



Allentown Women's Center[®]

**TESTIMONY OF JENNIFER BOULANGER,
ALLENTOWN WOMEN'S CENTER
BEFORE THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
ON REGULATION OF ABORTION FACILITIES
SB 642, SB 732, SB 660, SB 662**

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Chairwoman Vance, Senator Kitchen, members of the Committee, thank you for the opportunity to appear before you today to discuss proposed regulations for Pennsylvania abortion providers.

My name is Jennifer Boulanger and I am the Executive Director of the Allentown Women's Center, a private reproductive health care provider located in Allentown. I have worked in the field of abortion care for over 17 years and have a Masters degree in Counseling and Human Services from Lehigh University. Our facility will be directly affected by the legislation that you are considering today. We have been a member of the National Abortion Federation (NAF) since 1993, whose members were praised by the Grand Jury in the Gosnell case for adhering to high clinical standards. In addition, for the past 14 years I have been the co-chair of the Pennsylvania Abortion Council, an informal voluntary group of about 15 Pennsylvania abortion providers who meet regularly to discuss best practices, regulations and legislative changes affecting providers, as well as the constant threats we experience from anti-abortion extremists.

Our first priority is the physical and emotional health of the women we serve, and we strongly support regulation that protects them. We praise the Pennsylvania Senate for taking measures to prevent the horrors that occurred in Gosnell's clinic from ever happening again. No woman should feel that her only option is a substandard or worse, illegal abortion provider. An accessible system for patients to complain about a bad provider, regular inspections of providers, and greater responsiveness from and communication with the Department of Health are all important components of this process. Abortion regulation should be used to make women safer and abortion care better. It must never be used to make safe abortion harder to access or to harass providers or patients.

We appreciate that Senators Vance, Corman, and Hughes are addressing key issues surrounding regulatory enforcement that will uphold reasonable health and safety standards. Improving upon existing regulations is an appropriate focus. Had existing regulations been properly enforced, the horrid conditions described by the Gosnell grand jury would never have been permitted.

We support policies that not only ensure the health and safety of women seeking abortion care, but also preserve and improve access to quality health care services. Ambulatory Surgical Facility regulations, although referenced in the grand jury report, would not be appropriate as they would create an environment where access to abortion services would be reduced to levels that would in fact jeopardize women's health. Without access to quality care, women would be forced to travel out of state where Pennsylvania cannot regulate, or worse, women will self-abort or seek abortions performed by illegal outliers, which completely defeats the purpose of regulatory legislation.

We have some feedback on these bills that we hope you will find beneficial, and will be happy to put our thoughts into the form of amendments.

There are two questions raised by the proposed legislation that I would specifically like to direct attention to:

1. How should inspections be conducted to best protect women's health and safety?
2. What protections should the Department of Health implement in order to protect the privacy and safety of medical records, patients and providers?

Inspections:

There must be a process to identify and stop substandard health care providers that exist in all medical fields. Annual inspections and licensing are important parts of this process, and

abortion facilities should be treated the same as other medical facilities providing a similar level of care presenting a similar level of risk. Abortion providers welcome an inspection process that ensures that the health and safety of women and girls seeking abortion care is protected.

Governor Corbett has already taken steps with the Department of Health and abortion providers to confirm adherence to current regulations and we applaud his expeditious response.

Since the Gosnell grand jury report was released, there has been a mandatory all-day training of abortion providers that took place on March 21. At that training, the Department of Health outlined clear expectations for how freestanding clinics must comply with existing regulations, reporting requirements, and renewing abortion provider registrations. Abortion providers were also required to register with the Division of Acute and Ambulatory Care's Plan of Correction website. Providers were informed that they will have at least one unannounced inspection per year, unannounced inspections following reports of serious events (regardless of the severity of the event), and unannounced inspections after complaints are reported.

Several freestanding abortion facilities have already experienced unannounced site visits. These visits are very thorough, consisting of up to 4 surveyors reviewing policies, credentials, patient records, and other requested documentation. Inspections have been very thorough, and involve opening all medical cabinets and inspecting medications and supplies for expiration dates, checking storage areas, confirming equipment maintenance, and checking biohazard disposal and contracts. Inspections take hours and staff are continuously pulled away from patient care to attend to the surveyors' requests.

Unannounced inspections may be a reasonable response, particularly in light of a legitimate complaint against a provider. We recommend that protections be put in place to prevent unjust abuses of the process and to ensure that abortion providers are inspected at the

same level and frequency as are other medical providers in the state. SB660 accomplishes this by referring to the Mcare Act for the prescribed time periods in which to conduct inspections after serious event reports. SB642, however, demands more inspections than are currently mandated in the MCare Act and would single out abortion providers to be the only providers that would be subject to inspections after incidents (also known as “near misses”) and infrastructure failures. This would be unreasonably burdensome on both abortion providers and the department, and contradict the intent of the Patient Safety Authority to encourage medical error reporting.

Inspections, particularly unannounced inspections, should be conducted in way that does not interrupt the delivery of services, increase the possibility of harm for patients, or compromise patient privacy. For example, a delay in service provision would increase patient waiting time, which could adversely affect a patient who is fasting prior to the administration of anesthesia. We are pleased to see that in SB662, the department may conduct an abbreviated annual inspection if a medical facility has established a history of exemplary compliance. None of the bills discuss training requirements for inspectors. Inspections should be conducted by surveyors that are specifically trained in abortion regulations, as well as in general abortion service provision.

Privacy and Safety:

Throughout the inspection process, patient privacy must be protected. Both SB732 and SB642 reference the department having full and free access to the records, patients and employees of abortion facilities. While this may seem like a reasonable request during an

inspection, there is potential for this to be abused. Provisions should be outlined to protect against unreasonable requests and to preserve providers' and patients' constitutional rights.

For example, recently the department responded to a complaint from a patient who was at a freestanding abortion facility for a contraceptive appointment. The patient complained that she believed that she should not have to pay for her contraception. Inspectors from the Department of Health arrived for an unannounced inspection, and demanded to review six months worth of patient records, and questioned the staff for over two hours, despite the fact that the patient was not being seen for abortion services. We believe these demands made by the Department were unreasonable and that they did not fall under its regulatory oversight.

The decision to have an abortion is extremely complex and sensitivity must be exercised when addressing issues of patient confidentiality. We are pleased to see the confidentiality provisions in SB732 which specifically address the handling of confidential patient information. We recommend including a provision requiring that all personal patient information be redacted prior to inspection, unless permission is obtained from the patient. Procedures for the redaction of personal information would serve to protect patient privacy while not impeding the Department's ability to conduct appropriate oversight of clinics.

Although SB732 and SB642 include provisions for accessing and interviewing patients, there is nothing specified as to how patients will be approached or how patient interviews will be conducted. Women seeking abortion services have a wide range of emotional experience and may be extremely distressed if they believe their confidentiality is threatened. We recommend that the patient's permission be obtained before any patient interview or interaction is permitted to take place and that all patients are treated with the utmost dignity and respect.

Pennsylvania abortion providers have been faced with high levels of harassment and intimidation, and this must be taken into consideration when introducing new legislation. Unlike other medical professions, abortion providers in this state are targeted by individuals who openly support the use of force to stop abortion and who will take extreme measures to obtain personal information about abortion providers as a means to harass and intimidate. Many providers and staff risk their own safety to provide care to their patients. It is critical that their identity and other personal information be as protected as much as possible from those who would use the information for malfeasance.

The Medical Director and I have both been targeted at our homes by a terrorist who was the target of a federal civil action by the U.S. Department of Justice for posting instructions about how to kill a doctor on his website, along with the name and address of a doctor he was targeting. That doctor no longer provides abortions for fear that her life will be harmed. A group that call themselves “Lehigh Valley Pro-Lifers” papered my neighborhood with bright orange flyers that said I was a baby killer and encouraged them to convince me to quit my job. They have written letters to my mother telling her she raised a bad Catholic. Patients are continuously intimidated, harassed, and even touched by protesters as they try to cross the street to enter our facility. The threats that providers and patients face are serious and their safety must be protected.

Currently, the Pennsylvania Patient Safety Authority prohibits the release of all incident, serious event, and infrastructure failure reports to the public. All of the proposed legislation should provide more safeguards to protect providers by requiring that all personal identification of providers, patients and staff in deficiency reports and plans of correction be redacted prior to disclosure to the public.

Although SB732 and SB642 contain good provisions for surveyors displaying proper identification, it may be beneficial to add penalties for impersonating an inspector to prevent anti-abortion extremists from attempting to invade a facility under the guise of an unannounced inspection.

Closing:

In closing, I want to thank the Committee for hearing my testimony today. I commend the members for focusing these hearings not on a political debate about abortion, but rather on what regulatory measures best protect women's health. As we have learned from those harmed by Gosnell, all populations, particularly the underserved, must have access to quality health care services. I will be available throughout the remainder of these hearings should the Committee have any additional questions for me that might arise out of other testimony you will hear today.

Attachment:

Letter presented to Dr. Eli Avila from members of the Pennsylvania Abortion Council