

MEMORANDUM

TO: PENNSYLVANIA SENATE
FROM: LARRY FRANKEL, LEGISLATIVE DIRECTOR
DATE: OCTOBER 6, 2006
RE: SENATE BILL 990

I write on behalf of the more than 19,000 members of the American Civil Liberties Union of Pennsylvania to explain why we do not support Senate Bill 990 as amended. Although we supported this bill as it was originally drafted, we believe that the amended bill is so flawed that it should not be enacted unless it is amended to resolve the important issues discussed below.

This legislation is known as the Compassionate Assistance for Rape Emergencies (CARE) Act. We supported the original legislation because it would have provided a strong set of requirements for hospitals and health care facilities that provide services to sexual assault victims. The original legislation would have guaranteed comprehensive medical care for rape victims who are taken to emergency rooms.

Unfortunately, Senate Bill 990 was amended in the Senate Public Health and Welfare Committee to add a religious facilities exemption, thereby creating two classes of victims of sexual assault. One group would receive all of the components of compassionate care. The other group of victims would be denied complete care because they were unlucky enough to be transported to a religiously affiliated health care facility that does not believe in providing all of the components of compassionate care.

A victim of a rape should be allowed to decide for herself the kind of care she wants to receive. She should not be given inferior treatment because of an institution's religious beliefs.

Furthermore, we think that there is no need to provide a specific religious facilities exemption. In 2002, the General Assembly enacted the Religious Freedom Protection Act which includes the following language: "Nothing in this act shall be construed to require a religiously affiliated health care

facility to provide, allow, participate in or refer for health care services which are contrary to the religious beliefs or practices of the facility.”

That language was put into the Religious Freedom Protection Act so that the legislature would not have this kind of a fight over putting a religious exemption into every bill dealing with health care service. The amendment to Senate Bill 990 sets a very bad precedent that could lead to a debate over religious exemption language in bill after bill. If this legislation is passed with this religious exemption, it could very well mean that the legislature will be debating many more religious exemption clauses for years to come.

We also are very troubled by Section 4(D) that was also added to the bill by the amendment. Under that subsection, a hospital or health care facility may create its own written informational materials about emergency contraception. The Department of Health may only review those materials but has no authority to disallow the use of misleading or inaccurate materials. That means some victims could receive written materials that are not scientifically based or medically sound. Again, no victim should receive such inferior medical care.

It is for these reasons that we believe this amended bill is fundamentally flawed. It is for these reasons we can no longer support this legislation. Unless these issues are addressed through further amendments, we believe that no further action should be taken on Senate Bill 990.