

Testimony of Michael Casey Mattox
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My name is Casey Mattox, Senior Counsel for Alliance Defending Freedom. As you have heard from those who preceded me, all of whom ADF has been privileged to represent now or in the recent past, rights of conscience in the medical professions are under attack. Regrettably, some would make conscience a partisan issue. But historically it has not been so.

In *Roe* itself the Supreme Court acknowledged the importance of protecting conscience even as it created an abortion right, noting that the AMA recognized that medical professionals should never be “required to perform any act violative of personally held moral principles.”¹ Few disagreed.

When the House considered the Church Amendments just weeks after *Roe*, which were intended in part to stop the ACLU’s lawsuits to force Catholic hospitals to perform abortions or stop serving Medicaid patients, the bill passed 372-1 in the House and 92-1 in the Senate. I challenge any of you to imagine such a vote on anything today. Senator Ted Kennedy defended the bill’s “full protection to the religious freedom of physicians and others.”²

As other issues arose, this bipartisan agreement to protect conscience remained, resulting in additional laws like the Coats-Snowe Amendment and later, the Weldon Amendment. As recently as 1992, when testifying in support of the Religious Freedom Restoration Act, ACLU President Nadine Strossen explained the law would safeguard “such familiar practices as . . . permitting religiously sponsored hospitals to decline to provide abortion or contraception services.”³

Sadly, conscience is no longer a consensus. When virtually everyone agreed that we were all better off with doctors, nurses, pharmacists, and religious hospitals serving the public while maintaining their moral principles, existing healthcare conscience laws may have been sufficient.

But today ...

¹ *Roe v. Wade*, 410 U.S. 113, 144 n38 (1973).

² Cong. Rec. 9602 (March 27, 1973).

³ *The Religious Freedom Restoration Act: Hearing on S. 2969 Before the S. Comm. On the Judiciary, 102d Cong., 174, 192 (1992) (Statement of Nadine Strossen, President, Am. Civ. Liberties Union)*

- The ACLU has relaunched its decades-old assault on Catholic hospitals and aid agencies with a new campaign to force them to perform abortions or withdraw from serving the poor.⁴
- Individual medical professionals face increasing pressures and orders to perform abortions or lose their jobs.⁵
- Washington state enacted a law at Planned Parenthood’s request designed to punish pharmacists who refused to violate their consciences.⁶
- After years of failed attempts to enact abortion mandates through favorable legislatures, the abortion lobby has now found unelected allies to impose these mandates bureaucratically – with even churches forced to cover abortions from the offering plate.⁷
- And, as the Administration refuses to enforce the existing conscience laws, medical students must decide whether to pursue careers in women’s health knowing that they may no longer be able to depend on these bipartisan laws to protect them when they need it.

Whatever one’s abortion views, Americans should be able to agree – as even the most ardent abortion supporters in Congress and culture historically have – that the “choice” should not involve government compulsion.

In light of the Administration’s failure to act, it is clear that we need a right of action to make these protections meaningful again. We need the Conscience Protection Act.

⁴ “American Civil Liberties Union v. Trinity Health,” <http://adflegal.org/detailspages/case-details/american-civil-liberties-union-v.-trinity-health> (last visited July 5, 2016).

⁵ See, e.g., “DeCarlo v. Mount Sinai Hospital,” <http://adflegal.org/detailspages/case-details/cenzon-decarlo-v.-the-mount-sinai-hospital> (last visited July 5, 2016); “Danquah v. University of Medicine and Dentistry of New Jersey,” <http://adflegal.org/detailspages/case-details/danquah-v.-university-of-medicine-and-dentistry-of-new-jersey> (last visited July 5, 2016); “Pediatric Nurse Sues Winnebago County Health Department After Losing Job For Her Beliefs,” http://mauckbaker.com/11178/blogentry/entry_id/470681/Pediatric-Nurse-Sues-Winnebago-County-Health-Department-After-Losing-Job-for-Her-Beliefs (last visited July 5, 2016).

⁶ “Stormans v. Weisman,” <http://www.adfmedia.org/news/prdetail/4118> (last visited July 5, 2016).

⁷ “Foothill Church v. Rouillard,” <http://www.adfmedia.org/News/PRDetail/?CID=89974> (last visited July 5, 2016); “Skyline Wesleyan Church v. California Department of Managed Healthcare,” <http://www.adfmedia.org/News/PRDetail/9997> (last visited July 5, 2016).