



WOMEN'S HEALTH COLLABORATIVE

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**MEMORANDUM OF OPPOSITION TO
S. 5829 REPRODUCTIVE HEALTH AND PRIVACY PROTECTION ACT
(RHAPP)**

Submitted By: Suzanne Topping, *Executive Director*, Women's Health Collaborative

Rather than protecting women's reproductive health, RHAPP returns abortion to the days of back alley procedures, by removing the protections and safeguards that Roe vs. Wade guaranteed

S 5829 removes all limits and controls, so that instead of abortion being safe and legal, it becomes –unsafe– but legal. The Bill as written would move the state of abortion in New York backward.

Some of our concerns about the Bill are listed below.

- S 1201 of the Bill states that “a qualified, licensed health care practitioner” is authorized to perform abortions, but does not state that they need to be performed by physicians, what type of license is required, and what training and experience constitutes as “qualified”.
- S 1202 states that NY will not regulate abortion. The Bill contains no requirement for reporting whatsoever, which means that health care researchers will not have access to data in order to continue development, improvement, or correction of reproductive procedures and pharmaceuticals. As can be seen from recent problems in contraceptive drugs like Depo-Provera and Ortho Evra, collection and evaluation of data is critical in determining the safety and efficacy of various reproductive health options. This Bill makes requirement of reporting illegal, therefore making research on abortion and contraception virtually impossible.
- The Bill modifies the NYS Penal Code to completely remove abortion terminology. This means that situations of coerced or forced abortion, abortions performed by unauthorized clinics, or other back alley scenarios cannot be prosecuted under the Penal Code.
- Removal of abortion in the Penal Code also means that there is no protection for a woman who unknowingly receives abortion medication from someone who does not want her to continue her pregnancy.
- The Bill repeals the Penal Code requiring that abortions be provided by duly licensed professionals, meaning that unlicensed practice is not a criminal offense.
- The Bill states that abortions leading to a woman's death cannot be tried as manslaughter, even if performed by an unauthorized abortion provider.
- The Bill removes existing Penal Law which prohibits the sale of abortion drugs, instruments, etc. to unlicensed abortion providers.
- Section 673, Chapter 545 of the County Law is amended to prevent coroners and medical examiners from investigating deaths caused by suspected criminal abortion.
- S 1201.2 states that termination is permitted at any stage of pregnancy if the physician determines it to be protective of a woman's health. It is unreasonable to believe that abortion clinics (where most terminations occur) can objectively assess a woman's overall health, nor are they qualified to do so. Given the health risks of late term abortions, physical and/or psychological referrals should be required when a termination takes place at an abortion clinic.

- S 1203.5 leaves the determination of fetal viability to the abortion provider. As with the previous point above, there is a distinct conflict of interest; determination of viability should only be made by a licensed third party obstetrician.
- For those abortions performed when the fetus is deemed to be viable, the abortion provider also determines whether or not a physician should be present in the case of a live birth, to care for the surviving infant. Existing law requires that a doctor be present to deal with this possibility. The new law would leave this determination to the abortion provider. This introduces a significant mental health risk for the patient who would be cognizant of the birth of a live child and of subsequent handling of that infant.
- Given the lack of requirement for reporting, there would be no mechanism for tracking the instances of live birth and the frequency with which doctors for the infant were provided.

Conclusion

The goal of Bill S 5829 is to tightly control references to abortion in existing Health and Education Codes, and to remove all references to abortion in Penal, Judiciary, and County Code, in order to ensure that abortion remains legal and accessible in New York State. However, the Bill should NOT be passed because it does not provide any protections for women's health, and opens the door to the return of back alley, unregulated, unmonitored abortions and makes dangerous practices essentially free from prosecution.

The Women's Health Collaborative asks you to vote no on RHAPP S5829.

About the Women's Health Collaborative: *Informing Women's Choices*

Our mission is to help educate people in New York State about lesser understood reproductive health concerns for women, with a particular focus on the health risks related to abortion. 1.3 million women per year undergo abortions in the United States alone. 1 out of 3 women will choose to have an abortion by age 45. Abortion has become the most common elective surgery that women undergo. Given the numbers of women who are choosing abortion, we believe that disseminating information about the health issues they may face is critically important.

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