AMERICANS UNITED
FOR SEPARATION OF CHURCH AND STATE

1310 L Street NW Suite 200, Washington, DC 20005
(202) 466-3234 | americansunited@au.org | au.org

January 24, 2024

The Honorable Jeff Taylor
Chair
Judiciary Subcommittee
Iowa Senate
1007 E Grand Ave
Des Moines, IA 50319

Re: Oppose SSB 3006 – Do Not Allow the Use of Religion to Deny Health Care

Dear Chair Taylor:

On behalf of the Iowa members and supporters of Americans United for Separation of Church and State, I write to express our opposition to SSB 3006. Under the guise of religious liberty, this bill would allow medical practitioners, health care institutions, and health care payors to refuse to participate in or pay for nearly *any* health care service, thereby creating a serious threat to the health and well-being of patients.

Freedom of religion is a fundamental American value that protects everyone's right to practice the religion of their choice or no religion at all—so long as they don't harm others. This bill should be rejected because it would result in harm to patients and, thus, violates the U.S. Constitution.

The Exemption Harms Patients and Limits Access to Care

The exemption created by SSB 3006 would put patient health at risk. Under the bill, a wide range of medical practitioners and health care facilities, hospitals, and insurers could refuse to participate in or pay for nearly any health care service. The result—patients would face serious harm. It would foster discrimination against patients—particularly women and LGBTQ patients—by putting the religious beliefs of practitioners, institutions, and insurers above their health. For example, SSB 3006 could allow:

- a nurse to refuse to treat the child of an unmarried couple;
- an insurer to refuse to cover PrEP or HIV treatment;
- a clinic employee to withhold information about emergency contraception from a victim of rape or incest seeking care;

- a doctor to withhold information about treatment options for a couple experiencing infertility; or
- a clinical psychologist to refuse to treat a patient who is considering divorce.

To make matters worse, this bill also does not include a requirement that patients be counseled or referred to get the health care service they have been denied. This would make it more difficult for Iowans, particularly those in rural areas or with limited options for providers who take their insurance, to access critical care.
SSB 3006 would also create an unworkable system for health care facilities, which could result in a staff member unilaterally vetoing key aspects of patient care. For example, an employee who handles billing at a rural health care clinic could object to billing for contraception. If the clinic cannot afford to hire another employee, it might be unable to provide *any* contraceptive-related care. This legislation would force hospitals and other institutions to reorganize staffing structures, consume precious resources with unnecessary workarounds, duplicate staffing in cost-prohibitive ways, unfairly burden nonobjecting employees, reduce services, and even close programs in an attempt to reduce the risk that a single employee will deny care or information to a patient.

This bill would also give private practitioners, institutions, and payers immunity from liability for damages for refusing to provide a service because of religious beliefs. In short, no matter the harm that a patient might endure because of a denial, providers and insurers would not face consequences, and patients who have suffered harm would find themselves without a remedy.

SSB 3006 Violates the U.S. Constitution

Under the Establishment Clause of the First Amendment to the U.S. Constitution, the government's ability to issue religious exemptions is not unlimited: "At some point, accommodation may devolve into an unlawful fostering of religion."[1] To avoid a constitutional violation, a religious exemption "must be measured so that it does not override other significant interests"[2] and may not "impose unjustified burdens on other[s]."[3] In other words, when deciding whether to grant religious exemptions, the government is forbidden from granting a religious exemption that will harm others.

SSB 3006 fails this test because it places the religious views of medical practitioners and health care institutions and payors above the medical needs of patients, putting their health at risk. Under SSB 3006, medical practitioners could refuse to provide

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[1] *Corp. of the Presiding Bishop v. Amos*, 483 U.S. 327, 334-35 (1987) (internal quotation marks omitted).
[2] *Cutter v. Wilkinson*, 544 U.S. 709, 722 (2005); *see also Estate of Thornton v. Caldor, Inc.* 472 U.S. 703, 709-10 (1985) ("unyielding weighting" of religious interests of those taking exemption "over all other interests" violates Constitution).
[3] *Cutter*, 544 U.S. at 726. *See also Texas Monthly, Inc. v. Bullock*, 480 U.S. 1, 18 n.8 (1989) (religious accommodations may not impose "substantial burdens on nonbeneficiaries").

treatment regardless of the availability of other professionals. Indeed, a patient in need of critical care could find that they are unable to find a doctor or hospital to provide vital services.

Exemptions that create a significant, harmful, discriminatory impact on others, like the one created by this bill, are impermissible and must be barred.

Conclusion

Iowa should not allow religion to be used to block patients' access to health care. This bill would cause harm, which threatens the religious freedom that protects us all. For all of these reasons, Americans United urges you to oppose SSB 3006. Thank you for your consideration on this important matter.

Sincerely,

Nikolas Nartowicz
State Policy Counsel

cc: Members of the Judiciary Subcommittee