

March 5, 2021

Terri Goldberg
Acting Executive Director
State Board of Medical Examiners
PO Box 183
Trenton, New Jersey 08625-0183

Dear Ms. Goldberg:

Physicians for Reproductive Health (PRH) appreciates the opportunity to submit comments on the Board of Medical Examiners' January 4, 2021 rule proposal at *53 N.J.R. 12(a), Surgery, Special Procedures, and Anesthesia Services Performed in an Office Setting*. PRH is supportive of the Board's proposal to repeal N.J.A.C. 13:35-4.2 in its entirety as targeted regulations of abortion providers are legally suspect, not medically necessary, and harm patients and providers by limiting access to a time sensitive, essential health care service.

PRH is a physician-led national advocacy organization that works to improve access to comprehensive reproductive health care, including abortion care. Our network includes physicians of all specialties from across the country committed to meeting the reproductive health care needs of the patients they serve. As physicians who care about abortion access, we believe every New Jerseyan should be able to make their own personal medical decisions without government interference and with dignity and economic security. As such, we strongly support efforts to make reproductive health care, including abortion, more accessible in the state of New Jersey, and appreciate that the proposed rule works to achieve this by modernizing the state's regulations around abortion care and removing targeted regulations of abortion providers.

As the Board of Medical Examiners' acknowledges, abortion is a [safe and effective](#) medical procedure. A comprehensive report from the National Academies of Sciences, Engineering and Medicine (NASEM) in 2018 found that abortion is safe and effective.¹ Among many findings, the report's authors concluded decisively that state policies that are designed to limit access to abortion care actually harm patients.² Included in the report was the finding that advanced practice clinicians (APC), such as physician assistants, certified nurse-midwives, nurse practitioners and physicians with the appropriate training and experience can provide abortion care safely and effectively.³ APCs are already providing abortion care in at least 15 states and the District of Columbia. The World Health Organization and the American College of Obstetricians and Gynecologists support APCs providing abortion care and several peer-reviewed research studies uniformly conclude that first-trimester abortion provided by APCs are as effective and safe as obtaining them from a physician trained in abortion care. In a recent Committee Opinion, the American College of Obstetricians and Gynecologists has called for the removal of laws and regulations that create barriers to abortion access and interfere with the

¹ National Academies of Sciences, Engineering, and Medicine (NASEM). 2018. *The safety and quality of abortion care in the United States*. Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/24950>

² *Id.*, at 164.

³ *Id.* at 118-119, 165-166.

patient-clinician relationship and the practice of medicine, including: “requirements that only physicians or obstetricians-gynecologists may provide abortion care”, and “facility and staffing requirements known as Targeted Regulations of Abortion Provider (TRAP) laws.”⁴

The proposed rule would ensure removal of existing barriers by allowing advanced practice clinicians, like nurse practitioners and physician assistants, to provide abortion care. This change will result in greater access to abortion, particularly for communities already facing significant systemic, economic, and logistical barriers to care and will allow these trusted providers to play a greater role in expanding access to abortion.⁵

In addition, the proposed rule will remove existing TRAP regulations. PRH agrees with the Board’s conclusion that restricting the provision of abortion care coupled with targeted regulations of abortion providers are “medically unnecessary, do not protect patients’ health or safety, and restricts access to abortion care in New Jersey.”⁶ We are glad to see the Board’s regulations align with the latest scientific and medical evidence.

The current COVID-19 health crisis has made clear how important it is for every patient to get the health care they need, including abortion.⁷ As physicians we have witnessed first-hand the harm of the pandemic on families and communities across the nation, and we firmly believe people must have access to health care without facing medically and scientifically unnecessary barriers to care. The current New Jersey regulations do not align with these values as [TRAP laws exist](#) for the sole purpose of shutting down health clinics and limiting the ability of abortion providers to practice medicine. Therefore, we support the New Jersey Board of Medical Examiner’s repeal of these regulations in their entirety.

PRH recommends some additional changes to strengthen the regulations. Each of the following suggestions would build upon our shared goal of increasing access to abortion care:

- Allowing advanced practice clinicians to provide moderate sedation as part of providing abortion care;
- Streamlining the new category of abortion services defined in the regulations to simply be named “abortion without anesthesia services”;
- Aligning the definition of moderate sedation with the American Society of Anesthesiologists’ [definition](#);

⁴ ACOG, *Increasing Access to Abortion*, Committee Opinion No.815, Dec. 2020, <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2020/12/increasing-access-to-abortion>.

⁵ Advancing New Standards in Reproductive Health. Primary care initiative. Available at: <https://www.ansirh.org/research/primary-care-initiative> . Retrieved August 19, 2020.

⁶ 53 N.J.R. 12(a), *Surgery, Special Procedures, and Anesthesia Services Performed in an Office Setting*, available at <https://www.njconsumeraffairs.gov/Proposals/Pages/bme-01042021-proposal.aspx>; see also National Academies of Sciences, Engineering, and Medicine. The safety and quality of abortion care in the United States, Washington, DC : National Academies Press; 2018. Available at: <https://www.nap.edu/catalog/24950/the-safety-and-quality-of-abortion-care-in-the-united-states>; Levy BS , Ness DL , Weinberger SE . Consensus guidelines for facilities performing outpatient procedures: evidence over ideology *Obstet Gynecol* 2019;133:255–60.

⁷ See Drs. Jamila Taylor and Jamila Perritt, *Abortion is Essential Health Care, Including During a Public Health Crisis*, The Century Foundation (April 2, 2020), <https://tcf.org/content/commentary/abortion-is-essential-health-care-including-during-a-public-health-crisis/?session=1>.

- Ensuring that transfer and ambulance agreements are not a barrier for abortion providers; and
- Ensuring that both the procedure and anesthesia privileging process works for abortion providers and doesn't create additional barriers to access.

We encourage the Board to continue working in partnership with public health and medical organizations in order to center the experiences of patients and providers who are most directly impacted by these changes. Doing so will ensure the rules do not create unintended barriers and instead fully and effectively increase access to care.

As [states](#) across the country continue to push time-sensitive reproductive health care, including abortion, out of reach for so many— despite the Supreme Court's clear holding that states cannot use deceptive medical regulations to impose burdens on abortion access that outweigh the benefits— PRH commends the Board for taking this necessary step toward removing barriers to abortion care in New Jersey.

Thank you for the opportunity to comment on this important issue. If you have further questions, please contact MiQuel Davies, Assistant Director of Policy at Physicians for Reproductive Health, mdavies@prh.org.

Sincerely,

Jamila Perritt

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