

DOES YOUR STATE? ...

Introduction

If you live in the United States it is likely that your state has numerous laws restricting access to abortion services. Between 1995 and 2004, states enacted 409 anti-choice legislative measures.¹ In the 2005 legislative session, over 650 bills were introduced that would directly or indirectly restrict access to abortion and contraception or advance the legal status of the fetus as if it were separate from the pregnant woman.²

Despite the many issues affecting women's health and lives, bills to further restrict abortion are yet again certain to be the primary focus of your legislature's session this year. As a result of this extensive attention to this one aspect of pregnant women's lives, chances are that your state legislature will not address many other health issues of concern to pregnant women and mothers — not breast cancer nor heart disease, not the lack of health insurance for millions of women and children nor the lack of access to mother-friendly childbirth.³

This brief fact sheet contrasts the attention paid to abortion with the lack of attention paid to a range of other issues that also affect the health, well being, and human rights of pregnant and parenting women. We hope that in 2007, you will consider helping to shift the focus of your legislature away from the divisive abortion issue and toward the positive legislation discussed in this fact sheet — legislation that addresses a wide range of issues affecting pregnant and birthing women, women of childbearing age, and mothers.

Laws Addressing Abortion v. Laws Addressing Other Aspects of Pregnant Womens' Lives

Since 1973, when the United States Supreme Court ruled in *Roe v. Wade* that pregnant women have a fundamental right to choose whether or not to have an abortion, “states have constructed a lattice work of abortion law, codifying, regulating, and limiting whether, when, and under what circumstances a woman may obtain an abortion.”⁴

For example, 28 states mandate that specific information — generally including biased, false, or misleading information — be given to women who are seeking abortion services.⁵

In contrast, only two states, New York⁶ and Massachusetts,⁷ mandate that specific information about a hospital's birth-related practices be given to women who are going to term. The required disclosures include the frequency with which cesarean sections, induction of labor, episiotomy, and other procedures are performed, and a brief description of these procedures. The rate of cesarean sections has soared in the US, where more than one million women each year — that's one in three — now have this surgical intervention.⁸ As the New York City Advocate explains:⁹

In order to make the best decisions about their care, women must have access to information about the risks and benefits of vaginal delivery, cesarean section, and other medical interventions that may occur during labor and birth. Those women who decide that they would prefer a vaginal delivery need to know which caregivers and birth settings will support their choice. If

women who want and are able to give birth vaginally can identify birth settings that support their choice, the cesarean rate may decline. Whatever the result, women will be better able to make informed choices about their care.¹⁰

Significantly, while the laws mandating the provision of information to women seeking abortion services include penalties for violation of the laws, the New York law does not contain any meaningful enforcement mechanisms to ensure that hospitals in fact follow the law.¹¹

And while 28 states mandate the provision of certain (often biased) information to women seeking to have abortions, not a single state requires the information provided by pregnancy crisis centers that counsel pregnant teens and women -- be medically accurate.¹² In fact, despite documented evidence that staff at pregnancy crisis centers provide false information to pregnant women, both the federal government and states give vast amounts of direct funding to them.¹³

In some states, pregnancy crisis centers far outnumber both abortion and birthing centers.¹⁴ For example, Texas' 183 crisis pregnancy centers outnumber the 43 clinics that provide abortions by more than four to one¹⁵; they outnumber Texas' nine birthing centers by a ratio of 20 to one.¹⁶ And while low-income pregnant drug using women in Amarillo, Texas would have several pregnancy crisis centers to choose from,¹⁷ she would find that there is not a single drug treatment program that provides care to pregnant and parenting women within 100 miles.¹⁸

While most states have numerous laws limiting access to abortion, some are poised to ban it altogether. Fifteen states have laws on the books that ban abortion throughout pregnancy. These may become enforceable if *Roe* is overturned. "Eleven states have laws on the books expressing an intention to outlaw abortion if *Roe* is overturned, or similar anti-choice policy positions."¹⁹

Not a single state, however, has a law prohibiting hospital VBAC (vaginal birth after a c-section) bans that force women into unnecessary surgery. More than 300 hospitals deny women with a previous cesarean a trial of labor and instead, require surgical delivery as their only "option."²⁰

Only one state, Illinois, has a law that prohibits the use of restraints on pregnant women being transported from prisons or jails to a hospital.²¹ Two more states, California and Wisconsin²², limit the use of restraints on pregnant women. This means that in the other 47 states, plus the District of Columbia and the Federal Bureau of Prisons, a range of restraints are permitted to confine women at *any time during their pregnancy, including active labor*: these include irons, shackles, belly chains or handcuffs behind the body. Louisiana, for example, permits leg irons to be used during labor and delivery.²³

While many states and the federal government have laws to restrict funding for abortions,²⁴ very few states have laws to ensure funding for things women who go to term may need.

For example, only one state, California, has anything approaching a comprehensive paid family and medical leave insurance program that would provide paid leave to a new mother to care for her child. Under this law over 13 million California workers can receive partial wages (55-60% of wages) while taking up to six weeks of leave a year to care for a new child or for a seriously ill family member.²⁵

It is time to stop allowing the abortion issue to dominate our legislatures and start focusing instead on promoting laws that will further the health and human rights of pregnant, birthing, and parenting

women. We hope you will use these and other ideas to change the conversation and to demand that policies that claim to value a culture of life, in fact value the women who give that life.

¹ *Battle for Choice Rages Through Statehouses*, Women's E-News: March 3, 2005, <http://womensenews.org/article.cfm/dyn/aid/2205> (last visited Jan. 9, 2007)

² Center for Reproductive Rights, 2005 LEGISLATIVE SUMMARY, http://www.crlp.org/st_leg_summ_05.html (last visited Jan. 9, 2007)

³ The Coalition for Improving Maternity Services sets out criteria for mother-friendly childbirth and promotes a *Ten Step* program for determining if hospitals, birth centers, and home birth services are mother-friendly. See <http://www.motherfriendly.org>

⁴ Guttmacher Institute, State Policies In Brief, An Overview of Abortion Laws (December 1, 2006) http://www.guttmacher.org/statecenter/spibs/spib_OAL.pdf

⁵ Guttmacher Institute, State Policies In Brief, An Overview of Abortion Laws (December 1, 2006) http://www.guttmacher.org/statecenter/spibs/spib_OAL.pdf

⁶ NY Pub Health § 2803-j. Each hospital's informational leaflet must provide the annual percentage of the following maternity related procedures performed at the hospital: cesarean sections (primary, repeat and total); successful vaginal deliveries by women who have had previous cesarean sections; deliveries by midwives; use of electronic fetal monitoring; use of forceps; breech births delivered vaginally; use of analgesia; use of anesthesia; induction of labor; augmentation of labor; episiotomies; and whether birthing rooms and rooming-in is available at the facility. NY Pub Health § 2803-j(2)(a-m).

⁷ Massachusetts General law, 111 PUBLIC HEALTH HOSPITALS § 70E. Patients' and residents' rights: "Every maternity patient, at the time of pre-admission, shall receive complete information from an admitting hospital on its annual rate of primary caesarian sections, annual rate of repeat caesarian sections, annual rate of total caesarian sections, annual percentage of women who have had a caesarian section who have had a subsequent successful vaginal birth, annual percentage of deliveries in birthing rooms and labor-delivery-recovery or labor-delivery-recovery-postpartum rooms, annual percentage of deliveries by certified nurse-midwives, annual percentage which were continuously externally monitored only, annual percentage which were continuously internally monitored only, annual percentage which were monitored both internally and externally, annual percentages utilizing intravenous, inductions, augmentation, forceps, episiotomies, spinals, epidurals and general anesthesia, and its annual percentage of women breast-feeding upon discharge from said hospital."

⁸ Childbirth Connection, *What Every Pregnant Woman Needs to Know About Cesarean Section*, July 2006.

⁹ Office of the New York City Public Advocate, *A Mother's Right to Know: New York City Hospitals Fail to Provide Legally Mandated Maternity Information*, July 2005.

¹⁰ *Id.*

¹¹ Office of the New York City Public Advocate, *Giving Birth in the Dark: City Hospitals Still Failing to Provide Legally Mandated Maternity Information* Dec. 2006, available at:

<http://pubadvocate.nyc.gov/policy/documents/GivingBirthInTheDark12.06.pdf>

¹² NARAL Pro Choice America Foundation, *The Truth About Crisis Pregnancy Centers 2*, <http://www.prochoiceamerica.org/assets/files/Abortion-Access-to-Abortion-CPC-truth.pdf>. (last visited Jan. 9, 2007)

¹³ According to a report commissioned by Representative Waxman, pregnancy crisis centers have received over \$30 million in federal funds since 2001, "capacity building grants" have been distributed to 25 pregnancy crisis centers from the federally funded \$150 million Compassion Capital Fund, and individual centers have also received additional federal funds through special earmarks in appropriations bills. UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE ON GOVERNMENT REFORM — MINORITY STAFF SPECIAL INVESTIGATIONS DIVISION JULY 2006 FALSE AND MISLEADING HEALTH INFORMATION PROVIDED BY FEDERALLY FUNDED PREGNANCY RESOURCE CENTERS, Prepared for Representative Henry A. Waxman, <http://www.democrats.reform.house.gov/Documents/20060717101140-30092.pdf>/ See also <http://www.democrats.reform.house.gov/story.asp?ID=1080>

¹⁴ NARAL Pro-Choice Foundation Texas, *Pregnancy Crisis Centers 1* (December 2005), <http://www.prochoicetexas.org/assets/files/cpcreport.pdf>

¹⁵ *Id.*

¹⁶ According to the American Association of Birthing Centers there are only nine such centers in Texas. <http://www.birthcenters.org/fabc/index.php> (last visited Jan. 9, 2007)

¹⁷ See e.g., <http://www.carenetamarillo.org/> (last visited Jan 13, 2007); <http://www.lifecall.org/cpc/tx.html> (last visited Jan 13, 2007)

¹⁸ See SAMHSA Substance abuse locator, drug treatment for pregnant Medicaid eligible woman within 100 miles of Amarillo, Texas.

[http://dasis3.samhsa.gov/PrxResults.aspx?&GAD2=&GAD3=Amarillo%2c+Texas&GCITY=&GSTATE=&GZIP=&GAD4=USA&DSN=MapPoint.NA&LOC=35.2072994920033%3a-](http://dasis3.samhsa.gov/PrxResults.aspx?&GAD2=&GAD3=Amarillo%2c+Texas&GCITY=&GSTATE=&GZIP=&GAD4=USA&DSN=MapPoint.NA&LOC=35.2072994920033%3a-101.833872147226&IC=35.2072994920033%3a-)

[101.833872147226%3a2%3aAmarillo%2c+Texas&NR=10&DBR=100&FC=&FCT=And&island=&AD2=&CITY=amarillo&STATE=Texas&ZIP=&c2=&c3=&c4=PW&c5=MD&c6=&c7=&detail=1](http://dasis3.samhsa.gov/PrxResults.aspx?&GAD2=&GAD3=Amarillo%2c+Texas&NR=10&DBR=100&FC=&FCT=And&island=&AD2=&CITY=amarillo&STATE=Texas&ZIP=&c2=&c3=&c4=PW&c5=MD&c6=&c7=&detail=1) (last visited Jan 13, 2007)

¹⁹ http://www.prochoiceamerica.org/choice-action-center/in_your_state/who-decides/nationwide-trends/key-findings-threats-to.html (last visited Jan. 9, 2007)

²⁰ See, ICAN, International Cesarean Awareness Network, *Your Right to Refuse What to Do if Your Hospital Has "Banned" VBAC*, http://www.ican-online.org/resources/white_papers/wp_vbacbanqa.pdf. Citizens for Midwifery provides suggestions for non-legislative action you can take with their paper: *Unhappy with your maternity care? File a complaint!* Available at: <http://cfmidwifery.org/Resources/Item.aspx?ID=1>. Activist Barbara Stratton suggests filing a complaint with the hospital's Medicaid Compliance Officer stating:

Dear Compliance Officer: As you may be aware, _____ (hospital name) has a policy in place that bans women who have had a previous cesarean from choosing to have a vaginal birth (known as a VBAC) in subsequent pregnancies and instead requires them to have a repeat cesarean.

I am writing to you today to file a complaint against the hospital on the grounds that the ban on VBACs is a violation of the Center for Medicare and Medicaid Service's Conditions of Participation which require hospitals to honor patient rights as defined by the Patient Self-Determination Act, the Consumer Bill of Rights and Responsibilities, The Emergency Medical Treatment and Labor Act (EMTALA), and the large body of case law upholding the right to refuse treatment, to be fully informed of the risks, benefits, and alternatives of a proposed treatment, and to participate in all treatment decisions.

Thank you for your attention to this matter and I look forward to your response.

²¹ Sec. 3-6-7. Pregnant female committed persons. Notwithstanding any other statute, directive, or administrative regulation, when a pregnant female committed person is brought to a hospital from an Illinois correctional center for the purpose of delivering her baby, no handcuffs, shackles, or restraints of any kind may be used during her transport to a medical facility for the purpose of delivering her baby. Under no circumstances may leg irons or shackles or waist shackles be used on any pregnant female committed person who is in labor. Upon the pregnant female committed person's entry to the hospital delivery room, a correctional officer must be posted immediately outside the delivery room. The Department must provide for adequate personnel to monitor the pregnant female committed person during her transport to and from the hospital and during her stay at the hospital. (Source: P.A. 91-253, eff. 1-1-00.) 730 ILCS 5/3-6-7

²² Amnesty International, Stop Violence Against Women, Abuse of Women in Custody: Sexual Misconduct and Shackling of Pregnant Women, <http://www.amnestyusa.org/women/custody/shackling.html> (last visited Jan. 16, 2007)

²³ *Id.*

²⁴ Thirty-two states and the District of Columbia prohibit the use of state funds to pay for abortions except in those cases when federal funds are available, where the woman's life is in danger, or the pregnancy is the result of rape or incest. Kaiser Family Foundation Issue Update – Abortion Policy and Politics (Oct. 2002), <http://www.kff.org/womenshealth/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=14091> (last visited Jan. 9, 2007)

²⁵ Paid Leave Basics, Glossary of Terms, <http://paidleave.org/>. See also, <http://www.progressivestates.org/content/369/maternity-and-paternity-leave>, <http://www.paidfamilyleave.org/>, www.momsrising.org (all last visited Jan. 9, 2007). For many ideas about legislation to ensure the rights of pregnant women and working parents go to Momsrising.org, Working to Build a Family Friendly America: <http://www.momsrising.org/>; The Center for WorkLife Law, a research and advocacy center that seeks to eliminate employment discrimination against caregivers such as parents and adult children of aging parents, <http://www.uchastings.edu/?pid=3624>; National Women's Law Center, <http://www.nwlc.org/>.