

Testimony Rep. McCarthy
HELP Subcommittee Hearing
H.R. 1431, the Workplace Religious Freedom Act (“WRFA”)
February 12, 2008

Thank you Mr. Chairman and fellow members of the subcommittee. I welcome the opportunity to testify about the Workforce Religious Freedom Act (“WRFA”). I would first like to thank my colleague, Mr. Souder. We have worked closely on this bill and garnered bipartisan support for it. This bill simply stated is pro-business, pro-faith and pro-family. It is an important piece of legislation and its passage is long overdue.

I felt the need to get involved-with over 40 diverse organizations-in favor of this legislation because I have heard of many individuals who are forced to choose between their job and their religion. Nowadays we have a 24 hour, 7 day a week work environment that clashes with religious observances. And unfortunately since 9/11 our Muslim and Sikh friends have been the target of backlash.

Our great nation was founded under the principles of freedom, including religion. We as members of Congress have a responsibility to ensure people are able to freely practice. Asking a person to leave their religion at their door is impossible and something they should not be asked to do.

In 1964 Congress realized the importance of religion to workers by providing Title 7 of the Civil Rights Act. Simply stated employers are not allowed to discriminate based on race, gender, color and religion. Employers must reasonably accommodate employees' sincerely held religious practices unless doing so would impose an undue hardship on the employer. But as the courts began to rule on cases they ruled that most “hardships” are an “undue hardship.” This has left religiously observant workers with little legal protection.

WRFA will reestablish the principle that employers must reasonably accommodate the religious needs of employees. It would redefine undue hardship as something that imposes significant difficulty or expense on the employer or that would keep an employee from carrying out the essential functions of the job. An important point to make is that third parties would not be adversely affected. I have been hearing and reading a lot regarding the bill from organizations, which I agree with a majority of the time, that third parties would be affected. I am a pro-choice member of Congress and believe a woman should be able to choose what happens to her body especially in case of an emergency. This legislation would not prevent a woman from receiving an emergency abortion, obtaining birth control medication or emergency contraceptives.

For example, if a nurse has a religious objection to participating in an emergency abortion she would not be covered under WRFA. Performing an emergency surgery is an essential function of nurse’s job. A court would not hear a case brought by a nurse, who feels wrongly dismissed by a hospital because the nurse walked away

from a patient in need of emergency care. A patient who is suffering places a significant burden on a hospital and the hospital would have to assist them. If a woman goes to an abortion clinic she can be subjected to violence and threats. Unfortunately there has been a need to have the clinics protected. This law would not allow a clinic to be unprotected. If a police officer had a religious objection with guarding the clinic his request for removal is accommodated as long as a replacement was possible. If not, then the officer must accept the assignment. Another concern I have heard regarding the bill is women would have difficulty obtaining birth control because this bill would protect a pharmacist who feels it is against their religion from filling the prescription. Currently, The American Pharmacists Association's policy is that pharmacists can refuse to fill prescriptions as long as they make sure customers can get their medications some other way. This is exactly the point of the legislation!! This bill would allow a pharmacist who has a strong religious objection to filling the prescription from doing so without any affect on the individual. A woman would still receive her prescription.

I'd like to point out that the bill does not apply to employers who have fewer than 15 employees. This protects against circumstances in which an employer would not have the personnel in place or is located in a rural area. So, for example, a pharmacy would operate under their association's policy. It is time to allow people to once again practice their religion without fear of losing their job.

Once again I thank you for the opportunity to talk about legislation that is pro-business, pro-faith and pro-family. I welcome any questions you may have.