



March 10, 2014

The Honorable Terry McAuliffe
Governor of Virginia
Patrick Henry Building, Third Floor
1111 East Broad Street
Richmond, VA 23219

Dear Governor McAuliffe:

AMERICAN CIVIL
LIBERTIES UNION OF
VIRGINIA
701 E. FRANKLIN ST.
SUITE 1412
RICHMOND, VA 23219
T/804.644.8080
WWW.ACLUVA.ORG

I write on behalf of the American Civil Liberties Union of Virginia and our 10,000 members and supporters to urge you to take a stand against licensing discrimination by vetoing SB 330, a bill that will grant genetic counselors a license to discriminate based on their personal beliefs.

Last month, Arizona Governor Jan Brewer vetoed legislation that would have allowed businesses to deny service to gay and lesbian customers. The legislation rightly received national attention – it conjured up memories of a time when people were refused service at hotels and lunch counters because of the color of their skin or the God they worship.

While the national media attention has focused on Arizona, however, Virginia has been moving in this direction for years, and this year threatens to take a big step toward the kind of license to discriminate legislation Governor Brewer just killed.

In the mid 70's after Virginia was sued for failing to conform its abortion laws to the federal constitution, the Virginia legislature passed a "conscience clause" that allowed hospital and health care professionals to refuse to offer this medical service to Virginia women based on "personal, ethical, moral or religious grounds" even where the woman's life is at stake.

In 2012, the Virginia legislature passed a "conscience clause" that allows state-funded adoption and foster care agencies to refuse to serve prospective parents or needy children based on the state funded agencies' "religious convictions."

In 2013, the Virginia legislature passed a law that requires public colleges and universities to recognize and fund student political and religious organizations even if the organizations intentionally discriminate in their membership or leadership in furtherance of their religious or political mission,

The "conscience clause" written into otherwise harmless legislation to license genetic counselors (SB 330, HB 612) will allow genetic counselors to refuse service to patients based on the counselors' "deeply held moral or religious beliefs."

These “conscience clauses” all have one thing in common --they all allow a state licensed or state funded person or organization to engage in intentional and purposeful discrimination against any person or class of persons based on their “moral,” “religious” or, in one case, “political” beliefs.

In the case of the genetic counselor bill, for example, a state licensed professional will be able to deny counseling to any patient simply because the patient is lesbian or gay or of a different religious faith or unmarried and pregnant or because the person may want to take an action with which the counselor doesn’t personally agree based on the genetic information provided by the counselor. This bill is so extreme that, like the early 70’s abortion “conscience clause,” it will shield a genetic counselor from damages even if the counselor took purposeful action based on his or her personal beliefs that results in actual physical harm or death to the patient.

While this year’s legislation may seem minor because it applies only to genetic counselors, its proponents have announced that it is just the next step toward licensing all professions and businesses in Virginia to discriminate based on their religious or moral beliefs without sanction or limitation.

As the Family Foundation stated in its email sent out minutes after the Senate vote on the amendment you proposed not to eliminate, but merely to temper, the language of the “conscience clause”, “[i]f genetic counselors can be protected from being forced to violate their conscience, it follows that all other professions should receive equal protection.”

Clearly, the proponents of the now growing string of pearls on Virginia’s “conscience clause” necklace desire to use this bill as a model for extending legal discrimination beyond abortion, adoption, student organizations and genetic counselors to all professions and businesses in Virginia. They want to grow the “conscience clause” necklace until it chokes the life out of the movement toward full equality for all Virginians.

The proponents are not satisfied only with protecting professions and businesses from adverse state licensing actions. In opposing your amendment, they fought for blanket immunity that will protect people using religion to discriminate in public services or businesses from “any claim of damages.” Your amendment would not have stricken the clause entirely as we would have hoped, but only limited the “conscience clause” protections to licensing actions, eliminated the blanket immunity, and protected patients from harm by ensuring that genetic counselors who choose to deny services based on their personal beliefs to provide their patients timely notice and a referral. Even if the legislature had accepted your amendment, the “conscience clause” would still have granted genetic counselors an unlimited license to discriminate, but that wasn’t enough for the advocates.

Sadly, using religion to legitimize discrimination is nothing new. In the 1960s, we saw institutions object to laws requiring integration in restaurants because of some owners’ beliefs that God wanted the races to be separate. We saw religiously affiliated universities refuse to admit or choose to dismiss or discipline students who engaged in interracial dating. At one time there were Jewish exclusion laws that kept people out of hotels and other public accommodations simply because of their faith. In short, we have been down this road, and, each time in the past, we have

AMERICAN CIVIL
LIBERTIES UNION OF
VIRGINIA
701 E. FRANKLIN ST.
SUITE 1412
RICHMOND, VA 23219
T/804.644.8080
WWW.ACLUVA.ORG

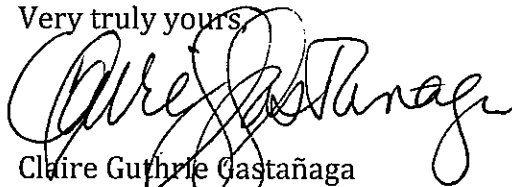
finally recognized that religious freedom grants us the right to our religious beliefs, but not the right to use our religion to discriminate against and impose those beliefs on others who do not share them.

We recognize the vetoing SB 330 will be seen by some as a symbolic act because the companion house bill has already been signed into law. But, symbols are important, and action in response to the Family Foundation's proclamation of this bill as a model for future legislation is reason to send a strong message now that any future "conscience clause" legislation will be met with similar strong action.

Unlike many issues that come before you, there is no ambiguity here. You either support discrimination or oppose it. Please, take a stand – tell the General Assembly and all Virginians that state licensed discrimination stops here and that you will not sign any bill now or in the future that gives businesses or professions the right to discriminate based on their religious beliefs. Veto SB330.

AMERICAN CIVIL
LIBERTIES UNION OF
VIRGINIA
701 E. FRANKLIN ST.
SUITE 1412
RICHMOND, VA 23219
T/804.644.8080
WWW.ACLUVA.ORG

Very truly yours,



Claire Guthrie Castañaga
Executive Director