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## Questions and Answers About the Reproductive Health Act

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### **Q: Why do we need this law?**

### **A:**

In 1970, when New York was one of the first states in the nation to expand access to safe and legal abortion, its law was considered an important step to protect women's health and reduce maternal morbidity and mortality. Much has changed over the past 37 years, and while medical practice and policy have advanced, the law in New York has lagged behind.

New York law does not contain a health exception, or even any affirmative guarantee protecting women's rights to make private reproductive health care decisions. We rely on the federal constitution to guarantee those rights, leaving us vulnerable to further erosion by the Supreme Court. This act will ensure that New York State continues to protect and respect women's health and the right to make private reproductive health care decisions.

**Q: What does the Reproductive Health Act Do?****A:**

This Act protects a woman's fundamental right to control her own reproductive health; it ensures that a woman will be able to have an abortion if her health is endangered at any point in her pregnancy; it treats regulation of abortion as an issue of public health and medical practice; and it guarantees everyone the right to use or refuse contraception.

**Q: Who would be able to provide abortion services under this legislation?****A:**

Only qualified medical practitioners with the necessary training to safely provide abortion care would be able to provide this care. Provision of abortion without the proper licensing and training could lead to medical misconduct charges, as would the provision of any medical procedure by an unlicensed or unqualified provider.

**Q: Why does the bill contain an exception for women's health?****A:**

Some women experience serious health complications during pregnancy and when faced with such medical crises, make hard decisions that are best for them and their families. Some health complications that can arise during pregnancy include, but are not limited to, dangerously high blood pressure, diabetes, stroke, blindness, kidney failure and infertility. Every situation is different and it important that a woman's doctor be able to use his or her best medical judgment to make the determination if a pregnant woman's health is endangered by her pregnancy.

**Q: Does this prevent the state from regulating the practice of abortion?****A:**

No. As it does now, the State would be able to regulate abortion just as it regulates the delivery of other health care services. As with every medical procedure, providers would need to obtain informed consent prior to any procedure and health facilities would need to meet safety standards. This bill would simply prevent the state from imposing regulations on the provision of abortion that have no relation to health or safety.

**Q: Does the legislation allow abortions to be performed at any stage of pregnancy?****A:**

The legislation would allow abortions up to the time of fetal viability, and after that point only if

the woman's life or health is in danger. Almost all abortions are performed in the first trimester, but sometimes women learn they are carrying a fetus with anomalies or experience pregnancy complications that place their life or health at risk. Women's health is not a trivial matter and we do not believe women seek abortion for minor medical problems. We trust women and their families, in consultation with their physician, to make their own private medical decisions, and believe the government should not interfere with these deeply private and personal matters.

**Q: Can you explain how the definition of viability would be applied?**

**A:**

Viability would be determined on a case-by-case basis by the physician treating the woman. Determinations of fetal viability would be based on the physician's good faith medical judgment.

**Q: Would this bill force doctors or religious hospitals to perform abortions?**

**A:**

No. Existing conscience protections in New York and federal law allow individuals and health care facilities to refuse to provide abortion if they have religious or moral objections. This bill does not alter or remove those protections. Although the bill contains a provision prohibiting discrimination against those who choose to exercise their right to abortion, the anti-discrimination clause applies to the government, not to private entities. The bill will therefore not require any private health care entity to provide or pay for abortion.

**Q. What is the effect of removing regulation of abortion from the Criminal Code?**

**A:**

The criminal provisions in New York law are the legacy of a time before Roe, when abortion was illegal and women had to resort to back alley abortions. That is no longer the case. Abortion is safe, accessible and legal, and doctors shouldn't have to worry about prosecution for providing them. Abortion should be regulated as a question of public health and medical practice, not as a crime. Criminal acts against women that result in termination of pregnancy could still be charged under numerous provisions of the criminal code, including assault and unauthorized practice of medicine. In addition, the bill stiffens available penalties against criminal acts against pregnant women that result in pregnancy loss by including pregnancy loss in the definition of "serious physical injury."

**Q: How does this bill impact the Supreme Court decision in Gonzales v. Carhart and the federal abortion ban?**

**A:**

The Supreme Court ruled that the federal ban on an abortion procedure can be enforced, even

though it does not contain an exception to preserve a woman's health. This bill cannot override that decision, but it does mean that as a matter of New York State laws and regulations, women's health will always be protected.

**Q: How will this bill change how abortion is provided in New York?**

**A:**

This bill merely updates New York State's law by codifying existing constitutional requirements and removing outdated provisions, in order to ensure that our rights will be protected in the future. It will not enact any major changes in the way abortion is provided in New York.

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