Yesterday, a 3-judge panel of the US 6th Circuit Court of Appeals ruled 2-1 that Kentucky's fetal ultrasound law did not violate a physician's First Amendment or other rights:

> **Appeals court upholds Kentucky ultrasound abortion law**
> https://thehill.com/policy/healthcare/437459-appeals-court-upholds-kentucky-ultrasound-abortion-law
> In the dissent, Judge Bernice Donald, an appointee of President Obama, said the law "has no basis in the practice of medicine" and would require physicians to violate their professional and ethical obligations.

The majority opinion is reported as:

> Writing for the majority, Judge John Bush, an appointee of President Trump, said the Kentucky law "provides truthful, non-misleading, and relevant information aimed at informing a patient about her decision to abort unborn life."
>
> The law does not interfere with the doctor-patient relationship, Bush wrote, and nothing prevents the doctor from informing the patient that the disclosures are required by Kentucky rather than made by the doctor's choice.

In legal reality, this law attaches as a condition of licensure that a physician must conform to the state's view of how a provider must interact with a patient to insure the provider is assured that the patient fully understands the care being provided. (The issue that there are really two patients involved was not before the court.) The essential analogy between the solely **mandatory** intent of HB 2011 and the Kentucky law concerning licensure is clear. HB 2011 has nothing relevant to do with the merits of cultural competency, it is strictly about the exercise of state power over licensing bodies, providers, and patients.

Sponsors and supporters certainly are entitled to argue that if this is OK in Kentucky, then they can use state power to intrude into the provider-patient relationship to further their own political power and goals.

The opposing argument is that both cases are an abuse of state power. Judge Donald's dissent is relevant here: The practice of medicine is a relationship between a provider and a patient. State intrusion into the provider's treatment room to the extent that patients would be denied access to providers that they alone should judge provide them the best medical care, regardless of whether those providers give obeisance to state-mandates that actually are aside from the skilled technical practice of medicine, is not defensible in either case.

The solution, if the -1 amendment is accepted, is to also simply "restore the bracketed material and delete the boldfaced material" on page 2, lines 2-7 of the bill as introduced. If the -1 amendment is not accepted, then in addition "restore the bracketed material and delete the boldfaced material" on page 2, lines 26-31.