the constitutional provisions are merely procedural.⁵ However, FIGO does provide substantive guidance to its members through committees, which are established under Section G of the constitution.⁶ If necessary, FIGO officers can decide to revoke a society’s membership with the appropriate procedures under Article 4 of the constitution.⁷

In 1985 FIGO established its Committee for the Study of Ethical Aspects of Human Reproduction and Women’s Health.⁸ This committee “considers the ethical aspects of issues that impact the discipline of Obstetrics, Gynecology and Women’s Health.”⁹ The committee uses the information gathered through research and discussion to create guidelines for handling the ethical aspects of women’s health.¹⁰ These guidelines are published in the “Recommendations on Ethical Issues in Obstetrics and Gynecology by the FIGO Committee for the Study of Ethical Aspects of Human Reproduction.”¹¹ Below are relevant portions of the guidance provided:

1. The primary conscientious duty of obstetrician-gynecologists (hereafter “practitioners”) is at all times to treat, or provide benefit and prevent harm to, the patients for whose care they are responsible. Any conscientious objection to treating a patient is secondary to this primary duty.
2. Provision of benefit and prevention of harm require that practitioners provide such patients with timely access to medical services, including giving information about the medically indicated options of procedures for their care and of any such procedures in which their practitioners object to participate on grounds of conscience.

¹ Int’l Fed. of Gynecology and Obstetrics, About FIGO, <http://www.figo.org/about> (last visited Nov. 20, 2009).

² *Id.*

³ Int’l Fed. of Gynecology & Obstetrics, Member Associations, <http://www.figo.org/members> (last visited Nov. 20, 2009) [hereinafter FIGO Members].

⁴ Int’l Fed. of Gynecology & Obstetrics, Constitution & Bye-Laws (Oct. 2009), *available at* <http://www.figo.org/files/figo-corp/Constitution%202009-2012%20-%20English.pdf>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Int’l Fed. of Gynecology & Obstetrics, Ethics Guidelines, <http://www.figo.org/about/guidelines> (last visited Nov. 20, 2009).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Int’l Fed. of Gynecology & Obstetrics, Recommendations on Ethical Issues In Obstetrics and Gynecology by the FIGO Committee for the Study of Ethical Aspects of Human Reproduction (Oct. 2009), *available at* <http://www.figo.org/files/figo-corp/Ethical%20Issues%20-%20English.pdf>.

3. Practitioners have a professional duty to abide by scientifically and professionally determined definitions of reproductive health services, and to exercise care and integrity not to misrepresent or mischaracterise them on the basis of personal beliefs.
4. Practitioners have a right to respect for their conscientious convictions in respect both of undertaking and not undertaking the delivery of lawful procedures, and not to suffer discrimination on the basis of their convictions.
5. Practitioners' right to respect for their choices in the medical procedures in which they participate requires that they respect patients' choices within the medically indicated options for their care.
6. Patients are entitled to be referred in good faith, for procedures medically indicated for their care that their practitioners object to undertaking, to practitioners who do not object. Referral for services does not constitute participation in any procedures agreed upon between patients and the practitioners to whom they are referred.
7. Practitioners must provide timely care to their patients when referral to other practitioners is not possible and delay would jeopardize patients' health and well-being, such as by patients experiencing unwanted pregnancy (see the FIGO Definition of Pregnancy, Recommendations on Ethical Issues in Obstetrics and Gynecology, November 2003, page 43, that pregnancy "commences with the implantation of the conceptus in a woman").
8. In emergency situations, to preserve life or physical or mental health, practitioners must provide the medically indicated care of their patients' choice regardless of the practitioners' personal objections.¹²

The World Health Organization ("WHO") was "established in 1948 as the specialized agency of the United Nations responsible for directing and coordinating authority for international health matters and public health."¹³ Virtually all of the Member States of the Council of Europe are members of the WHO.¹⁴ WHO's regional office in Europe provides guidelines for its European Member States concerning abortion practices.¹⁵ Its guidelines for "safe abortion" are established to ensure that "in circumstances where abortion is not against the law, health systems should train and equip health-service providers and should take other measures to ensure that such abortion is safe and accessible."¹⁶ These guidelines are established for all of the European countries and include the appropriate standards for conscientious objection as follows¹⁷:

"Health workers have a right to conscientious objection to providing abortion, but they have an ethical obligation to follow professional ethical codes, which usually require health professionals to refer women to skilled colleagues who are not, in principle, opposed to termination of pregnancy allowed by law. If no alternative provider is available, the health worker must provide abortion to save the woman's life or to prevent permanent damage to her health in accordance with national law. When a hospital, clinic or health centre has been designated as a public facility offering

¹² *Id.* at 26-27.

¹³ WHO Europe, *The Work of WHO in the European Region*, 2006, 2007, preface, WA 540 (Doc. No.) <http://www.euro.who.int/Document/E91482.pdf>.

¹⁴ World Health Organization Regional Office for Europe, Member States, <http://www.euro.who.int/AboutWHO/About/MH> (last visited Nov. 21, 2009).

¹⁵ World Health Organization Regional Office for Europe, *Guidelines*, http://www.euro.who.int/reproductivehealth/guidelines/20021015_1 (last visited Nov. 21, 2009).

¹⁶ World Health Organization Geneva, *Safe Abortion: Technical and Policy Guidance for Health Systems*, 2003, at 7, <http://whqlibdoc.who.int/publications/2003/9241590343.pdf>.

¹⁷ *Id.* at 66.

services allowed by law, it cannot endanger women's lives or health by refusing services. It should provide abortion services on the grounds allowed by the law".¹⁸

II. Conscientious Objection Laws in the Council of Europe Member States

1. Albania

The Constitution of the Republic of Albania states: "Freedom of conscience and religion is guaranteed."¹⁹ Albania's interruption of pregnancy law, states that, "[n]o physician can be imposed to perform abortion against his will."²⁰

The *Albanian Association of Obstetrics and Gynecology* is a member of the FIGO.²¹

2. Andorra

In Andorra, abortion is generally prohibited,²² except in to save the life of the mother.²³ Andorra is a member of the World Health Organization.

3. Armenia

The Constitution of Armenia provides:

Everyone shall have the right to freedom of thought, conscience and religion. This right includes freedom to change the religion or belief and freedom to, either alone or in community with others manifest the religion or belief, through preaching, church ceremonies and other religious rites.

The exercise of this right may be restricted only by law in the interests of the public security, health, morality or the protection of rights and freedoms of others.²⁴

Republic of Armenia Association of Obstetricians/Gynecologists and Neonatologists is a member of FIGO.²⁵

4. Austria

According to the Austrian Penal Code:

"No physician is obliged to perform an abortion or to take part in it, except where it is necessary ("notwendig") without delay to save the life of the pregnant woman from an immediately threatening danger which cannot otherwise be averted. This applies also to persons in para-medical, medico-technical, or auxiliary health employment."²⁶

¹⁸ *Id.*

¹⁹The Republic of Albania 1998 Constitution, art. 24(1), *available at* http://www.osce.org/documents/pia/1998/11/4321_en.pdf.

²⁰ Fletorja Zyrtare [Penal Code] No. 26/1995, art. 16-17 (Albania), *available at* <http://www.hsph.harvard.edu/population/abortion/ALBANIA.abo.htm>.

²¹ FIGO Members, *supra* note 3.

²² Butlletí Oficial del Principat d'Andorra, Vol. 2, [Penal Code] No. 21, 21 July /1990, art. 185-188 (Andorra), *available at* <http://www.hsph.harvard.edu/population/abortion/ANDORRA.abo.htm>.

²³ 1 U.N. ESCOR, Population Div., Abortion Policies: A Global Review, at 24, U.N. Doc. ST/ESA/SER.A/187, U.N. Sales No. E.01.XIII.10 (2002) [hereinafter "Abortion Policies"], *available at* <http://www.un.org/esa/population/publications/abortion/profiles.htm>.

²⁴ The Republic of Armenia, Const. art. 26, *available at* <http://www.legislationline.org/documents/action/popup/id/8782/preview>.

²⁵ FIGO Members, *supra* note 3.

²⁶ Strafgesetzbuch [StGB] [Penal Code] No. 60/1974, art. 97(2)(3) (Austria), *available at* <http://www.hsph.harvard.edu/population/abortion/Austria.abo.htm>.

“No one may be discriminated against for either performing an abortion, or refusing to participate in an abortion”.²⁷ The Reproductive Medicine Act of 1992 provides that “no physician, nurse or paramedic is under a duty to perform or assist in a medically assisted fertilization and he or she must not be discriminated against for carrying out such fertilization or for refusing to take part in it.”²⁸

Oesterreichische Gesellschaft für Gynakologie und Geburtshilfe (Austrian Society of Gynaecology and Obstetrics) is a member of FIGO.²⁹

5. Azerbaijan

Azerbaijan is a member of the World Health Organization.

6. Belgium

Under the Law of 3 April 1990, “no medical doctor, nor any nurse or aid to the doctor, will be obliged to take part in [an] abortion.”³⁰ In addition, the “[l]aw imposes on the medical doctor to inform the woman seeking an abortion of his or her refusal to perform abortion for reasons of conscience, at the *first* visit of the patient.”³¹

Koninklijke Belgische Vereniging voor Gynecologie en Verloskunde/Société Royale Belge de Gynécologie et d`Obstetrique is a member of FIGO.³²

7. Bosnia and Herzegovina

Bosnia and Herzegovina is a member of the World Health Organization.

8. Bulgaria

The Bulgarian Society of Obstetrics and Gynecology is a member of FIGO.³³

²⁷ *Id.* art. 97(3).

²⁸ Fortpflanzungs Medizingesetz, [Reproductive Medicine Act 1992] BGB1. No. 275/1992, as amended, § 6 (Austria), available at <http://www.consciencelaws.org/Conscience-Laws-Austria/LawAustria.html>.

²⁹ FIGO Members, *supra* note 3.

³⁰ E.U. Network of Indep. Experts on Fundamental Rights, *Opinion No. 4-2005: The Right To Conscientious Objection and the Conclusion by EU Member States of Concordats with The Holy See* [hereinafter “E.U. Network of Indep. Experts on Fundamental Rights”], at 9 (14 Dec. 2005) (citing Art. 348, al. 2, 6° Belgian Penal Code), available at http://ec.europa.eu/justice_home/cfr_cdf/doc/avis/2005_4_en.pdf; see also Protection of Conscience Project, Protection of Conscience Laws, Belgium, available at <http://www.consciencelaws.org/Conscience-Laws-Belgium/LawBelgium.html>.

³¹ *Id.* (footnote omitted) (emphasis added).

³² FIGO Members, *supra* note 3.

³³ FIGO Members, *supra* note 3.

9. Croatia

The Croatian Constitution provides that, “[n]ot even in the case of an immediate threat to the existence of the State may restrictions be imposed on the application of the provisions of this Constitution concerning the right to life . . . or on freedom of thought, conscience and religion.”³⁴ The “[f]reedom of conscience and religion and freedom to manifest religion and other convictions shall be guaranteed.”³⁵

Croatian Society of Gynecologists and Obstetricians is a member of FIGO.³⁶

10. Cyprus

“In Cyprus, the Medical Profession is regulated by the *Regulations of Conduct of Doctors* that were issued under the *Doctors (Council, Discipline and Pension Fund) Law* of 1967 and 1970.³⁷ According to Article 8 of the Regulations, a doctor may refuse medical treatment to a patient except in cases of emergency or humanitarian duty; this general provision may be relied upon, in principle, where the motivations for refusing to provide a medical service is religious or ideological.”³⁸

Pancyprian Obstetrics and Gynaecology Society is a member of FIGO.³⁹

11. Czech Republic

In the Czech Republic, abortion is permitted to save the life of the woman, to preserve physical health, to preserve mental health, in the case of rape or incest, in the case of foetal impairment, or for economic or social reasons.⁴⁰ Abortion is also available on request.⁴¹ Obtaining an abortion requires only the woman’s consent and authorization of the gynecologist.⁴² Where “gestation is more than 12 weeks, the abortion requires authorization by a medical commission.”⁴³ Generally, an abortion “must be performed within the first trimester, in a hospital, by a licensed gynecologist. Therapeutic abortion is permitted up to 26 weeks.”⁴⁴ Czech abortion legislation, Law 63 and 77 (October 23, 1986) became effective in January 1987.⁴⁵

Czech Gynecological and Obstetrical Society is a member of FIGO.⁴⁶

³⁴ The Republic of Croatia Const. art. 17, *available at* <http://www.legislationline.org/download/action/download/id/1583/file/cba4cce79cf00bbcd828617daaaa.htm/preview>.

³⁵ *Id.* art. 40.

³⁶ FIGO Members, *supra* note 3.

³⁷ E.U. Network of Indep. Experts of Fundamental Rights, *supra* note 30, at 10.

³⁸ Regulations of Conduct of Doctors, Art. 8 Doctors (Council, Discipline and Pension Fund) Law of 1967 & 1970); *see also* Protection of Conscience Project, Protection of Conscience Laws, Cyprus, *available at* <http://www.consciencelaws.org/Conscience-Laws-Cyprus/LawCyprus.html>.

³⁹ FIGO Members, *supra* note 3.

⁴⁰ Abortion Policies, *supra* note 23, at 117.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* at 118.

⁴⁴ *Id.*

⁴⁵ European Centre for Law and Justice, *Comparative Abortion Laws in the European Union*, at 4, July 9, 2004 (citing Enactment of the Czech Ministry of Health, No 11, 1993), *available at* <http://www.eclj.org/PDF/prolife.pdf>.

⁴⁶ FIGO Members, *supra* note 3.

12. Denmark

Physicians, nurses, midwives, health care workers, as well as people training in such fields, must request permission in order for them to “be absolved from carrying out or participating in termination of pregnancy if it is contrary to their ethical or religious views.”⁴⁷ However, physicians have “a legal obligation to refer the woman seeking an abortion to another colleague.”⁴⁸

Dansk Selskab for Obstetric og Gynaekologi - Department of Obstetrics and Gynaecology Society is a member of FIGO.⁴⁹

13. Estonia

In Estonia, abortion is permitted to save the life of the woman, to preserve physical health, to preserve mental health, in the case of rape or incest, in the case of foetal impairment, for economic or social reasons, and is also available on request.⁵⁰ Obtaining an abortion requires only the woman’s consent and must take place in a hospital, administered by a physician.⁵¹ An abortion is available on request through the twelfth week of pregnancy.⁵² Thereafter, a pregnant woman must undergo a consultation with doctors.⁵³

Since 1955, abortion has been legal in Estonia (first made legal under Soviet Union abortion law).⁵⁴ In 1993, new abortion criteria as well as regulations governing performance of the abortion procedure in private health centers was implemented by decree of the Estonian Ministry of Social Affairs.⁵⁵ In June of 1993, the Estonian Abortion Register made it mandatory that all institutions performing the abortion procedure fill out the appropriate register forms.⁵⁶

Society of Estonian Gynaecologists is a member of FIGO.⁵⁷

14. Finland

In Finland there is no statutory exemption for conscientious objectors. The Finland interruption of pregnancy law states that a “physician with authority to render an opinion and the operating physician shall not be entitled, without reason, to refuse to consider a request for termination of pregnancy.”⁵⁸

Finnish Gynecological Association is a member of FIGO.⁵⁹

15. France

“Art. L.2212-8 of the Code of Public Health . . . allows medical physicians to invoke a ‘conscience clause’ on the basis of which they may refuse to perform an abortion. However,

⁴⁷ Denmark, Law No. 350/1973, as amended Law No. 389/1995 (Denmark), *available at* <http://www.hsph.harvard.edu/population/abortion/DENMARK.abo.htm>.

⁴⁸ Peter Saunders, *Abortion and Conscientious Objection*, Nucleus, Jan. 1996, at 9.

⁴⁹ FIGO Members, *supra* note 3.

⁵⁰ Abortion Policies, *supra* note 23, at 142.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Comparative Abortion Laws in the European Union*, *supra* note 45, at 5.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ FIGO Members, *supra* note 3.

⁵⁸ Finland, Law No. 239 of 24 March 1970 on the interruption of pregnancy, as amended through Law No. 572 of 24 July 1998 (6)(3), *available at* <http://www.hsph.harvard.edu/population/abortion/Finland.abo.htm>.

⁵⁹ FIGO Members, *supra* note 3.

they are obliged to inform the woman seeking abortion without delay of their intention to invoke the clause. Although this clause also may be invoked by health care practitioners employed in institutions, the heads of services in public health care institutions and those which take part in the provision of public health care services may not invoke the clause in order to oppose the performance of abortions within their service”⁶⁰

Collège National des Gynécologues et Obstétriciens Français is a member of FIGO.⁶¹

16. Georgia

In Georgia, abortion is permitted in certain circumstances: to save the life of the woman; to preserve physical health; to preserve mental health; in the case of rape or incest; in the case of foetal impairment; for economic or social reasons; and it is also available on request.⁶²

Obtaining an abortion requires only the consent of the woman and is considered authorized if “performed by a licensed physician, in a hospital or other recognized medical institution.”⁶³

During the first three months (or 12 weeks) of pregnancy, an abortion may be obtained on request.⁶⁴ Subsequently, an induced abortion “is available within 28 weeks from conception on judicial, genetic, vital, broad medical and social grounds, as well as for personal reasons if authorized by a commission of local physicians.”⁶⁵

The *Georgian Obstetrics & Gynecologist Association (GOGA)* is a member of FIGO.⁶⁶

17. Germany

The Constitution of Germany guarantees the freedom of conscience unconditionally.⁶⁷

“Freedom[s] of faith and of conscience, and freedom of creed religious or ideological, are inviolable.”⁶⁸ “Freedom of conscience is a norm of fundamental value and of high constitutional status, which is to be respected in the framework of every activity of State authorities. This is a continuous jurisprudence of the Federal Constitutional Court and of the Federal Administrative Court.”⁶⁹

The *Deutsche Gesellschaft für Gynäkologie und Geurtshilfe* is a member of FIGO.⁷⁰

18. Greece

The *Hellenic Obstetrical and Gynaecological Society* is a member of FIGO.⁷¹

19. Hungary

Article 2 of the New Hungarian Constitution stipulates that: “Human dignity is inviolable. Everyone has the right to life and human dignity; the life of a fetus will be protected from

⁶⁰ E.U. Network of Indep. Experts of Fundamental Rights, *supra* note 30, at 11, (citing Code of Public Health, Article L.2212-8); *see also* Protection of Conscience Project, Protection of Conscience Laws, France, *available at* <http://www.consciencelaws.org/Conscience-Laws-France/LawFrance.html>.

⁶¹ FIGO Members, *supra* note 3.

⁶² 2 Abortion Policies, *supra* note 23, at 213, U.N. Doc. ST/ESA/SER.A/191, U.N. Sales No. E.01.XIII.18.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ FIGO Members, *supra* note 3.

⁶⁷ Germany Const., Grundgesetz, art. 4, para. 1, *available at* <http://www.consciencelaws.org/Conscience-Laws-Germany/LawGermany.html>.

⁶⁸ *Id.*

⁶⁹ E.U. Network of Indep. Experts of Fundamental Rights, *supra* note 30, at 11 (second alteration in original) (citing Federal Admin. Court, judgment of 18 June 1997, BVerwGE 105, 73 <77, 78>).

⁷⁰ FIGO Members, *supra* note 3.

⁷¹ FIGO Members, *supra* note 3.

conception”. And its article 6 provides that: “Everyone has the right to freedom of thought, conscience and religion”⁷².

Before the New Hungarian Constitution, “the Constitutional Court delivered a judgment in 1991 which concerns the duties of medical physicians in relation to legally permitted abortion (judgment 64/1991, (XII.17.) AB határozat). The Court recognized that medical practitioners have a right to religious conscientious objection; however it considered that certain restrictions to the freedom of religion which this right is derived from may be allowed unless they are unreasonable. Specifically, the Court considered that in any employment relationship, the employee may not object to the performance of duties which form a substantive part of the profession. It considered that only non-therapeutic abortions – i.e., not medically prescribed – could be considered as not part of the normal activities of a gynaecologist.”⁷³

The *Hungarian Society of Obstetrics and Gynaecology* is a member of FIGO.⁷⁴

20. Iceland

The *Icelandic Society of Obstetrics and Gynecology* is a member of FIGO.⁷⁵

21. Ireland

A person with a conscientious objection is not obliged to take part “in the provision of a family planning service, the giving of prescriptions or authorizations for the purpose of [The Health (Family Planning) Act 1979] or the sale, importation into the State, manufacture, advertising or display of contraceptives.”⁷⁶ The Constitution of Ireland recognizes the right to life for the unborn. “The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right.”⁷⁷

The *Institute of Obstetricians and Gynaecologists of the Royal College of Physicians of Ireland* is a member of FIGO.⁷⁸

22. Italy

Italy regulates conscientious objections by healthcare workers in certain medical practices in performance of both voluntary abortions⁷⁹ and medically assisted conception.⁸⁰ Voluntary abortions may only be performed at public clinics and legally certified clinics, and those health care workers have a right to exemption, based upon conscientious objection, from actual termination of a pregnancy, but they must provide care prior to and following the abortion.⁸¹ Healthcare workers must declare in advance that they object to participating in

⁷² http://www.euractiv.com/sites/all/euractiv/files/CONSTITUTION_in_English__DRAFT.pdf;

⁷³ E.U. Network of Indep. Experts of Fundamental Rights, *supra* note 30, at 12.

⁷⁴ FIGO Members, *supra* note 3.

⁷⁵ FIGO Members, *supra* note 3.

⁷⁶ Health Family Planning Act 1979, Clause 11, *available at* <http://www.consciencelaws.org/Conscience-Laws-Ireland/Conscience-Laws-Ireland.html>.

⁷⁷ Ireland Const. art. 40(3)(3^o) *available at* [http://www.taoiseach.gov.ie/attached_files/html%20files/Constitution%20of%20Ireland%20\(Eng\).htm](http://www.taoiseach.gov.ie/attached_files/html%20files/Constitution%20of%20Ireland%20(Eng).htm)

⁷⁸ FIGO Members, *supra* note 3.

⁷⁹ E.U. Network of Indep. Experts of Fundamental Rights, *supra* note 30, at 12, (citing Article 9 of law 194 of 22 May 1978); *see also* Protection of Conscience Project, Protection of Conscience Laws, Italy, *available at* <http://www.consciencelaws.org/Conscience-Laws-Italy/LawItaly.html>.

⁸⁰ E.U. Network of Indep. Experts of Fundamental Rights, *supra* note 30, at 12, (citing Article 16 of Law 40 of 19 Feb. 2004); *see also* Protection of Conscience Project, Protection of Conscience Laws, Italy, *available at* <http://www.consciencelaws.org/Conscience-Laws-Italy/LawItaly.html>.

⁸¹ Law 194 of 22 May 1978, art. 9.

abortions or assisted conception.⁸² “Such declaration must be forwarded to the provincial medical officer and, in the case of personnel on the staff of the hospital or the nursing home, to the medical director.”⁸³ These declarations must be made within one month “following the entry into force of this Law, or the date of qualification, or the date of commencement of employment [where abortions occur],” or the date of the drawing up of insurance contracts covering abortion.⁸⁴

Hospitals and healthcare clinics must still ensure that the requested procedure is carried out under standardized procedures.⁸⁵ Implementation of these regulations is supervised regionally, and if necessary, a patient will be transferred to another institution.⁸⁶ Furthermore, no exemption is available if the conscientious objector’s assistance is “essential in order to save the life of a woman in imminent danger.”⁸⁷

The *Società Italiana di Ginecologia e Ostetricia* is a member of FIGO.⁸⁸

23. Latvia

The *Latvian Association of Gynaecologists and Obstetricians* is a member of FIGO.⁸⁹

24. Liechtenstein

In Liechtenstein, performing an abortion is a criminal offense, whether the person performing the abortion is the mother or a physician.⁹⁰

25. Lithuania

Currently abortion practices are regulated by the Minister of Health, who issued an order defining the abortion procedures to be practiced in Lithuania.⁹¹

The *Lithuanian Association of Obstetricians and Gynecologists* is a member of FIGO.⁹²

26. Luxembourg

Medical doctors cannot be forced to perform an abortion if doing so would violate their conscience.⁹³ However, physicians must perform an abortion if there is an “imminent threat to the mother’s life.”⁹⁴

The *Société Luxembourgeoise de Gynécologie et d’Obstétrique* is member of FIGO.⁹⁵

⁸² Law 194 of 22 May 1978, art. 9.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ FIGO Members, *supra* note 3.

⁸⁹ FIGO Members, *supra* note 3.

⁹⁰ Liechtensteinisches Landesgesetzblatt [Penal Code], No. 37, 22 October 1988, art 96-98 (Liechtenstein), available at <http://www.hsph.harvard.edu/population/abortion/LIECHTENSTEIN.abo.htm>.

⁹¹ Dėl nėštumo nutraukimo operacijos atlikimo tvarkos (Regulation on the Performance of Abortions) LR Sveikatos apsaugos ministerijos įstatymas (Decree of Ministry of Health), No. 50 (January 28, 1994), available at

http://translate.google.com/translate?hl=en&sl=lt&u=http://sena.sam.lt/lt/main/teisine_informacija/ministro_isakymai%3Fid%3D22784&ei=TgwLS9WgGsuBnQfckfTKCw&sa=X&oi=translate&ct=result&resnum=1&ved=0CAwQ7gEwAA&prev=/search%3Fq%3DD%25C4%2597I%2Bn%25C4%2597%25C5%25A1tumo%2Bnutraukimo%2Boperacijos%2Batlikimo%2Btvarkos%26hl%3Den.

⁹² FIGO Members, *supra* note 3.

⁹³ Luxembourg, Law of 15 November 1978 Penal Code Act 353-1, available at <http://www.hsph.harvard.edu/population/abortion/LUXEMBOURG.abo.htm>.

⁹⁴ *Id.*

27. Malta

Performing an abortion or assisting another perform an abortion is a criminal act in Malta.⁹⁶ Malta's criminal code protects the life of the unborn, prohibiting physicians from inducing a miscarriage.⁹⁷

The *Malta College of Obstetricians and Gynaecologists* is a member of FIGO.⁹⁸

28. Moldova

The *Society of Obstetricians and Gynecologists of Republic of Moldova* is a member of FIGO.⁹⁹

29. Monaco

Abortion is illegal in Monaco with the criminal law principle of necessity interpreted to permit abortion to save the life of the mother.¹⁰⁰

Monaco has one of the most restrictive abortion laws in Europe. Under the Criminal Code (Law No. 829 of 28 September 1967), there are no stated exceptions to a general prohibition of abortion. Nonetheless, under general criminal law principles of necessity, an abortion can be performed to save the life of a pregnant woman.¹⁰¹

In 2009, Monaco passed a law that will permit abortion in the future in cases of rape or foetal deformity.¹⁰²

30. Montenegro

The *Association of Gynecologists and Obstetricians of Serbia, Montenegro and Republic Srpska* (UGOSCGRS) is a member of FIGO.¹⁰³

31. The Netherlands

The Netherlands recognizes the right to religious conscientious objection in specific areas of legislation.¹⁰⁴ When the physician has a conscientious objection to performing the treatment or referring the patient to another physician who would perform the operations, he must notify the patient immediately after she has consulted him.¹⁰⁵ The physician who conscientiously objects, must however, divulge the woman's condition and medical documents to another physician if the patient consents to the transfer of the information.¹⁰⁶

The *Dutch Society of Obstetrics and Gynaecology* is a member of FIGO.¹⁰⁷

⁹⁵ FIGO Members, *supra* note 3.

⁹⁶ Malta Crim. Code § 241-243A (2003), *available at* <http://www.hsph.harvard.edu/population/abortion/MALTA.abo.htm>.

⁹⁷ *Id.*

⁹⁸ FIGO Members, *supra* note 3.

⁹⁹ FIGO Members, *supra* note 3.

¹⁰⁰ 2 Abortion Policies, *supra* note 23, at 141, U.N. Doc. ST/ESA/SER.A/191, U.N. Sales No. E.01.XIII.18.

¹⁰¹ *Id.* at 142.

¹⁰² Matthew C. Hoffman, Catholic Monaco Legalizes Abortion, LIFE SITE NEWS, Apr. 8, 2009, <http://www.lifesitenews.com/ldn/2009/apr/09040810.html>.

¹⁰³ FIGO Members, *supra* note 3.

¹⁰⁴ Netherlands, Law on the Termination of Pregnancy of 1 May 1981§ 20(1), *available at* <http://www.hsph.harvard.edu/population/abortion/NETHERLANDS.abo.htm>.

¹⁰⁵ *Id.* at § 20(2).

¹⁰⁶ *Id.* at § 20(3).

¹⁰⁷ FIGO Members, *supra* note 3.

32 Norway

Under Norwegian law, doctors are not legally required to perform abortions, but must participate in pre-operative care.¹⁰⁸

The *Norsk Gynekologisk Forening* (Norwegian Society for Gynecology and Obstetrics) is a member of FIGO.¹⁰⁹

33. Poland

Article 53 of the Polish Constitution provides that “the freedom of conscience and religion shall be assured to everyone.”¹¹⁰ The Polish Code of Medical Ethics, Article 4, states that physicians are free to carry out their professional duties in accordance with their own consciences and contemporary medical practices.¹¹¹

Article 35 of the 5 December 1996 Act of the Medical and Dentist Profession provides:

The doctor may refrain from implementing health care benefits that are incompatible with his conscience, subject to Article 30 of the obligation to indicate that there is real opportunity to obtain the benefits with another doctor or in another plant health care and justified and should be noted that fact in medical records. The doctor when exercising their profession on the basis of work or in the service is also an obligation for prior notification in writing superior.¹¹²

Poland grants to the unborn all of the rights and privileges of born children. “A conceived child shall likewise enjoy legal capacity; it shall acquire the same rights and duties as regards succession insofar as it is born alive.”¹¹³

The *Polish Gynaecological Society* (Polskie Towarzystwo Ginekologiczne) is a member of FIGO.¹¹⁴

34. Portugal

Portugal’s Constitution provides medical professionals with a right to refuse to perform an abortion based upon religious or philosophical beliefs.¹¹⁵ Article 41(6) of the Constitution explicitly provides a right to “conscientious objection as in accordance with the law.”¹¹⁶ Further, under Article 12 of Law No. 16/2001 (Law of Religious Freedom), one may “object to the compliance of laws that contradict the imperative commands of one’s own conscience, *within the limits of the rights and duties imposed by the Constitution and under the terms of*

¹⁰⁸ Norway, LOV 1975-06-13 nr 50: Law on abortion § 14, *available at* http://translate.googleusercontent.com/translate_c?hl=en&sl=no&tl=en&u=http://www.lovdato.no/all/hl-19750613-050.html&rurl=translate.google.com&usg=ALkJrhjS1SAhLFvqLRx4-L18G67OZqzZA, *see also* Saunders, *supra* note 48, at 9.

¹⁰⁹ FIGO Members, *supra* note 3.

¹¹⁰ Poland Const. art. 53, *available at* <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>.

¹¹¹ Poland Code of Medical Ethics, art. 4., *available at* http://www.nil.org.pl/xml/nil/wladze/str_zl/zjazd7/kel.

¹¹² 5 December 1996 Act on the Medical and Dentist Profession, art. 39 (OJ of 1997, no. 28, item 152 with amendments in 2005 and 2006), *available at* <http://translate.google.com/translate?hl=en&sl=pl&u=http://www.portalmed.pl/xml/prawo/medycyna/medycyna/podst/lekarz&ei=xWQIS8X7Bcz-nAeJ1fXICw&sa=X&oi=translate&ct=result&resnum=1&ved=0CAkQ7gEwAA&prev=/search%3Fq%3DUstawa%2Bo%2Bzawodzie%2Blekarza%2Bi%2Blekarza%2Bdentysty%2Bz%26hl%3Den>

¹¹³ Poland, Law of 7 Jan. 1993 (4)(2), *available at* http://www.hsph.harvard.edu/population/annual_review.htm abortion, Poland.

¹¹⁴ FIGO Members, *supra* note 3.

¹¹⁵ E.U. Network of Indep. Experts of Fundamental Rights, *supra* note 30, at 12, (citing Portuguese Constitution Art. 41(6)); *see also* Protection of Conscience Project, Protection of Conscience Laws, Portugal, *available at* <http://www.consciencelaws.org/Conscience-Laws-Portugal/LawPortugal.html>.

¹¹⁶ *Id.*

*the law that may regulate the exercise of the conscientious objection.*¹¹⁷ Additionally, Section 2 of Law No. 16/2001 provides “[t]he commands of conscience that are considered imperative are those whose infringement involves a serious offence to one’s moral integrity and, consequently, make any other behaviour as not mandatory.”¹¹⁸ Legislation passed in Portugal, provides medical professionals are not obliged to direct or collaborate in medically assisted procreation if the professional conscientiously objects.¹¹⁹ Healthcare workers, also have the right to conscientiously object.¹²⁰ When healthcare workers do not provide abortions due to their conscience objection or other obstacles, they are obliged to refer the woman to another practitioner who will perform the operation.¹²¹ The *Sociedade Portuguesa de Obstetricia e Ginecologia* is a member of FIGO.¹²²

35. Romania

The Romanian Constitution provides, “[f]reedom of thought, opinion, and religious belief shall not be restricted in any form whatsoever.”¹²³ The Constitution further provides that although “[f]reedom of conscience is guaranteed; it must be manifested in a spirit of tolerance and mutual respect.”¹²⁴

The *Romanian Society of Obstetric and Gynecology* is a member of FIGO.¹²⁵

36. Russian Federation

Russian Federal Law recognizes¹²⁶ and regulates individuals’ rights to freedom of conscience, faith, and religious associations.¹²⁷

The *Russian Society of Obstetricians and Gynaecologists* is a member of FIGO.¹²⁸

37. San Marino

Abortion is illegal in San Marino with the criminal law principle of necessity interpreted to permit abortion to save the life of the mother.¹²⁹ “Under Articles 153 and 154 of the Penal Code of San Marino, abortion is generally prohibited. . . . Nonetheless, under general criminal law principles of necessity, an abortion can be performed to save the life of the pregnant woman.”¹³⁰

¹¹⁷ *Id.* (citing Art. 12, Law No. 16/2001(1)) (emphasis added); see also Protection of Conscience Project, Protection of Conscience Laws, Portugal, available at <http://www.consciencelaws.org/Conscience-Laws-Portugal/LawPortugal.html>.

¹¹⁸ *Id.*

¹¹⁹ Portugal. Law No. 32/2006 of 26 July 2006, chapt. 2 art. 11 on medically assisted procreation. (Diário da República, Part I, 26 July 2006, No. 143. pp. 5245-5250), available only in Portuguese at <http://www.dre.pt/pdfgratis/2006/07/14300.pdf>.

¹²⁰ Portugal Law16/2007 [Penal Code] § 42(6), available at <http://www.hsph.harvard.edu/population/abortion/PORTUGAL.abo.htm>(available only in Portuguese.)

¹²¹ *Id.*

¹²² FIGO Members, *supra* note 3.

¹²³ The Republic of Romania Const. art. 29(1), available at <http://diasan.vsat.ro/legislatie/eng/vol65eng.pdf>.

¹²⁴ *Id.* at art. 29(2).

¹²⁵ FIGO Members, *supra* note 3.

¹²⁶ Russian Federation, Federal Law, No. 125-FZ of September 26, 1997, art. 3(1), available at <http://www.legislationline.org/documents/action/popup/id/4187>.

¹²⁷ *Id.* art. 2(2).

¹²⁸ FIGO Members, *supra* note 3.

¹²⁹ 3 Abortion Policies, *supra* note 23, at 71, U.N. Doc. ST/ESA/SER.A/196, Sales No. E.02.XIII.5.

¹³⁰ *Id.* at 72.

38. Serbia

The Serbian Constitution provides “freedom of thought, conscience, beliefs and religion . . . as well as the right to stand by one’s belief or religion or change them by choice.”¹³¹ However, these freedoms “may be restricted by law only if that is necessary in a democratic society to protect lives and health of people, morals of democratic society, freedoms and rights guaranteed by the Constitution, public safety and order, or to prevent inciting of religious, national, and racial hatred.”¹³²

The *Association of Gynecologists and Obstetricians of Serbia, Montenegro and Republic Srpska* (UGOSCGRS) is a member of FIGO.¹³³

39. Slovak Republic

On September 22, 2004, the National Council of the Slovak Republic passed an act regulating healthcare and related services. Under Section 12 of the Act, Legal Relations in Healthcare Provision, a healthcare provider may refuse to agree to perform certain procedures if the “provision [of the procedures] is prevented by personal belief of a medical worker, who is to provide the healthcare.”¹³⁴ The exemption from providing services due to “personal belief” only applies to “artificial abortion, sterilization and assisted reproduction.”¹³⁵ If medical treatment is refused because of personal beliefs, the proposed patient may seek to induce the “pertinent self-governing region doctor” to investigate to ensure that the denial of treatment was due in fact to the beliefs held by the provider.¹³⁶ “The decision of the self-governing region doctor is binding for the provider.”¹³⁷

The *Slovak Society of Gynecology and Obstetrics* is a member of FIGO.¹³⁸

40. Slovenia

The Constitution of Slovenia states that the right of conscientious objection shall be permitted in such circumstances as are determined by statute, to the extent that the rights and freedoms of others are not affected.¹³⁹ “Healthcare workers may not refuse to provide emergency medical assistance.”¹⁴⁰ Healthcare workers are required to report their conscientious objections to the healthcare institution.¹⁴¹ The healthcare institution considers these objections, but “must ensure that patients’ healthcare rights are exercised without disruption.”¹⁴² Healthcare workers may refuse to perform “a medical intervention if they believe that it is not in accordance with their conscience and with international rules of medical ethics.”¹⁴³

¹³¹ Serbia Const. art. 43, available at <http://www.legislationline.org/documents/section/constitutions> (Serbia Const).

¹³² *Id.*

¹³³ FIGO Members, *supra* note 3.

¹³⁴ Slovak, Act No. 576/2004 Coll. § 12(2)(c) (22 September 2004), available at http://www.privireal.org/content/rec/documents/Slovakia_ActNo576_Healthcare_2004.pdf.

¹³⁵ *Id.* at § 12(3).

¹³⁶ *Id.* at (4).

¹³⁷ *Id.*

¹³⁸ FIGO Members, *supra* note 3.

¹³⁹ Slovenia Const. art. 46, available at <http://www.consciencelaws.org/Conscience-Laws-Slovenia/Conscience-Laws-Slovenia-01.html>.

¹⁴⁰ Slovenia Health Services Act, art. 45, available at <http://www.consciencelaws.org/Conscience-Laws-Slovenia/Conscience-Laws-Slovenia-01.html>.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

The Slovenian Code of Medical Deontology Practice provides “[p]hysicians may not refuse to provide emergency medical assistance appropriate to their professional capabilities, irrespective of whether it is their work duty and whether they have been expressly asked for assistance.”¹⁴⁴ Physicians are required to apply and respect the principles of freedom of choice of other physicians, healthcare institutions, and the rights of patients.¹⁴⁵ However, physicians are “obliged to reject any intervention that according to their professional convictions and conscience could be unethical or harmful to the patient.”¹⁴⁶ Physicians may not refuse to carry out an abortion or sterilization in the case of emergency medical assistance, but may refuse to perform the procedures in situations not involving an emergency, if the procedure is not “in accordance with the physician’s beliefs and conscience.”¹⁴⁷ The Slovene Association of Gynaecologists and Obstetricians is a member of FIGO.¹⁴⁸

41. Spain

Spain provides extensive regulation for healthcare workers’ right of conscientious objection in the healthcare industry. Spain’s Constitution provides for the Freedom of Religion under Article 16.¹⁴⁹ Although there is no specific provision for conscientious objection under the Organic Law 7/1980 on freedom of religion, Article 16 is “to be interpreted in accordance with international and European human rights treaties.”¹⁵⁰ Further, the Constitutional Court has interpreted Article 16 to permit health care practitioners to refuse to “perform certain operations which would violate their religious beliefs.”¹⁵¹ However, the High Courts of the Communities have limited that right to conscientious objection when a patient’s right to access medical services is endangered.¹⁵² Another court, the High Court of Castilla-La Mancha (11 June 1999) ruled that a gynaecologist must find a replacement to perform an operation to which he or she objects.¹⁵³

Additionally, various communities within Spain have adopted laws that recognize the right of pharmacologists to refuse to perform their duties based upon their religious beliefs, limited however, by a threat to the patient’s health.¹⁵⁴ The 2000 Statutes of the Professional Order of Pharmacologists in La Rioja, for example, provides further regulation, ensuring that a patient will receive assistance despite a conscientious objection.¹⁵⁵ In Valencia, medical professionals may conscientiously object to the ending of life support for a terminal patient.¹⁵⁶ The statute

¹⁴⁴ Slovenian Code of Medical Deontology Practice, art. 6, available at <http://www.consciencelaws.org/Conscience-Laws-Slovenia/Conscience-Laws-Slovenia-01.html>.

¹⁴⁵ *Id.* at art. 19.

¹⁴⁶ *Id.* at art. 14.

¹⁴⁷ *Id.* at art. 42.

¹⁴⁸ FIGO Members, *supra* note 3.

¹⁴⁹ E.U. Network of Indep. Experts of Fundamental Rights, *supra* note 30, at 13-14, (citing Spanish Constitution, art. 16); *see also* Protection of Conscience Project, Protection of Conscience Laws, Spain, *available at* <http://www.consciencelaws.org/Conscience-Laws-Spain/LawSpain.html>.

¹⁵⁰ *Id.*

¹⁵¹ *Id.* (citing STC 53/1985, judgment of 26 August 1988).

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ Protection of Conscience Project, Protection of Conscience Laws, Spain, (citing STC 53/1985, judgment of 26 August 1988), *available at* www.consciencelaws.org/Conscience-Laws-Spain/LawSpain.html.

¹⁵⁵ Law 8/1998 (16 June, 1998) On Pharmacologists, Article 5(10) (Ley 8/1998, de 16 de junio, de ordenacion farmaceutica de la Comunidad Autonoma de La Rioja (BOLR de 20 de junio)), *available at* <http://www.consciencelaws.org/Conscience-Laws-Spain/LawSpain.html>.

¹⁵⁶ Law 1/2003 (28 January, 2003) on the Rights and Information of the Patient, Article 17(2) (Ley 1/2003, de 28 de enero, de la Generalitat, de Derechos e Informacion al Paciente de la Comunidad Valenciana (DOGV de 31

allows the patient's medical request to be carried out without requiring the healthcare worker to be instrumental in executing the patient's "living will."¹⁵⁷ In Cantabria, a pharmacist's right to conscientious objection is limited to situations where exercising conscientious objection does not threaten the rights of the patients.¹⁵⁸

The *Sociedad Española de Ginecología y Obstetricia* is a member of FIGO.¹⁵⁹

42. Sweden

Swedish law does not provide for conscientious objection by physicians.¹⁶⁰ Physicians as well as other healthcare workers have a contractual obligation to assist in the termination of pregnancy.¹⁶¹

The *Svensk Förening För Obstetrik & Gynækologi* (The Swedish Society of Obstetrics and Gynecology) is a member of FIGO.¹⁶²

43. Switzerland

The Swiss Constitution guarantees the freedom of religion and philosophy and the freedom to profess their religious or philosophical convictions.¹⁶³ However, fundamental rights may be limited if the limitations are justified by public interest, or serve for the protection of fundamental rights of other persons.¹⁶⁴

The *Schweizerische Gesellschaft für Gynäkologie and Geburtshilf/Société Suisse de Gynécologie & Obstétrique* is a member of FIGO.¹⁶⁵

44. The former Yugoslav Republic of Macedonia

Healthcare workers may not invoke conscientious objection, even if the procedure violates their cultural or religious beliefs.¹⁶⁶

The *Association of Gynecologists and Obstetricians of Macedonia* is a member of FIGO.¹⁶⁷

45. Turkey

Article 24 of the Constitution of Turkey provides everyone with the right "to freedom of conscience, religious belief and conviction."¹⁶⁸ These freedoms however are subject to Article 14, which states "[n]one of the rights and freedoms embodied in the Constitution shall be

de enero)), *available at* Protection of Conscience Project, Protection of Conscience Laws, Spain,

<http://www.consciencelaws.org/Conscience-Laws-Spain/LawSpain.html>.

¹⁵⁷ *Id.*

¹⁵⁸ Law 8/1998 (16 June, 1998) On Pharmacologists, Article 5(10) (Ley 8/1998, de 16 de junio, de ordenacion farmaceutica de la Comunidad Autonoma de La Rioja (BOLR de 20 de junio)), *available at* Protection of Conscience Project, Protection of Conscience Laws, Spain, <http://www.consciencelaws.org/Conscience-Laws-Spain/LawSpain.html>.

¹⁵⁹ FIGO Members, *supra* note 3.

¹⁶⁰ Saunders, *supra* note 48, at 9.

¹⁶¹ *Id.*

¹⁶² FIGO Members, *supra* note 3.

¹⁶³ Switzerland Const., Bundesverfassung der Schweizerischen Eidgenossenschaft [BV] [18 April 1999, art. 15, ¶¶ 1,2 (Switz).

¹⁶⁴ *Id.* art. 36.

¹⁶⁵ FIGO Members, *supra* note 3.

¹⁶⁶ Law on Termination of Pregnancy June 1972, Amended May 1976 (Published in Official Journal of Socialist Republic of Macedonia).

¹⁶⁷ FIGO Members, *supra* note 3.

¹⁶⁸ Turkey Const., art. 24, *available at*

<http://www.legislationline.org/download/action/download/id/1650/file/d24f120df114ba9003796ee0f617.htm/preview>.

exercised with the aim of violating the indivisible integrity of the state with its territory and nation, and endangering the existence of the democratic and secular order of the Turkish Republic based upon human rights.”¹⁶⁹

The *Turkish Society of Obstetrics and Gynecology* is a member of FIGO.¹⁷⁰

46. Ukraine

Article 35 of the Ukrainian Constitution provides that every “person has the right to freedom of conscience and religion.”¹⁷¹ This right however can be limited by law, but only to protect the “public order, the health and morality of the population, or for the protection of the rights and freedoms of other individuals.”¹⁷²

The *Ukrainian Association of Obstetricians and Gynaecologists* is a member of FIGO.¹⁷³

47. United Kingdom

The United Kingdom recognizes the right to religious conscientious objection in the British Abortion Act of 1967 for doctors and nurses, limited by a requirement to provide emergency treatment when the life of the woman is threatened.¹⁷⁴ Other regulatory limits apply as well, requiring participation in other portions of treatment which are not part of the abortion, such as giving advice or “various participatory steps, including the signing of the certificate required from a medical practitioner before an abortion can occur.”¹⁷⁵ Moreover, there is governmental guidance regarding exemptions for ancillary staff involved in handling aborted children and provisions for medical students wishing to opt out of witnessing abortions.¹⁷⁶

The British Medical Association also “expects” doctors to refer patients to another willing doctor where there is a conscientious objection to providing contraception.¹⁷⁷ A person may assert a conscientious objection to participating in any activity governed by the Human Fertilization and Embryology Act of 1990.¹⁷⁸ The *Royal College of Obstetricians and Gynaecologists* (UK) is a member of FIGO.¹⁷⁹

III. Protection of Conscience for Health Care Professionals under the Laws of the United States & Individual States

The federal government and forty-seven states, in addition to Guam and the Virgin Islands, provide various degrees of legal protection for health care professionals who refuse to participate in abortion procedures based on religious or conscientious grounds.

¹⁶⁹ *Id.*, art. 14.

¹⁷⁰ FIGO Members, *supra* note 3.

¹⁷¹ Ukraine Const., art. 35, available at <http://www.brama.com/ua-gov/conste.html#r2>.

¹⁷² *Id.*

¹⁷³ FIGO Members, *supra* note 3.

¹⁷⁴ E.U. Network of Indep. Experts of Fundamental Rights, *supra* note 30, at 14 (citing Abortion Act 1967 § (4)(1)-(3)); see also Protection of Conscience Project, Protection of Conscience Laws, United Kingdom, available at <http://www.consciencelaws.org/Conscience-Laws-United-Kingdom/LawUK01.html>.

¹⁷⁵ *Id.* (citing *Janaway v. Salford Health Authority*, 1988).

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ Human Fertilisation and Embryology Act 1990 (c. 37), available at Protection of Conscience Project, Protection of Conscience Laws, United Kingdom, <http://www.consciencelaws.org/Conscience-Laws-United-Kingdom/LawUK01.html>.

¹⁷⁹ FIGO Members, *supra* note 3.

A. Federal Legal Protection

42 U.S.C. § 300a-7 Sterilization or Abortion

(b) Prohibition of public officials and public authorities from imposition of certain requirements contrary to religious beliefs or moral convictions

The receipt of any grant, contract, loan, or loan guarantee under the Public Health Service Act [42 U.S.C. 201 et seq.], the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.], or the Developmental Disabilities Services and Facilities Construction Act [42 U.S.C. 6000 et seq.] by any individual or entity does not authorize any court or any public official or other public authority to require—

(1) such individual to perform or assist in the performance of any sterilization procedure or abortion if his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions; or

(2) such entity to—

(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions, or

(B) provide any personnel for the performance or assistance in the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedures or abortion by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

(c) Discrimination prohibition

(1) No entity which receives a grant, contract, loan, or loan guarantee under the Public Health Service Act [42 U.S.C. 201 et seq.], the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.], or the Developmental Disabilities Services and Facilities Construction Act [42 U.S.C. 6000 et seq.] after June 18, 1973, may—

(A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

(B) discriminate in the extension of staff or other privileges to any physician or other health care personnel, because he performed or assisted in the performance of a lawful sterilization procedure or abortion, because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions respecting sterilization procedures or abortions.

(2) No entity which receives after July 12, 1974, a grant or contract for biomedical or behavioural research under any program administered by the Secretary of Health and Human Services may—

(A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

(B) discriminate in the extension of staff or other privileges to any physician or other health care personnel, because he performed or assisted in the performance of any lawful health service or research activity, because he refused to perform or assist in the performance of any such service or activity on the grounds that his performance or assistance in the

performance of such service or activity would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions respecting any such service or activity.

(d) Individual rights respecting certain requirements contrary to religious beliefs or moral convictions

No individual shall be required to perform or assist in the performance of any part of a health service program or research activity funded in whole or in part under a program administered by the Secretary of Health and Human Services if his performance or assistance in the performance of such part of such program or activity would be contrary to his religious beliefs or moral convictions.

(e) Prohibition on entities receiving Federal grant, etc., from discriminating against applicants for training or study because of refusal of applicant to participate on religious or moral grounds

No entity which receives, after September 29, 1979, any grant, contract, loan, loan guarantee, or interest subsidy under the Public Health Service Act [42 U.S.C. 201 et seq.], the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.], or the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15001 et seq.] may deny admission or otherwise discriminate against any applicant (including applicants for internships and residencies) for training or study because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to or consistent with the applicant's religious beliefs or moral convictions.

42 U.S.C. § 238n Abortion-related discrimination in governmental activities regarding training and licensing of physicians

(a) In general.

The Federal Government, and any State or local government that receives Federal financial assistance, may not subject any health care entity to discrimination on the basis that—

(1) the entity refuses to undergo training in the performance of induced abortions, to require or provide such training, to perform such abortions, or to provide referrals for such training or such abortions;

(2) the entity refuses to make arrangements for any of the activities specified in paragraph (1); or

(3) the entity attends (or attended) a post-graduate physician training program, or any other program of training in the health professions, that does not (or did not) perform induced abortions or require, provide or refer for training in the performance of induced abortions, or make arrangements for the provision of such training.

B. State Legal Protection

Only three (3) states in the United States do not provide for the civil rights of healthcare providers with regard to conscience laws: Alabama, New Hampshire, and Vermont. Below are the laws in the remaining states and territories.

ALASKA

ALASKA STAT. § 18.16.010(b) (LexisNexis 2010):

Nothing in this section requires a hospital or person to participate in an abortion, nor is a hospital or person liable for refusing to participate in an abortion under this section.

ARIZONA

ARIZ. REV. STAT. § 36-2154(A)-(B) (LexisNexis 2010):

A. A hospital is not required to admit any patient for the purpose of performing an abortion. A physician, or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital, doctor, clinic or other medical or surgical facility in which an abortion has been authorized, who states in writing an objection to the abortion on moral or religious grounds is not required to facilitate or participate in the medical or surgical procedures that will result in the abortion.

B. A pharmacy, hospital or health professional, or any employee of a pharmacy, hospital or health professional, who states in writing an objection to abortion, abortion medication, emergency contraception or any medication or device intended to inhibit or prevent implantation of a fertilized ovum on moral or religious grounds is not required to facilitate or participate in the provision of an abortion, abortion medication, emergency contraception or any medication or device intended to inhibit or prevent implantation of a fertilized ovum. The pharmacy, hospital or health professional, or an employee of the pharmacy, hospital or health professional, shall return to the patient the patient's written prescription order.

ARKANSAS

ARK. CODE ANN. § 20-16-601(a)-(b) (LexisNexis 2010):

(a) No person shall be required to perform or participate in medical procedures which result in the termination of pregnancy. The refusal of any person to perform or participate in these medical procedures shall not be a basis for civil liability to any person nor a basis for any disciplinary or any other recriminatory action against him or her.

(b) No hospital, hospital director, or governing board shall be required to permit the termination of human pregnancies within its institution, and the refusal to permit the procedures shall not be grounds for civil liability to any person nor a basis for any disciplinary or other recriminatory action against it by the state or any person.

ARK. CODE ANN. § 20-16-304 (LexisNexis 2010) (emphasis added):

Public policy—Availability of procedures, supplies, and information--Exceptions.

It shall be the policy and authority of this state that:

(1) All medically acceptable contraceptive procedures, supplies, and information shall be available through legally recognized channels to each person desirous of the procedures, supplies, and information regardless of sex, race, age, income, number of children, marital status, citizenship, or motive;

(2) Medical procedures for permanent sterilization, when performed by a physician on a requesting and consenting person eighteen (18) years of age or older, or less than eighteen (18) years of age if legally married, be consistent with public policy;

(3) Dissemination of medically acceptable contraceptive information in this state and in state and county health and welfare departments, in medical facilities, at institutions of higher learning, and at other agencies and instrumentalities of this state be consistent with public policy;

(4) *Nothing in this subchapter shall prohibit a physician, pharmacist, or any other authorized paramedical personnel from refusing to furnish any contraceptive procedures, supplies, or information; and*

(5) *No private institution or physician, nor any agent or employee of the institution or physician, nor any employee of a public institution acting under directions of a physician,*

shall be prohibited from refusing to provide contraceptive procedures, supplies, and information when the refusal is based upon religious or conscientious objection. No such institution, employee, agent, or physician shall be held liable for the refusal.

CALIFORNIA

CAL. HEALTH & SAFETY CODE § 123420(a)-(d) (LexisNexis 2009):

(a) No employer or other person shall require a physician, a registered nurse, a licensed vocational nurse, or any other person employed or with staff privileges at a hospital, facility, or clinic to directly participate in the induction or performance of an abortion, if the employee or other person has filed a written statement with the employer or the hospital, facility, or clinic indicating a moral, ethical, or religious basis for refusal to participate in the abortion.

No such employee of a hospital, facility, or clinic that does not permit the performance of abortions, or person with staff privileges therein, shall be subject to any penalty or discipline on account of the person's participation in the performance of an abortion in other than the hospital, facility, or clinic.

(b) No medical school or other facility for the education or training of physicians, nurses, or other medical personnel shall refuse admission to a person or penalize the person in any way because of the person's unwillingness to participate in the performance of an abortion for moral, ethical, or religious reasons. No hospital, facility, or clinic shall refuse staff privileges to a physician because of the physician's refusal to participate in the performance of abortion for moral, ethical, or religious reasons.

(c) Nothing in this article shall require a non-profit hospital or other facility or clinic that is organized or operated by a religious corporation or other religious organization and licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250) of Division 2, or any administrative officer, employee, agent, or member of the governing board thereof, to perform or to permit the performance of an abortion in the facility or clinic or to provide abortion services. No such non-profit facility or clinic organized or operated by a religious corporation or other religious organization, nor its administrative officers, employees, agents, or members of its governing board shall be liable, individually or collectively, for failure or refusal to participate in any such act. The failure or refusal of any such corporation, unincorporated association or individual person to perform or to permit the performance of such medical procedures shall not be the basis for any disciplinary or other recriminatory action against such corporations, unincorporated associations, or individuals. Any such facility or clinic that does not permit the performance of abortions on its premises shall post notice of that proscription in an area of the facility or clinic that is open to patients and prospective admittees.

(d) This section shall not apply to medical emergency situations and spontaneous abortions.

CAL BUS & PROF CODE § 733(a), (b)(3) (LexisNexis 2009) (pertaining to pharmacists) (emphasis added):

733. *Health care licentiate* required to dispense drugs and devices pursuant to lawful order or prescription; *Specified exceptions*; Violation as unprofessional conduct

(a) No licentiate shall obstruct a patient in obtaining a prescription drug or device that has been legally prescribed or ordered for that patient. A violation of this section constitutes unprofessional conduct by the licentiate and shall subject the licentiate to disciplinary or administrative action by his or her licensing agency.

(b) Notwithstanding any other provision of law, a licentiate shall dispense drugs and devices, as described in subdivision (a) of Section 4024, pursuant to a lawful order or prescription unless one of the following circumstances exists:

...

(3) *The licentiate refuses on ethical, moral, or religious grounds to dispense a drug or device pursuant to an order or prescription. A licentiate may decline to dispense a prescription drug or device on this basis only if the licentiate has previously notified his or her employer, in writing, of the drug or class of drugs to which he or she objects, and the licentiate's employer can, without creating undue hardship, provide a reasonable accommodation of the licentiate's objection.* The licentiate's employer shall establish protocols that ensure that the patient has timely access to the prescribed drug or device despite the licentiate's refusal to dispense the prescription or order. For purposes of this section, "reasonable accommodation" and "undue hardship" shall have the same meaning as applied to those terms pursuant to subdivision (l) of Section 12940 of the Government Code.

COLORADO

COLO. REV. STAT. § 18-6-104 (LexisNexis 2009):

A person who is a member of or associated with the staff of a hospital or any employee of a hospital in which a justified medical termination has been authorized and who states in writing an objection to the termination on moral or religious grounds is not required to participate in the medical procedures which result in the termination of a pregnancy, and the refusal of any such person to participate does not form the basis for any disciplinary or other recriminatory action against the person.

CONNECTICUT

REGS. CONN. STATE AGENCIES § 19-13-D54(f) (LexisNexis 2010):

No person shall be required to participate in any phase of an abortion that violates his or her judgment, philosophical, moral or religious beliefs.

DELAWARE

DEL. CODE ANN. tit. 24, § 1791 (LexisNexis 2010):

(a) No person shall be required to perform or participate in medical procedures which result in the termination of pregnancy; and the refusal of any person to perform or participate in these medical procedures shall not be a basis for civil liability to any person, nor a basis for any disciplinary or other recriminatory action against the person.

(b) No hospital, hospital director or governing board shall be required to permit the termination of human pregnancies within its institution, and the refusal to permit such procedures shall not be grounds for civil liability to any person, nor a basis for any disciplinary or other recriminatory action against it by the State or any person.

(c) The refusal of any person to submit to an abortion or to give consent shall not be grounds for loss of any privileges or immunities to which such person would otherwise be entitled, nor shall submission to an abortion or the granting of consent be a condition precedent to the receipt of any public benefits.

FLORIDA

FLA. STAT. ANN. § 390.0111(8) (LexisNexis 2009):

(8) **REFUSAL TO PARTICIPATE IN TERMINATION PROCEDURE.** – Nothing in this section shall require any hospital or any person to participate in the termination of a pregnancy, nor shall any hospital or any person be liable for such refusal. No person who is a member of, or associated with, the staff of a hospital, nor any employee of a hospital or physician in which or by whom the termination of a pregnancy has been authorized or performed, who shall state an objection to such procedure on moral or religious grounds shall be required to participate in the procedure which will result in the termination of pregnancy. The refusal of any such person or employee to participate shall not form the basis for any disciplinary or other recriminatory action against such person.

GEORGIA

GA. CODE. ANN. § 16-12-142(a)-(b) (LexisNexis 2009) (emphasis added):

(a) Nothing in this article shall require a hospital or other medical facility or physician to admit any patient under the provisions of this article for the purpose of performing an abortion.

(b) Any *pharmacist* who states in writing an objection to any abortion or all abortions on moral or religious grounds shall not be required to fill a prescription for a drug which purpose is to terminate a pregnancy; and the refusal of the person to fill such prescription shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against the person; provided, however, that the pharmacist shall make all reasonable efforts to locate another pharmacist who is willing to fill such prescription or shall immediately return the prescription to the prescription holder. The written objection shall remain in effect until the person revokes it or terminates his or her association with the facility with which it is filed. Nothing in this subsection shall be construed to authorize a pharmacist to refuse to fill a prescription for birth control medication, including any process, device, or method to prevent pregnancy and including any drug or device approved by the federal Food and Drug Administration for such purpose.

HAWAII

HAW. REV. STAT. ANN. § 453-16(e) (LexisNexis 2009):

Nothing in this section shall require any hospital or any person to participate in an abortion nor shall any hospital or any person be liable for a refusal.

IDAHO

IDAHO CODE ANN. § 18-612 (LexisNexis 2009):

Nothing in this act shall be deemed to require any hospital to furnish facilities or admit any patient for any abortion if, upon determination by its governing board, it elects not to do so. Neither shall any physician be required to perform or assist in any abortion, nor shall any nurse, technician or other employee of any physician or hospital be required by law or otherwise to assist or participate in the performance or provision of any abortion if he or she, for personal, moral or religious reasons, objects thereto. Any such person in the employ or under the control of a hospital shall be deemed to have sufficiently objected to participation in such procedures only if he or she has advised such hospital in writing that he or she generally or specifically objects to assisting or otherwise participating in such procedures. Such notice will suffice without specification of the reason therefor. No refusal to accept a patient for abortion or to perform, assist or participate in any such abortion as herein provided shall form the basis of any claim for damages or recriminatory action against the declining person, agency or institution.

ILLINOIS

720 ILL. COMP. STAT. ANN. 510/13 (LexisNexis 2010):

No physician, hospital, ambulatory surgical center, nor employee thereof, shall be required against his or its conscience declared in writing to perform, permit or participate in any abortion, and the failure or refusal to do so shall not be the basis for any civil, criminal, administrative or disciplinary action, proceeding, penalty or punishment. If any request for an abortion is denied, the patient shall be promptly notified.

INDIANA

BURNS IND. CODE ANN. § 16-34-1-4 (LexisNexis 2009):

No:

- (1) Physician; or
- (2) Employee or member of the staff of a hospital or other facility in which an abortion may be performed;

shall be required to perform an abortion or to assist or participate in the medical procedures resulting in or intended to result in an abortion, if that individual objects to such procedures on ethical, moral, or religious grounds.

IOWA

IOWA CODE § 146.1 (LexisNexis 2008):

An individual who may lawfully perform, assist, or participate in medical procedures which will result in an abortion shall not be required against that individual's religious beliefs or moral convictions to perform, assist, or participate in such procedures. A person shall not discriminate against any individual in any way, including but not limited to employment, promotion, advancement, transfer, licensing, education, training or the granting of hospital privileges or staff appointments, because of the individual's participation in or refusal to participate in recommending, performing, or assisting in an abortion procedure. For the purposes of this chapter, "abortion" means the termination of a human pregnancy with the intent other than to produce a live birth or to remove a dead fetus. Abortion does not include medical care which has as its primary purpose the treatment of a serious physical condition requiring emergency medical treatment necessary to save the life of a mother.

KANSAS

KAN. STAT. ANN. § 65-443 (LexisNexis 2008) (emphasis added):

No person shall be required to perform or participate in medical procedures which result in the termination of a pregnancy, and the refusal of any person to perform or participate in those medical procedures shall not be a basis for civil liability to any person. No hospital, hospital administrator or governing board of any hospital shall terminate the employment of, prevent or impair the practice or occupation of or impose any other sanction on any person because of such person's refusal to perform or participate in the termination of any human pregnancy.

KENTUCKY

KY. REV. STAT. ANN. § 311.800 (LexisNexis 2010):

(1) No publicly owned hospital or other publicly owned health care facility shall perform or permit the performance of abortions, except to save the life of the pregnant woman.

(2) In the event that a publicly owned hospital or publicly owned health facility is performing or about to perform an abortion in violation of subsection (1) of this section, and law enforcement authorities in the county have failed or refused to take action to stop such a practice, any resident of the county in which the hospital or health facility is located, may apply to the Circuit Court of that county for an injunction or other court process to require compliance with subsection (1) of this section.

(3) No private hospital or private health care facility shall be required to, or held liable for refusal to, perform or permit the performance of abortion contrary to its stated ethical policy.

(4) No physician, nurse staff member or employee of a public or private hospital or employee of a public or private health care facility, who shall state in writing to such hospital or health care facility his objection to performing, participating in, or cooperating in, abortion on moral, religious or professional grounds, be required to, or held liable for refusal to, perform, participate in, or cooperate in such abortion.

(5) It shall be an unlawful discriminatory practice for the following:

(a) Any person to impose penalties or take disciplinary action against, or to deny or limit public funds, licenses, certifications, degrees, or other approvals or documents of qualification to, any hospital or other health care facility due to the refusal of such hospital or health care facility to perform or permit to be performed, participate in, or cooperate in, abortion by reason of objection thereto on moral, religious or professional grounds, or because of any statement or other manifestation of attitude by such hospital or health care facility with respect to abortion; or,

(b) Any person to impose penalties or take disciplinary action against, or to deny or limit public funds, licenses, certifications, degrees, or other approvals or documents of qualification to any physician, nurse or staff member or employee of any hospital or health care facility, due to the willingness or refusal of such physician, nurse or staff member or employee to perform or participate in abortion by reason of objection thereto on moral, religious or professional grounds, or because of any statement or other manifestation of attitude by such physician, nurse or staff member or employee with respect to abortion; or,

(c) Any public or private agency, institution or person, including a medical, nursing or other school, to deny admission to, impose any burdens in terms of conditions of employment upon, or otherwise discriminate against any applicant for admission thereto or any physician, nurse, staff member, student or employee thereof, on account of the willingness or refusal of such applicant, physician, nurse, staff member, student or employee to perform or participate in abortion or sterilization by reason of objection thereto on moral, religious or professional grounds, or because of any statement or other manifestation of attitude by such person with respect to abortion or sterilization if that health care facility is not operated exclusively for the purposes of performing abortions or sterilizations.

LOUISIANA

LA. REV. STAT. ANN. § 40:1299.31 (LexisNexis 2010):

A. No physician, nurse, student or other person or corporation shall be held civilly or criminally liable, discriminated against, dismissed, demoted, or in any way prejudiced or damaged because of his refusal for any reason to recommend, counsel, perform, assist with or accommodate an abortion.

B. No worker or employee in any social service agency, whether public or private, shall be held civilly or criminally liable, discriminated against, dismissed, demoted, in any way prejudiced or damaged, or pressured in any way for refusal to take part in, recommend or counsel an abortion for any woman.

MAINE

ME. REV. STAT. ANN. tit. 22, § 1591 (LexisNexis 2009) (emphasis added):

No physician, nurse or *other person* who refuses to perform or assist in the performance of an abortion, and no hospital or health care facility that refuses to permit the performance of an abortion upon its premises, shall be liable to any person, firm, association or corporation for damages allegedly arising from the refusal, nor shall such refusal constitute a basis for any civil liability to any physician, nurse or other person, hospital or health care facility nor a basis for any disciplinary or other recriminatory action against them or any of them by the State or any person.

No physician, nurse or *other person*, who refuses to perform or assist in the performance of an abortion, shall, because of that refusal, be dismissed, suspended, demoted or otherwise prejudiced or damaged by a hospital, health care facility, firm, association, professional association, corporation or educational institution with which he or she is affiliated or requests to be affiliated or by which he or she is employed, nor shall such refusal constitute grounds for loss of any privileges or immunities to which such physician, nurse or other person would otherwise be entitled nor shall submission to an abortion or the granting of consent therefore be a condition precedent to the receipt of any public benefits.

MARYLAND

MD. CODE ANN. HEALTH-GEN. § 20-214(a)-(c) (LexisNexis 2010):

(a) In general. –

(1) A person may not be required to perform or participate in, or refer to any source for, any medical procedure that result in artificial insemination, sterilization, or termination of pregnancy.

(2) The refusal of a person to perform or participate in, or refer to a source for, these medical procedures may not be a basis for:

- (i) Civil liability to another person; or
- (ii) Disciplinary or other recriminatory action against the person.

(b) Hospitals. –

(1) A licensed hospital, hospital director, or hospital governing board may not be required:

- (i) To permit, within the hospital, the performance of any medical procedure that results in artificial insemination, sterilization, or termination of pregnancy; or
- (ii) To refer to any source for these medical procedures.

(2) The refusal to permit or to refer to a source for these procedures may not be grounds for:

- (i) Civil liability to another person; or
- (ii) Disciplinary or other recriminatory action against the person by this State or any person.

(c) Patients. –

(1) The refusal of an individual to submit to or give consent for an abortion or sterilization may not be grounds for loss of any privileges or immunities to which the individual otherwise would be entitled.

(2) Submitting to or granting consent for an abortion or sterilization may not be a condition precedent to the receipt of any public benefits.

MASSACHUSETTS

MASS. ANN. LAWS. ch. 112, § 12I (LexisNexis 2009):

A physician or any other person who is a member of or associated with the medical staff of a hospital or other health facility or any employee of a hospital or other health facility in which an abortion or any sterilization procedure is scheduled and who shall state in writing an objection to such abortion or sterilization procedure on moral or religious grounds, shall not be required to participate in the medical procedures which result in such abortion or sterilization, and the refusal of any such person to participate therein shall not form the basis for any claim of damages on account of such refusal or for any disciplinary or recriminatory action against such person. The refusal of any person who has made application to a medical, premedical, nursing, social work, or psychology program in the commonwealth to agree to counsel, suggest, recommend, assist, or in any way participate in the performance of an abortion or sterilization contrary to his religious beliefs or moral convictions shall not form the basis for any discriminatory action against such person. Conscientious objection to abortion shall not be grounds for dismissal, suspension, demotion, failure to promote, discrimination in hiring, withholding of pay or refusal to grant financial assistance under any state aided project, or used in any way to the detriment of the individual in any hospital, clinic, medical, premedical, nursing, social work, or psychology school or state aided program or institution which is supported in whole or in part-by the commonwealth.

MICHIGAN

MICH. COMP. LAWS SERV. § 333.20181 (LexisNexis 2009):

A hospital, clinic, institution, teaching institution, or other health facility is not required to admit a patient for the purpose of performing an abortion. A hospital, clinic, institution, teaching institution, or other health facility or a physician, member, or associate of the staff, or other person connected therewith, may refuse to perform, participate in, or allow to be performed on its premises an abortion. The refusal shall be with immunity from any civil or criminal liability or penalty.

MINNESOTA

MINN. STAT. § 145.414(a)-(b) (LexisNexis 2009):

(a) No person and no hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion for any reason.

(b) It is the policy of the state of Minnesota that no health plan company as defined under section 62Q.01, subdivision 4, or health care cooperative as defined under section 62R.04, subdivision 2, shall be required to provide or provide coverage for an abortion. No provision of this chapter; of chapter 62A, 62C, 62D, 62H, 62L, 62M, 62N, 62R, 64B, or of any other chapter; of Minnesota Rules; or of Laws 1995, chapter 234, shall be construed as requiring a health plan company as defined under section 62Q.01, subdivision 4, or a health care cooperative as defined under section 62R.04, subdivision 2, to provide or provide coverage for an abortion.

MISSISSIPPI

MISS. CODE ANN. § 41-107-5 (LexisNexis 2009) (Health-Care Providers):

(1) Rights of Conscience. A health-care provider has the right not to participate, and no health-care provider shall be required to participate in a health-care service that violates his or her conscience. However, this subsection does not allow a health-care provider to refuse to participate in a health-care service regarding a patient because of the patient's race, colour, national origin, ethnicity, sex, religion, creed or sexual orientation.

(2) Immunity from Liability. No health-care provider shall be civilly, criminally, or administratively liable for declining to participate in a health-care service that violates his or her conscience. However, this subsection does not exempt a health-care provider from liability for refusing to participate in a health-care service regarding a patient because of the patient's race, colour, national origin, ethnicity, sex, religion, creed or sexual orientation.

(3) Discrimination. It shall be unlawful for any person, health-care provider, health-care institution, public or private institution, public official, or any board which certifies competency in medical specialties to discriminate against any health-care provider in any manner based on his or her declining to participate in a health-care service that violates his or her conscience. For purposes of this chapter, discrimination includes, but is not limited to: termination, transfer, refusal of staff privileges, refusal of board certification, adverse administrative action, demotion, loss of career specialty, reassignment to a different shift, reduction of wages or benefits, refusal to award any grant, contract, or other program, refusal to provide residency training opportunities, or any other penalty, disciplinary or retaliatory action.

MISS. CODE ANN. § 41-107-7 (LexisNexis 2009) (Health-Care Institutions):

(1) Rights of Conscience. A health-care institution has the right not to participate, and no health-care institution shall be required to participate in a health-care service that violates its conscience. However, this subsection does not allow a health-care institution to refuse to participate in a health-care service regarding a patient because of the patient's race, colour, national origin, ethnicity, sex, religion, creed or sexual orientation.

(2) Immunity from Liability. A health-care institution that declines to provide or participate in a health-care service that violates its conscience shall not be civilly, criminally or administratively liable if the institution provides a consent form to be signed by a patient before admission to the institution stating that it reserves the right to decline to provide or participate in a health-care service that violates its conscience. However, this subsection does not exempt a health-care institution from liability for refusing to participate in a health-care service regarding a patient because of the patient's race, colour, national origin, ethnicity, sex, religion, creed or sexual orientation.

(3) Discrimination. It shall be unlawful for any person, public or private institution, or public official to discriminate against any health-care institution, or any person, association, corporation, or other entity attempting to establish a new health-care institution or operating an existing health-care institution, in any manner, including, but not limited to, any denial,

deprivation or disqualification with respect to licensure, any aid assistance, benefit or privilege, including staff privileges, or any authorization, including authorization to create, expand, improve, acquire, or affiliate or merge with any health-care institution, because such health-care institution, or person, association, or corporation planning, proposing, or operating a health-care institution, declines to participate in a health-care service which violates the health-care institution's conscience.

(4) Denial of Aid or Benefit. It shall be unlawful for any public official, agency, institution, or entity to deny any form of aid, assistance, grants or benefits, or in any other manner to coerce, disqualify or discriminate against any person, association, corporation or other entity attempting to establish a new health-care institution or operating an existing health-care institution because the existing or proposed health-care institution declines to participate in a health-care service contrary to the health-care institution's conscience.

MISS. CODE ANN. § 41-107-9 (LexisNexis 2009) (Health-Care Payers):

(1) Rights of Conscience. A health-care payer has the right to decline to pay, and no health-care payer shall be required to pay for or arrange for the payment of a health-care service that violates its conscience. However, this subsection does not allow a health-care payer to decline to pay or arrange for the payment of a health-care service regarding a patient because of the patient's race, colour, national origin, ethnicity, sex, religion, creed or sexual orientation.

(2) Immunity from Liability. No health-care payer and no person, association, corporation or other entity that owns, operates, supervises or manages a health-care payer shall be civilly or criminally liable by reason of the health-care payer's declining to pay for or arrange for the payment of a health-care service that violates its conscience. However, this subsection does not exempt from liability a health-care payer, or the owner, operator, supervisor or manager of a health-care payer, for declining to pay or arranging for the payment of a health-care service regarding a patient because of the patient's race, colour, national origin, ethnicity, sex, religion, creed or sexual orientation.

(3) Discrimination. It shall be unlawful for any person, public or private institution, or public official to discriminate against any health-care payer, or any person, association, corporation, or other entity (a) attempting to establish a new health-care payer, or (b) operating an existing health-care payer, in any manner, including, but not limited to, any denial, deprivation, or disqualification with respect to licensure, aid, assistance, benefit, privilege or authorization, including, but not limited to, any authorization to create, expand, improve, acquire, affiliate or merge with any health-care payer, because a health-care payer, or a person, association, corporation or other entity planning, proposing or operating a health-care payer declines to pay for or arrange for the payment of any health-care service that violates its conscience.

(4) Denial of Aid or Benefits. It shall be unlawful for any public official, agency, institution or entity to deny any form of aid, assistance, grants, or benefits or in any other manner coerce, disqualify or discriminate against any health-care payer, or any person, association, corporation or other entity attempting to establish a new health-care payer or operating an existing health-care payer because the existing or proposed health-care payer declines to pay for, or arrange for the payment of, any health-care service that is contrary to its conscience.

MISS. CODE ANN. § 41-107-3(d) (LexisNexis 2009):

"Health-care payer" means any entity or employer that contracts for, pays for, or arranges for the payment of, in whole or in part, a health-care service, including, but not limited to, health maintenance organizations, health plans, insurance companies or management services organizations.

MISSOURI

MO. REV. STAT. § 188.105 (LexisNexis 2009):

1. It shall be unlawful:

(1) For an employer:

(a) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment, because of such individual's refusal to participate in abortion;

(b) To limit, segregate, or classify his, her, or its employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee, because of such individual's refusal to participate in abortion;

(c) To discharge, expel, or otherwise discriminate against any person because he or she has opposed any practices forbidden under sections 188.100 to 188.120 or because he or she has filed a complaint, testified, or assisted in any legal proceeding under sections 188.100 to 188.120;

(2) For any person, whether an employer or employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under sections 188.100 to 188.120, or to attempt to do so.

2. Notwithstanding any other provision of sections 188.100 to 188.120, the acts proscribed in subsection 1 of this section shall not be unlawful if there can be demonstrated an inability to reasonably accommodate an individual's refusal to participate in abortion without undue hardship on the conduct of that particular business or enterprise, or in those certain instances where participation in abortion is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

3. Nothing contained in sections 188.100 to 188.120 shall be interpreted to require any employer to grant preferential treatment to any individual because of such individual's refusal to participate in abortion.

MO. REV. STAT. § 188.110 (LexisNexis 2009):

1. No public or private college, university or hospital shall discriminate against any person for refusal to participate in abortion.

2. No applicant, student, teacher, or employee of any school shall be required to pay any fees that would in whole or in part fund an abortion for any other applicant, student, teacher, or employee of that school, if the individual required to pay the fee gives written notice to the proper school authorities that it would be in violation of his or her conscience or beliefs to pay for or fund abortions. The school may require the individual to pay that part of the fees not funding abortions, if the school makes reasonable precautions and gives reasonable assurance that the fees that are paid are segregated from any fund for the payment of abortions.

MONTANA

MONT. CODE ANN. § 50-20-111(2) (LexisNexis 2009):

(1) No private hospital or health care facility shall be required contrary to the religious or moral tenets or the stated religious beliefs or moral convictions of its staff or governing board to admit any person for the purpose of abortion or to permit the use of its facilities for such purpose. Such refusal shall not give rise to liability of such hospital or health care facility or any personnel or agent or governing board thereof to any person for damages allegedly arising from such refusal or be the basis for any discriminatory, disciplinary, or other recriminatory action against such hospital or health care facility or any personnel, agent, or governing board thereof.

(2) All persons shall have the right to refuse to advise concerning, perform, assist, or participate in abortion because of religious beliefs or moral convictions. If requested by any hospital or health care facility or person desiring an abortion, such refusal shall be in writing signed by the person refusing, but may refer generally to the grounds of "religious beliefs and

moral convictions”. The refusal of any person to advise concerning, perform, assist, or participate in abortion shall not be a consideration in respect of staff privileges of any hospital or health care facility or a basis for any discriminatory, disciplinary, or other recriminatory action against such person, nor shall such person be liable to any person for damages allegedly arising from refusal.

(3) It shall be unlawful to interfere or attempt to interfere with the right of refusal authorized by this section. The person injured thereby shall be entitled to injunctive relief, when appropriate, and shall further be entitled to monetary damages for injuries suffered.

(4) Such refusal by any hospital or health care facility or person shall not be grounds for loss of any privileges or immunities to which the granting of consent may otherwise be a condition precedent or for the loss of any public benefits.

(5) As used in this section, the term “person” includes one or more individuals, partnerships, associations, and corporations.

NEBRASKA

NEB. REV. STAT. ANN. § 28-338 (LexisNexis 2009):

No person shall be required to perform or participate in any abortion, and the refusal of any person to participate in an abortion shall not be a basis for civil liability to any person. No hospital, governing board, or any other person, firm, association, or group shall terminate the employment or alter the position of, prevent or impair the practice or occupation of, or impose any other sanction or otherwise discriminate against any person who refuses to participate in an abortion.

NEVADA

NEV. REV. STAT. ANN. § 632.475.1 (LexisNexis 2009):

1. An employer shall not require a registered nurse, a licensed practical nurse, a nursing assistant or any other person employed to furnish direct personal health service to a patient to participate directly in the induction or performance of an abortion if the employee has filed a written statement with the employer indicating a moral, ethical or religious basis for refusal to participate in the abortion.

2. If the statement provided for in subsection 1 is filed with the employer, the employer shall not penalize or discipline the employee for declining to participate directly in the induction or performance of an abortion.

3. The provisions of subsections 1 and 2 do not apply to medical emergency situations.

4. Any person violating the provisions of this section is guilty of a misdemeanor.

NEW JERSEY

N.J. STAT. ANN. § 2A:65A-1 (LexisNexis 2010):

No person shall be required to perform or assist in the performance of an abortion or sterilization.

NEW MEXICO

N.M. STAT. ANN. § 30-5-2 (LexisNexis 2009):

This article does not require a hospital to admit any patient for the purposes of performing an abortion, nor is any hospital required to create a special hospital board. A person who is a member of, or associated with, the staff of a hospital, or any employee of a hospital, in which a justified medical termination has been authorized and who objects to the justified medical termination on moral or religious grounds shall not be required to participate in medical procedures which will result in the termination of pregnancy, and the refusal of any such person to participate shall not form the basis of any disciplinary or other recriminatory action against such person.

NEW YORK

N.Y. CIV. RIGHTS LAW § 79-i(1) (LexisNexis 2010):

1. When the performing of an abortion on a human being or assisting thereat is contrary to the conscience or religious beliefs of any person, he may refuse to perform or assist in such abortion by filing a prior written refusal setting forth the reasons therefor with the appropriate and responsible hospital, person, firm, corporation or association, and no such hospital, person, firm, corporation or association shall discriminate against the person so refusing to act.

A violation of the provisions of this section shall constitute a misdemeanor.

2. No civil action for negligence or malpractice shall be maintained against a person so refusing to act based on such refusal.

NORTH CAROLINA

N.C. GEN. STAT. § 14-45.1(e)-(f) (LexisNexis 2009):

(e) Nothing in this section shall require a physician licensed to practice medicine in North Carolina or any nurse who shall state an objection to abortion on moral, ethical, or religious grounds, to perform or participate in medical procedures which result in an abortion. The refusal of such physician to perform or participate in these medical procedures shall not be a basis for damages for such refusal, or for any disciplinary or any other recriminatory action against such physician.

(f) Nothing in this section shall require a hospital or other health care institution to perform an abortion or to provide abortion services.

N.C. BOARD OF PHARMACY POLICY, CONSCIENCE CONCERNS IN PHARMACIST DECISIONS, <http://www.ncbop.org/LawsRules/ConscienceClause.pdf>.

A pharmacist should function by serving the individual, community and societal needs while respecting the autonomy and dignity of each patient. The best practice by a pharmacist is to promote the good for every patient in a caring, compassionate and confidential manner. Pharmacists should discuss and resolve any questions about emergency contraception prior to employment. Compassionate care and conscientious objection are not mutually exclusive.

A pharmacist has the right to avoid being complicit in behaviour that is inconsistent with his or her morals or ethics. It is unacceptable, however, for pharmacists to impose their moral or ethical beliefs on the patients they serve. Pharmacists who object to providing a medication for a patient on this basis alone, therefore, should take proactive measures so as not to obstruct a patient's right to obtain such medication.

The Board notes that although pharmacists have a right to avoid moral or ethical conflict, they do not have a right to obstruct otherwise legitimate prescription dispensing or delivery solely on the basis of conscientious objection.

Board of Pharmacy staff interprets this policy to mean that if a pharmacist refuses to fill a prescription for emergency contraception then that pharmacist has an obligation to get the patient and the prescription to a pharmacist who will dispense that prescription in a timely manner.

NORTH DAKOTA

N.D. CENT. CODE § 23-16-14 (LexisNexis 2009):

No hospital, physician, nurse, hospital employee, nor any other person is under any duty, by law or contract, nor may such hospital or person in any circumstances be required to participate in the performance of an abortion, if such hospital or person objects to such abortion. No such person or institution may be discriminated against because the person or institution so objects.

OHIO

OHIO REV. CODE ANN. § 4731.91 (LexisNexis 2010):

- (A) No private hospital, private hospital director, or governing board of a private hospital is required to permit an abortion.
- (B) No public hospital, public hospital director, or governing board of a public hospital is required to permit an abortion.
- (C) Refusal to permit an abortion is neither a ground for civil liability nor a basis for disciplinary or other recriminatory action.
- (D) No person is required to perform or participate in medical procedures which result in abortion, and refusal to perform or participate in the medical procedures is neither a ground for civil liability nor a basis for disciplinary or other recriminatory action.
- (E) Whoever violates division (D) of this section is liable in civil damages.

OKLAHOMA

OKLA. STAT. ANN. tit. 63, § 1-741 (LexisNexis 2009):

A. No private hospital, hospital director or governing board of a private hospital in Oklahoma, is required to permit abortions to be performed or induced in such hospital. Refusal to permit an abortion, in accordance with a standard policy, is neither a ground for civil liability nor a basis for disciplinary or other recriminatory action.

B. No person may be required to perform, induce or participate in medical procedures which result in an abortion which are in preparation for an abortion or which involve aftercare of an abortion patient, except when the aftercare involves emergency medical procedures which are necessary to protect the life of the patient, and refusal to perform or participate in such medical procedures is not grounds for civil liability nor a basis for disciplinary or other recriminatory action.

C. The rights and immunities granted by this section shall not include medical procedures in which a woman is in the process of the spontaneous, inevitable abortion of an unborn child, the death of the child is imminent, and the procedures are necessary to prevent the death of the mother.

OREGON

OR. REV. STAT. § 435.485(2) (LexisNexis 2007):

(1) No physician is required to give advice with respect to or participate in any termination of a pregnancy if the refusal to do so is based on an election not to give such advice or to participate in such terminations and the physician so advises the patient.

(2) No hospital employee or member of the hospital medical staff is required to participate in any termination of a pregnancy if the employee or staff member notifies the hospital of the election not to participate in such terminations.

PENNSYLVANIA

18 PA. CONS. STAT. § 3213(d) (LexisNexis 2009)

(d) PARTICIPATION IN ABORTION. --Except for a facility devoted exclusively to the performance of abortions, no medical personnel or medical facility, nor any employee, agent or student thereof, shall be required against his or its conscience to aid, abet or facilitate performance or an abortion or dispensing of an abortifacient and failure or refusal to do so shall not be a basis for any civil, criminal, administrative or disciplinary action, penalty or proceeding, nor may it be the basis for refusing to hire or admit anyone. Nothing herein shall be construed to limit the provisions of the act of October 27, 1955 (P.L. 744, No. 222), known as the "Pennsylvania Human Relations Act." Any person who knowingly violates the provisions of this subsection shall be civilly liable to the person thereby injured and, in addition, shall be liable to that person for punitive damages in the amount of \$ 5,000.

RHODE ISLAND

R.I. GEN. LAWS § 23-17-11 (2010):

A physician or any other person who is a member of or associated with the medical staff of a health care facility or any employee of a health care facility in which an abortion or any

sterilization procedure is scheduled, and who shall state in writing an objection to the abortion or sterilization procedure on moral or religious grounds, shall not be required to participate in the medical procedures which result in the abortion or sterilization, and the refusal of the person to participate in the medical procedures shall not form the basis for any claim of damages on account of the refusal or for any disciplinary or recriminatory action against the person.

SOUTH CAROLINA

S.C. CODE ANN. § 44-41-50(a)-(c) (LexisNexis 2009):

(a) No physician, nurse, technician or other employee of a hospital, clinic or physician shall be required to recommend, perform or assist in the performance of an abortion if he advises the hospital, clinic or employing physician in writing that he objects to performing, assisting or otherwise participating in such procedures. Such notice will suffice without specification of the reason therefor.

(b) No physician, nurse, technician or other person who refuses to perform or assist in the performance of an abortion shall be liable to any person for damages allegedly arising from such refusal.

(c) No physician, nurse, technician or other person who refuses to perform or assist in the performance of an abortion shall because of that refusal be dismissed, suspended, demoted, or otherwise disciplined or discriminated against by the hospital or clinic with which he is affiliated or by which he is employed. A civil action for damages or reinstatement of employment, or both, may be prosecuted by any person whose employment or affiliation with a hospital or clinic has been altered or terminated in violation of this chapter.

SOUTH DAKOTA

S.D. CODIFIED LAWS § 34-23A-12 (LexisNexis 2009):

No physician, nurse or other person who refuses to perform or assist in the performance of an abortion shall be liable to any person for damages arising from that refusal.

S.D. CODIFIED LAWS § 34-23A-13 (LexisNexis 2009):

No physician, nurse or other person who performs or refuses to perform or assist in the performance of an abortion shall, because of that performance or refusal, be dismissed, suspended, demoted, or otherwise prejudiced or damaged by a hospital or other medical facility with which he is affiliated or by which he is employed.

S.D. CODIFIED LAWS § 34-23A-14 (LexisNexis 2009):

No hospital licensed pursuant to the provisions of chapter 34-12 is required to admit any patient for the purpose of terminating a pregnancy pursuant to the provisions of this chapter. No hospital is liable for its failure or refusal to participate in such termination if the hospital has adopted a policy not to admit patients for the purpose of terminating pregnancies as provided in this chapter.

S.D. CODIFIED LAWS § 36-11-70 (LexisNexis 2009):

No pharmacist may be required to dispense medication if there is reason to believe that the medication would be used to:

- (1) Cause an abortion; or
- (2) Destroy an unborn child as defined in subdivision 22-1-2(50A); or
- (3) Cause the death of any person by means of an assisted suicide, euthanasia, or mercy killing.

No such refusal to dispense medication pursuant to this section may be the basis for any claim for damages against the pharmacist or the pharmacy of the pharmacist or the basis for any disciplinary, recriminatory, or discriminatory action against the pharmacist.

S.D. CODIFIED LAWS § 22-1-2(50A) (LexisNexis 2009) (emphasis added):
(50A) “Unborn *child*,” an individual organism of the species homo sapiens from *fertilization until live birth*.

TENNESSEE

TENN. CODE ANN. § 39-15-204 (LexisNexis 2010):

No physician shall be required to perform an abortion and no person shall be required to participate in the performance of an abortion. No hospital shall be required to permit abortions to be performed therein.

TEXAS

TEX. OCC. CODE ANN. § 103.001 (LexisNexis 2009):

A physician, nurse, staff member, or employee of a hospital or other health care facility who objects to directly or indirectly performing or participating in an abortion procedure may not be required to directly or indirectly perform or participate in the procedure.

UTAH

UTAH CODE ANN. § 76-7-306 (LexisNexis 2009):

(1) A physician, or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital in which an abortion has been authorized, who states an objection to an abortion or the practice of abortion in general on moral or religious grounds shall not be required to participate in the medical procedures which will result in the abortion, and the refusal of any person to participate shall not form the basis of any claim for damages on account of the refusal or for any disciplinary or recriminatory action against such person, nor shall any moral or religious scruples or objections to abortions be the grounds for any discrimination in hiring in this state.

(2) Nothing in this part shall require any private and/or denominational hospital to admit any patient for the purpose of performing an abortion.

VIRGINIA

VA. CODE ANN. § 18.2-75 (LexisNexis 2010):

Nothing in §§ 18.2-72, 18.2-73 or § 18.2-74 shall require a hospital or other medical facility or physician to admit any patient under the provisions hereof for the purpose of performing an abortion. In addition, any person who shall state in writing an objection to any abortion or all abortions on personal, ethical, moral or religious grounds shall not be required to participate in procedures which will result in such abortion, and the refusal of such person, hospital or other medical facility to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against such person, nor shall any such person be denied employment because of such objection or refusal. The written objection shall remain in effect until such person shall revoke it in writing or terminate his association with the facility with which it is filed.

WASHINGTON

WASH. REV. CODE ANN. § 9.02.150 (LexisNexis 2010):

No person or private medical facility may be required by law or contract in any circumstances to participate in the performance of an abortion if such person or private medical facility objects to so doing. No person may be discriminated against in employment or professional privileges because of the person’s participation or refusal to participate in the termination of a pregnancy.

WEST VIRGINIA

W. VA. CODE § 16-2F-7 (LexisNexis 2009):

Nothing in this article, or in any order issued pursuant thereto, shall require that a physician perform an abortion or that any person be required to assist in the performance of an abortion

if such physician or person, for any reason, medical or otherwise, does not wish to perform or assist in such abortion.

WISCONSIN

WIS. STAT. ANN. § 253.09 (LexisNexis 2009):

(1) No hospital shall be required to admit any patient or to allow the use of the hospital facilities for the purpose of performing a sterilization procedure or removing a human embryo or fetus. A physician or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital in which such a procedure has been authorized, who shall state in writing his or her objection to the performance of or providing assistance to such a procedure on moral or religious grounds shall not be required to participate in such medical procedure, and the refusal of any such person to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against such person.

(2) No hospital or employee of any hospital shall be liable for any civil damages resulting from a refusal to perform sterilization procedures or remove a human embryo or fetus from a person, if such refusal is based on religious or moral precepts.

(3) No hospital, school or employer may discriminate against any person with regard to admission, hiring or firing, tenure, term, condition or privilege of employment, student status or staff status on the ground that the person refuses to recommend, aid or perform procedures for sterilization or the removal of a human embryo or foetus, if the refusal is based on religious or moral precepts.

(4) The receipt of any grant, contract, loan or loan guarantee under any state or federal law does not authorize any court or any public official or other public authority to require:(a) Such individual to perform or assist in the performance of any sterilization procedure or removal of a human embryo or foetus if the individuals performance or assistance in the performance of such a procedure would be contrary to the individuals religious beliefs or moral convictions; or (b) Such entity to:

1. Make its facilities available for the performance of any sterilization procedure or removal of a human embryo or foetus if the performance of such a procedure in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions; or

2. Provide any personnel for the performance or assistance in the performance of any sterilization procedure or assistance if the performance or assistance in the performance of such procedure or the removal of a human embryo or fetus by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

WYOMING

WYO. STAT. ANN. § 35-6-106 (LexisNexis 2010):

No person shall, in any way, be required to perform or participate in any abortion or in any act or thing which accomplishes or performs or assists in accomplishing or performing a human miscarriage, euthanasia or any other death of a human fetus or human embryo. The refusal of any person to do so is not a basis for civil liability to any person. No hospital, governing board or any other person, firm, association or group shall terminate the employment of, alter the position of, prevent or impair the practice or occupation of, or impose any other sanction or otherwise discriminate against any person who refuses to perform or participate in any abortion or in any act or thing which accomplishes, performs or assists in accomplishing or performing a human miscarriage, euthanasia or any other death of a human fetus or embryo.

GUAM

9 GUAM CODE ANN. § 31.22(a) (2009):

(a) No employer or other person shall require a physician, a registered nurse, a licensed vocational nurse, or any person employed or with staff privileges at a hospital, facility or clinic to directly participate in the induction or performance of an abortion, if such employee

or other person has filed a written statement with the employer or the hospital, facility or clinic indicating a moral, ethical or religious basis for refusal to participate in the abortion. No such employee or other person with staff privileges in a hospital, facility, or clinic shall be subject to any penalty or discipline by reason of his refusal to participate in an abortion. No such employee of a hospital, facility or clinic which does not permit the performance of abortions, or person with staff privileges therein, shall be subject to any penalty or discipline on account of such person[']s participation in the performance of an abortion in other than such hospital, facility or clinic.

No employer shall refuse to employ any person because of such person's refusal for moral, ethical or religious reasons to participate in an abortion, unless such person would be assigned in the normal course of business of any hospital, facility or clinic to work in those parts of the hospital, facility or clinic where abortion patients are cared for. No provision of this Chapter prohibits any hospital, facility or clinic which permits the performance of abortions from inquiring whether the employee or prospective employee would advance a moral, ethical or religious basis for refusal to participate in an abortion before hiring or assigning such a person to that part of a hospital, facility or clinic where abortion patients are cared for.

The refusal of a physician, nurse, or any other person to participate or aid in the induction or performance of an abortion pursuant to this subsection shall not form the basis of any claim for damages.

(b) No hospital, facility, or clinic shall refuse staff privileges to a physician because of such physician [']s refusal to participate in the performance of an abortion for moral, ethical, or religious reasons.

(c) Nothing in this Chapter shall require a non-profit hospital or other facility or clinic which is operated by a religious corporation or other religious organization or any administrative officer, employee, agent, or member of the governing board thereof, to perform or permit the performance of an abortion in such facility or clinic or to provide abortion services. No such non-profit facility or clinic organized or operated by a religious corporation or other religious organization, nor its administrative officers, employees, agents, or members of its governing board shall be liable, individually or collectively, for failure or refusal to participate in any such act.

The failure or refusal of any such corporation, unincorporated association or individual person to perform or to permit the performance of such medical procedures shall not be the basis for any disciplinary or other recriminatory action against such corporations, unincorporated associations, or individuals. Any such facility or clinic which does not permit the performance of abortions on its premises shall post notice of such proscription in an area of such facility or clinic which is open to patients and prospective admittees.

(d) This section shall not apply to medical emergency situations and spontaneous abortions. Any violation of this section is a misdemeanor.

VIRGIN ISLANDS

14 V.I. CODE ANN. § 154 (2010): Except in case of emergency, no physician, nurse or any other hospital personnel shall be required to perform, assist or in any other way associate himself with the performance of an abortion, and no such physician, nurse or other hospital personnel may be held civilly or criminally liable for his refusal to participate in the performance of an abortion.

