



STATE OF MINNESOTA

Office of Governor Mark Dayton

130 State Capitol ♦ 75 Rev. Dr. Martin Luther King Jr. Boulevard ♦ Saint Paul, MN 55155

April 26, 2012

The Honorable Michelle L. Fischbach
President of the Senate
226 State Capitol
St. Paul, Minnesota 55155

Dear Madam President:

I have vetoed and am returning Chapter 233, Senate File 1921, a bill, which would impose licensure requirements only upon facilities performing abortions.

This bill would impose extensive new licensure requirements on clinics which perform 10 or more abortions per month. The bill is vague in its definition of potential licensure violations, including penalties for undefined "conduct or practices detrimental to the welfare of the patient." Such language could permit complaints to be filed against health care providers for almost any reason.

The legislation applies the existing rules for outpatient surgical centers to those targeted clinics. The Minnesota Department of Health (MDH) has informed me that this method of licensure is inappropriate and unworkable. Clinics are very different from surgical centers. For example, outpatient surgical center rules call for specific physical plant requirements unrelated to the safety or protection of patients in a clinical setting. Additionally, under surgery center rules, those clinics would be prevented from offering other services such as primary and preventive care.

According to MDH, there are approximately 1,250 clinics in Minnesota. Despite clinics not needing a specific state license to operate, they are already subjected to significant oversight. Nurses and physicians are licensed under their respective health licensing boards which enforce the standards of practice; the federal CLIA sets requirements for laboratories; OSHA requirements must be met, as must local building codes enforcing life safety and fire safety; and health insurers inspect clinic providers. Further, the six abortion clinics in Minnesota affected by the legislation are members of the National Abortion Federation which sets clinical policy standards for performing abortions and inspects every member about every five years for the following standards: infection control, sonography, analgesia and sedation, antibiotics use, complications, and emergencies. A lack of oversight of clinics that provide abortions is not an issue.

The justification for this bill was questioned repeatedly throughout the legislative process. The bill's supporters cited the lack of statutory authority for MDH to regulate or license clinics as a need for the legislation. However, MDH firmly believes that there is sufficient oversight of clinics by entities other than MDH to protect the health and safety of Minnesotans in them. There is no evidence of poor quality or unsafe procedures being performed in Minnesota clinics.

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Additionally, the legislation targets only facilities which provide abortions. If regulation of clinics were the concern, the bill should have required licensure of all clinics, not just a select few. If the Legislature wants to create a new regulatory scheme for health care clinics, then all clinics should be treated equally. No clinic or procedure should be the focus of special and unique regulatory requirements.

Finally, the bill includes a Constitutional Severability Clause, which suggests that the authors feared the bill would violate the United States Supreme Court's rulings on women's constitutional right to privacy under the 14th Amendment of the United States Constitution. I share those concerns and consider it yet another reason for my veto.

Sincerely,

Mark Dayton
Governor

cc: Senator David H. Senjem, Senate Majority Leader
Senator Thomas M. Bakk, Senate Minority Leader
Senator Claire Robling
Representative Kurt Zellers, Speaker of the House
Representative Paul Thissen, House Minority Leader
Representative Mary Liz Holberg
The Honorable Mark Ritchie, Secretary of State
Mr. Cal R. Ludeman, Secretary of the Senate
Mr. Albin A. Mathiowetz, Chief Clerk of the House of Representatives