

July 25, 2017

Dear Senator Murphy,

On June 2, 2017 a group of constituents met with your staff to ask you to co-sponsor the Reproductive Health Act (S2796).

We were informed that you had concerns regarding the decriminalization of abortion care later in pregnancy, however, your staff could not articulate the specific nature of these concerns. We provided information to your staff regarding low prevalence of abortion later in pregnancy and why women seek this type of care, i.e. in cases of medical necessity when continuing a pregnancy threatens the life and/or health of the woman or fetus.

We asked for clarification of your concerns and your position on this bill and on June 9, were told a letter would be sent out in about two days that would specifically address those two points.

The letter was received on July 8. Thank you for stating your concerns and position on the Reproductive Health Act.

You state, "I continue to oppose the Reproductive Health Act and the so-called Tenth Plank because it would allow late term and partial birth abortion up to the moment of natural delivery and allow non-doctors to perform abortions."

As a constituent, I expect your position to be based on accurate information, and for your source(s) of information to be reliable. Your statement does not reflect either.

Your mention of the "Tenth Plank" refers to the Women's Equality Act, and not the Reproductive Health Act. I find it particularly concerning that you are either unaware of the differences between the two pieces of legislation, or not up to date on the legislation before the Senate.

"Partial Birth Abortion" (PBA), though not an officially recognized term by the medical community, would not be allowed under The Reproductive Health Act. In 2007, the United States Supreme Court upheld a federal law prohibiting PBA: it is in effect, state law cannot override the federal law and providers in New York, along with providers in every state, must comply with it.

Your use of the phrase, "up to the point of natural delivery" does not reflect any medical reality with regards to the standard of abortion care or the Reproductive Health Act. Are you able to explain specifically what you mean?

The bill states, with regards to abortion services, "A health care practitioner licensed, certified, or authorized under title eight of the education law, acting within his or her lawful scope of practice, may perform an abortion when according to the practitioner's reasonable

and good faith professional judgment based on the facts of the patient's case: The patient is within twenty-four weeks from the commencement of pregnancy, or there is an absence of fetal viability, or the abortion is necessary to protect the patient's life or health."

Currently, under New York Public Health Law and Education Law, Advanced Practice Clinicians (APCs), such as nurse practitioners, physicians' assistants, and licensed midwives *already have* the authority to provide health care (including early abortion care) within their scope or practice, and in collaboration with a physician or as part of a physician led team.

The section of New York's penal code governing abortion was written at a time before Advanced Practice Clinicians existed, thus causing some confusion as to whether or not APCs, who are critical to increasing access to early care, may provide abortion services.

The Reproductive Health Act would amend New York law to clarify that medical practitioners who are licensed, certified and trained to provide abortion services, indeed, may lawfully do so.

The largest, most influential and well-respected medical and health policy organizations in the United States have issued statements in support of appropriately trained midlevel professionals providing abortion care, including:

- The American College of Obstetricians and Gynecologists
- The American Academy of Physician Assistants
- The American College of Nurse-Midwives
- The American Medical Women's Association
- The American Public Health Association
- The Association of Physician Assistants in Obstetrics and Gynecology
- The International Confederation of Midwives
- The National Association of Nurse Practitioners in Women's Health
- Physicians for Reproductive Choice and Health

In addition, the American Medical Association has made it clear, "The AMA opposes interference in the clinical examination room and calls on policymakers to leave determination of what constitutes medically necessary treatment where it belongs – in the hands of physicians and patients."

The American College of Obstetricians and Gynecologists state that "Safe, legal abortion is a necessary component of women's health care. The American College of Obstetricians and Gynecologists supports the availability of high-quality reproductive health services for all women and is committed to improving access to abortion."

Your uninformed opinion that "non-doctors" should not be allowed to provide abortion care as currently permitted under New York Public Health Law and Education Law does not take precedence over the recommendations of these medical institutions. Additionally, the label of "non-doctors" is purposefully inflammatory, meant to conjure

images of people outside the medical profession, rather than trained and licensed medical professionals like APCs.

You state, “I am opposed to this legislation and, as a healthcare professional, I find it irresponsible.”

Senator, where is your responsibility towards the woman who finds out later in pregnancy that her fetus will not survive and has to make the medical and personal decision to terminate the pregnancy, or the girl who has been sexually assaulted and whose pregnancy is not discovered for 26 weeks, or the mother whose cancer worsens with pregnancy and wants to spend what remains of her life with the young child she already has?

With regards to access to healthcare, you state, “Any person seeking care should not have to overcome onerous restrictions to address their basic needs.” We agree.

Senator, at this time, a critically-ill woman who needs to access abortion care later in pregnancy because her health is at risk and/or the fetus is not viable is forced to leave the state in order to receive the care she needs. Wouldn't you consider the need to go out of state, particularly under such heart-wrenching and physically dangerous circumstances, an “onerous restriction?”

You state, “I hope this correspondence brought more clarity.” Not only has it not brought clarity, you have confused the issue with inaccurate information and baseless opinion.

Yours sincerely,

Elise-Ann Konstantin