



**Written Testimony of Danielle Pimentel, J.D.
Policy Counsel, Americans United for Life
In Support of House Bill No. 1248
Submitted to the House Judiciary
January 11, 2024**

Dear Chair Lynn, Vice-Chair Wallace, and Members of the Committee:

My Name is Danielle Pimentel, and I serve as Policy Counsel at Americans United for Life (“AUL”). Established in 1971, AUL is a national law and policy nonprofit organization with a specialization in abortion, end-of-life issues, and bioethics law. AUL publishes pro-life model legislation and policy guides,¹ tracks state bioethics legislation,² and regularly testifies on pro-life legislation in Congress and the states. Our vision at AUL is to strive for a world where everyone is welcomed in life and protected in law. As Policy Counsel, I specialize in life-related legislation, constitutional law, and abortion jurisprudence.

Thank you for the opportunity to testify in support of H.B. 1248. This bill seeks to protect life from the earliest stages of development, provides an exception for medical emergencies, recognizes women deserve better than abortion, and is consistent with the American legal tradition criminalizing abortion. For these reasons, this Committee should support H.B. 1248 and ensure the protection of women and preborn life in their state.

I. The Bill Properly Furthers a Legitimate State Interest in Protecting Human Lives

New Hampshire has a legitimate state interest in preserving prenatal life and protecting maternal health and safety, as acknowledged by the Supreme Court in *Dobbs v. Jackson Women’s Health Organization*.³ In *Dobbs*, the Court recognized, “[t]he Constitution makes no reference to

¹ *Pro-Life Model Legislation and Guides*, AMS. UNITED FOR LIFE, <https://aul.org/law-and-policy/> (last visited Jan 10, 2024). AUL is the original drafter of many of the hundreds of pro-life bills enacted in the States in recent years. See Olga Khazan, *Planning the End of Abortion*, ATLANTIC (July 16, 2020), www.theatlantic.com/politics/archive/2015/07/what-pro-life-activists-really-want/398297/ (“State legislatures have enacted a slew of abortion restrictions in recent years. Americans United for Life wrote most of them.”); see also Anne Ryman & Matt Wynn, *For Anti-Abortion Activists, Success of ‘Heartbeat’ Bills was 10 Years in the Making*, CTR. FOR PUB. INTEGRITY (Jun. 20, 2019), <https://publicintegrity.org/politics/state-politics/copy-paste-legislate/for-anti-abortion-activists-success-of-heartbeat-bills-was-10-years-in-the-making/> (“The USA TODAY/Arizona Republic analysis found Americans United for Life was behind the bulk of the more than 400 copycat [anti-]abortion bills introduced in 41 states.”).

² *Defending Life: State Legislation Tracker*, AMS. UNITED FOR LIFE, <https://aul.org/law-and-policy/state-legislation-tracker/> (last visited Jan 10, 2024).

³ *Dobbs v. Jackson Women’s Health Organization*, 142 S. Ct. 2228, 2284 (2022).

abortion, and no such right is implicitly protected by any constitutional provision.”⁴ Accordingly, the Supreme Court held, “[i]t is time to heed the Constitution and return the issue of abortion to the people’s elected representatives.”⁵ The Court further recognized States may abolish abortion to further legitimate governmental interests, which “include respect for and preservation of prenatal life at all stages of development . . . the protection of maternal health and safety; the elimination of particularly gruesome or barbaric medical procedures; [and] the preservation of the integrity of the medical profession”⁶

Consistent with Supreme Court precedent, New Hampshire certainly has an interest in protecting human life from the earliest stages of development until natural death. The state’s current law allows for abortion up to 24 weeks gestation, which disregards the humanity of the preborn child and subjects women to dangerous abortion procedures that threaten their health and safety. Accordingly, this bill regulates abortion in furtherance of New Hampshire’s interest in protecting both women and their preborn children from the inherent harms of abortion.

a. Abortion Destroys Preborn Human Life

For many years, the abortion industry has marketed abortion as healthcare, even touting it as essential medical treatment. Yet that could not be farther from the truth. As noted by the American Association of Pro-life Obstetricians and Gynecologists (AAPLOG), abortion is not healthcare.⁷ In reality, abortion exploits women and intentionally kills innocent preborn life. From conception, the preborn human being has a unique and complete genetic composition derived from both the baby’s mother and father. As early as five (5) weeks’ gestation, the preborn human being’s heart begins beating. The preborn human being begins to move about in the womb at approximately eight (8) weeks’ gestation.

Fetal medicine in the modern age has drastically developed since the Supreme Court handed down *Roe v. Wade* in 1973. Ultrasonography visibly shows the development and humanity of the unborn child. Fetal medicine has become a technologically advanced specialty, empowering doctors to perform surgery on the unborn child in utero. For example, prenatal surgery is available for pulmonary hypoplasia. This condition is a life-threatening disorder that occurs when an infant’s underdeveloped lungs cannot breathe on their own.⁸ Surgical techniques allow for early intervention, promoting lung development so that the preborn child is born with full breathing capabilities. Women and preborn children have more options than ever before for a healthy delivery.

⁴ *Id.* at 2242.

⁵ *Id.* at 2243.

⁶ *Id.* at 2284.

⁷ American Association of Pro-Life Obstetricians and Gynecologists, *The Alliance for Hippocratic Medicine: Upholding and Promoting the Fundamental Principles of Hippocratic Medicine*, AAPLOG (Nov. 1, 2021), <https://aaplog.org/wpcontent/uploads/2021/11/AHM-Statement-Abortion-is-not-healthcare-Nov-2021.pdf>.

⁸ *Fetal Surgery: Doctors & Departments*, MAYO CLINIC (Mar. 24, 2022), <https://www.mayoclinic.org/tests-procedures/fetal-surgery/doctors-departments/pdc-20384572>.

Science demonstrates the humanity of the preborn child at all stages of development and highlights the need to ensure their equal protection under the law. New Hampshire can afford such protection to its most vulnerable citizens by passing H.B. 1248.

b. Abortion Threatens Women's Health and Safety

Not only does abortion destroy a preborn child, but it also has devastating consequences for women. Abortion poses significant risks to women's physical and psychological health. Some immediate physical complications from abortion include blood clots, hemorrhage, incomplete abortions, infection, and injury to the cervix and other organs.⁹ Furthermore, studies show that "there is a 38% increase in risk of death [for the mother] for each additional week of gestation."¹⁰ Thus, abortion becomes riskier if performed later in a woman's pregnancy.¹¹

Women's mental wellbeing is negatively affected by abortion as well. "[P]regnancy loss (natural or induced) is associated with an increased risk of mental health problems."¹² "Research on mental health subsequent to early pregnancy loss as a result of elective induced abortions has historically been polarized, but recent research indicates an increased correlation to the genesis or exacerbation of substance abuse and affective disorders including suicidal ideation."¹³ Scholarship shows "that the emotional reaction or grief experience related to miscarriage and abortion can be prolonged, afflict mental health, and/or impact intimate or parental relationships."¹⁴ Similarly, "[s]everal recent international studies have demonstrated that repetitive early pregnancy loss, including both miscarriage and induced abortions, is associated with increased levels of distress, depression, anxiety, and reduced quality of life scores in social and mental health categories."¹⁵ As scholarship illustrates, elective abortion does not improve the mother's physical or mental health, nor heal her in any capacity.

New Hampshire's current abortion law subjects women to increased risks of physical and psychological complications and even death. This bill responds to the need to protect women from such harms and furthers the state's interest in protecting maternal health and safety.

⁹ See Planned Parenthood, *How Safe Is an In-Clinic Abortion?*,

<https://www.plannedparenthood.org/learn/abortion/in-clinic-abortion-procedures/how-safe-is-an-in-clinic-abortion> (last visited Jan 10, 2024).

¹⁰ Linda A. Bartlett et al., *Risk Factors for Legal Induced Abortion-Related Mortality in the United States*, 103 *OBSTETRICS & GYNECOLOGY* 729, 731 (2004).

¹¹ See Planned Parenthood, *supra* note 9 (stating that abortions carry a higher medical risk when done later in pregnancy).

¹² David C. Reardon & Christopher Craver, *Effects of Pregnancy Loss on Subsequent Postpartum Mental Health: A Prospective Longitudinal Cohort Study*, 18 *INT'L J. ENV'T RSCH. & PUB. HEALTH* 1, 1 (2021). See also James Studnicki et al., *A Cohort Study of Mental Health Services Utilization Following a First Pregnancy Abortion or Birth*, 15 *INT'L J. WOMEN'S HEALTH* 955, 959 (2023).

¹³ Kathryn R. Grauerholz et al. *Uncovering Prolonged Grief Reactions Subsequent to a Reproductive Loss: Implications for the Primary Care Provider*, 12 *FRONTIERS IN PSYCH.* 1, 2 (2021).

¹⁴ *Id.*

¹⁵ *Id.*; see, e.g., Louis Jacob et al., *Association Between Induced Abortion, Spontaneous Abortion, and Infertility Respectively and the Risk of Psychiatric Disorders in 57,770 Women Followed in Gynecological Practices in Germany*, 251 *J. AFFECTIVE DISORDERS* 107, 111 (2019) (finding "[a] positive relationship between induced abortion . . . and psychiatric disorders").

II. The Bill Does Not Prohibit Procedures Necessary to Save the Life of the Mother

The bill allows physicians to treat pregnant patients in emergency situations when the woman's life is at risk. The bill maintains the "medical emergency" exception currently afforded under New Hampshire's abortion statute, N.H. Rev. Stat. § 329.44, which is defined as:

a condition which an abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible impairment of a major bodily function.

Therefore, the bill does not limit physicians' abilities to treat their patients who are experiencing life-threatening medical emergencies, which is consistent with ethical medical practices.

As AAPLOG states in their practice bulletin on concluding pregnancies ethically, "[i]t is acceptable to deliver a patient before the gestational age at which the fetus could survive outside the womb only if the mother's life or health is in danger, which is proportional to the danger the fetus/neonate will face at birth. To be clear, this means the mother is facing death or immediate irreversible bodily harm which cannot be mitigated in any other way, including ectopic pregnancy and critical maternal illness, and *this situation is rare*."¹⁶ Overall, "most abortions are done for social reasons."¹⁷

Indeed, "common exceptions to abortion restrictions are estimated to account for less than five percent of all abortions meaning that 95 percent of abortions are for elective or unspecified reasons."¹⁸ James Studnicki published a similar outcome in the National Health Institutes Journal of Health Services Research and Managerial Epidemiology, stating,

[t]he Guttmacher Institute has provided a number of reports over 2 decades which have identified the reasons why women choose abortion, and they have consistently reported that childbearing would interfere with their education, work, and ability to care for existing dependents; would be a financial burden; and would disrupt partner relationships.¹⁹

In sum, if a woman is experiencing a medical emergency that threatens her life, the bill guarantees that her physician is able to take the steps necessary to ensure her safety.

¹⁶ Rsch. Comm., Am. Ass'n of Pro-Life Obstetricians & Gynecologists, *Concluding Pregnancy Ethically*, Prac. Guideline No. 10, at 9-10 (Aug. 2022) (emphasis added).

¹⁷ Am. Assoc. of Pro-Life Obstetricians & Gynecologists Practice Guideline, *State Restrictions on Abortion: Evidence-Based Guidance for Policymakers*, Comm. Op. 10 (updated Sept. 2022).

¹⁸ The Assault on Reproductive Rights in a Post-Dobbs America: Hearing before the S. Comm. on the Jud., 118th Cong. 15 (2023) (written testimony of Monique Chireau Wubbenhorst, MD, MPH).

¹⁹ James Studnicki, *Late-Term Abortion and Medical Necessity: A Failure of Science*, 6 HEALTH SERV. RES. & MANAGERIAL EPIDEMIOLOGY (2019).

III. The Bill Recognizes that Women Deserve Better than Abortion

By falsely purporting that abortion is healthcare or acts as a “medical treatment” for pregnancy, the abortion industry implies that pregnancy is some sort of illness or disability, rather than a natural process that many women experience. As AAPLOG notes, “[p]regnancy is not a disease, and the killing of human beings in utero is not medical care.”²⁰ Further, “[t]o date, the medical literature offers no support for the claim that abortion improves mental health or offers protection to mental health. In fact, there is evidence to the contrary.”²¹ Despite these evident truths, pro-abortion activists have continued to spew false narratives about pregnancy and women’s purported “need” for abortion. However, the evidence relied upon by pro-abortion activists for almost fifty years, which “claim[s] to show that abortion has facilitated women’s health equality is feeble and/or scientifically invalid.”²² Indeed, women are harmed by “the repetition and acceptance of the ‘equality’ argument for favoring legal abortion,” because it “easily communicates that women’s pregnancy and parenting is a disability most females suffer.”²³ Such arguments “explicitly or implicitly assume[] that the male body and reproductive model is the norm, to which women should conform in order to achieve ‘agreed’ measures of success—good, well-paying employment outside of the home.”²⁴

Pregnancy is neither an illness nor a disability and to imply that it is results in discriminatory treatment towards women. “A system that undervalues both mothering and fathering severely disadvantages women as well as men and children, and interferes with children receiving the care they require.”²⁵ Additionally, this leads to both “public and private resistance to accommodating motherhood” in employment, which in turn “leads to additional disadvantages for women.”²⁶ For example, “discrimination on the basis of pregnancy and motherhood has succeeded outright discrimination on the basis of sex.”²⁷

Women deserve better than to be subjected to the deceptive narratives surrounding abortion, which is a life-altering—and at times, life-threatening—decision. New Hampshire should empower women by passing strong protections for life rather than lie to them about the realities of abortion, which is to the detriment of their health, safety, and success in America.

IV. The Bill is Consistent with the American Legal Tradition on Abortion

As the Supreme Court explained in *Dobbs*, nothing in the American or English legal tradition protects abortion as a fundamental right. Rather, these traditions have criminalized abortion. The Supreme Court in *Dobbs* stated that “[u]ntil the latter part of the 20th century, there was no support

²⁰ Pro. Ethics Comm., Am. Ass’n of Pro-Life Obstetricians & Gynecologists, *Hippocratic Objection to Killing Human Beings in Medical Practice*, Comm. Op. No. 1, at 8 (May 8, 2017).

²¹ Rsch. Comm., Am. Ass’n of Pro-Life Obstetricians & Gynecologists, *supra* note 16, at 5.

²² Helen M. Alvare, *Nearly 50 Years Post-Roe v. Wade and Nearing its End: What is the Evidence that Abortion Advances Women’s Health and Equality*, 35 REGENT L. R. 165, 216 (Feb, 2022).

²³ *Id.* at 213.

²⁴ *Id.* at 213.

²⁵ *Id.* at 214.

²⁶ *Id.* at 216.

²⁷ *Id.*

in American law for a constitutional right to obtain an abortion.”²⁸ When the United States adopted the Fourteenth Amendment, the majority of states had statutes criminalizing abortion at all gestational ages.²⁹ Nothing in the writing or discussion around the Fourteenth Amendment suggested that any member of Congress or state lawmaker expected that it would create a national right to abortion. Accordingly, the Supreme Court in *Dobbs* overturned *Roe v. Wade* and held that “[t]he Constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision.”³⁰

Citing its well-researched appendix of 19th century abortion laws, the Court notes:

By 1868, the year when the Fourteenth Amendment was ratified, three-quarters of the States, 28 out of 37, had enacted statutes making abortion a crime even if it was performed before quickening. . . . Of the nine States that had not yet criminalized abortion at all stages, all but one did so by 1910.³¹

As new states entered the Union, “[a]ll of them criminalized abortion at all stages of pregnancy between 1850 (the Kingdom of Hawaii) and 1919 (New Mexico).”³² “By the end of the 1950s, according to the *Roe* Court’s own count, statutes in all but four States and the District of Columbia prohibited abortion ‘however and whenever performed, unless done to save or preserve the life of the mother.’”³³ As the Court finds, “[t]his overwhelming consensus endured until the day *Roe* was decided.”³⁴

Accordingly, “[t]he inescapable conclusion is that a right to abortion is not deeply rooted in the Nation’s history and traditions. On the contrary, an unbroken tradition of prohibiting abortion on pain of criminal punishment persisted from the earliest days of the common law until 1973.”³⁵ The Court concludes: “[a]bortion presents a profound moral question. The Constitution does not prohibit the citizens of each State from regulating or prohibiting abortion. *Roe* and *Casey* arrogated that authority. We now overrule those decisions and return that authority to the people and their elected representatives.”³⁶

Thus, this bill is consistent with the country’s legal tradition that safeguards mothers and preborn children from the harms of abortion violence.

V. Conclusion

New Hampshire has a significant interest in protecting the health of both preborn children and their mothers. This bill prohibits the intentional destruction of preborn children—full and

²⁸ *Dobbs*, 142 S. Ct. at 2284.

²⁹ *Id.* at 2252-53.

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at 2253.

³³ *Id.* (citing *Roe v. Wade*, 410 U.S. 113, 139 (1973)).

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* at 2285.

complete members of the human family. It also protects the mother from the harmful consequences of abortion—potentially both emotional and physical. The bill is consistent with *Dobbs* and the American legal tradition. For these reasons, I urge the Committee to support HB 1248.

Respectfully Submitted,



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AMERICANS UNITED FOR LIFE