

DAVID S. BENTZ
STATE REPRESENTATIVE
18th District



**HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901**

COMMITTEES
Health & Human Development, Chair
Energy, Vice-Chair
Appropriations
Joint Finance
Labor
Natural Resources

**House Health and Human Development Committee Meeting Minutes
3.16.22**

This meeting has been recorded and may be accessed via legis.delaware.gov

Chair Bentz called the meeting to order at 11:03 a.m. Members present included Vice Chair Minor-Brown and Reps. Johnson, Baumbach, Heffernan, Morrison, Kowalko, Lynn, Postles, Smith, Briggs King, Hensley, and Collins. Rep. Longhurst, a co-sponsor of HB 320, was present.

Chair Bentz introduced **HB 309, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE PROVISION OF INFORMATION ABOUT LYME DISEASE.**

Speaker Schwartzkopf, the House sponsor of the bill, explained the purpose of the bill. He stated that in 2019 the General Assembly passed a bill requiring any healthcare provider that drew blood for the purposes of testing for Lyme disease to provide notice that testing can result in false positives and false negatives. If the patient continues to experience unexplained symptoms they were advised to reach out to their healthcare provider. The bill was passed with a three-year sunset provision and HB 309 removes that provision.

Chair Bentz asked if there were any questions.

Rep. Baumbach thanked Speaker Schwartzkopf for bringing the provision forward and mentioned the difficulty in properly diagnosing the Lyme disease. Rep. Schwartzkopf stressed the importance of early detection for successful treatment.

Rep. Minor-Brown thanked everyone who worked on the bill and expressed interest in seeing how early detection in children would affect behavioral outcomes while at school.

Rep. Collins expressed support for the bill.

Chair Bentz opened the meeting to public comment.

Dr. Rebecca Benson, Associate Professor of Nursing at Wesley College and Chair of the Delaware Lyme Disease Oversight Board, expressed support for the bill. When testing for Lyme disease, 15% to 50% of tests accurately diagnose the disease and the majority of health care providers are not aware of that statistic. Misdiagnosis can lead to extensive medical conditions including, but not limited to, neurologic deficiencies and patients being labeled as hypochondriacs, drug seekers, "Lyme loonies", and conspiracy theorists. She mentioned movements at the national level to prevent the development and implementation of more accurate Lyme testing. The only test currently endorsed by the Food and Drug Administration (FDA) and Centers for Disease Control (CDC) is the ELISA-Lester blot test that is only accurate 15% to 50% of the time, which leads to some patients being permanently or totally disabled when misdiagnosed. Kris Kristofferson, a well-known musician, was misdiagnosed with Alzheimer's for two years before being accurately diagnosed with Lyme disease. Lyme disease is carried by a spirochete, similar to syphilis, and is often referred to as the "Great Masquerader" because it can present as many other illnesses including, but not limited to, fibromyalgia, amyotrophic lateral sclerosis (ALS), and multiple sclerosis (MS). She provided an example of a psychiatrist in New Jersey who managed 14 children diagnosed with bipolar disorder. Using more accurate Lyme tests (not typically covered by insurance), the psychiatrist discovered that half of the children had Lyme disease and that once treated, exhibited "normal" behavioral tendencies. Dr. Benson mentioned the high frequency of misdiagnosis and stressed the importance of the bill in educating healthcare providers.

Beverly Sisson, a Lyme disease patient currently in remission, expressed support for the bill. In a recent visit to a medical laboratory, she asked the manager if they were handing out the questionnaire (distributed in meeting) to patients being tested for Lyme disease and they said yes. The manager said prior to the form requirement that acknowledged diagnostic testing may produce false negative or positives, they routinely received calls from patients confused with test results but since implementation of the form and questionnaire, those calls were infrequent.

Chair Bentz opened the meeting to remote public comment. There were none.

A motion was made by Rep. Baumbach and seconded by Rep. Kowalko to release HB 309 from the committee, motion carried. Chair Bentz began the roll call to release HB 309. Yes = 12 (Bentz, Minor-Brown, Johnson, Baumbach, Heffernan, Morrison, Kowalko, Postles, Smith, Briggs King, Hensley, and Collins), No = 0. The bill was released from committee with a F=9, M=3, U=0 vote.

Chair Bentz introduced HB 320, AN ACT TO AMEND TITLE 24 RELATING TO PRESCRIBING MEDICATIONS FOR THE TERMINATION OF PREGNANCY.

Rep. Heffernan, the House sponsor of the bill, explained the purpose of the bill. The bill allows Physician Assistants (PA) and Advanced Practitioner Registered Nurses (APRN) to prescribe medication for the termination of pregnancy including Mifeprex, Mifepristone, and Misoprostol. Medication induced abortion is approved for use during the first ten weeks of a pregnancy. She mentioned the shortage that Delaware is currently experiencing with health care providers, especially in the rural and underserved communities. Current law does not allow PAs and APRNs to prescribe medication to terminate a pregnancy even though they can legally provide every other medication, including opioids, and is an unnecessary medical restriction. Current law prohibits qualified medical professionals from the delivery of care that is included within their scope of practice. HB 320 will codify that these professionals can prescribe these medications. Medication assisted pregnancy termination accounts for a majority, over 54%, of abortion cases nationwide. If administered at nine weeks gestation or less, it is 99.6% successful in termination of pregnancy. Complications related to these medications happen to an estimated 0.13% of patients. The medications listed in this bill are still subject to all FDA's strict Risk Evaluation and Mitigation Strategy (REMS). The regulations that guide physicians in the administration of these drugs would be the same regulations guiding PAs and APRNs proposed in this bill. PA's and APRNs could become certified providers through completion of a Prescriber Agreement. Rep. Heffernan mentioned there is a continuum of healthcare providers providing primary care, not just the physician, including registered nurses and PAs. Some doctors may have limited hours where they are available in an individual practice each week. This bill will expand access to women in Delaware, especially those in rural and underserved areas like Sussex County. She asked if there were any questions.

Chair Bentz acknowledged Rep. Longhurst, a co-sponsor of the bill, and asked if she wanted to provide any comment. Rep. Longhurst thanked Rep. Heffernan for her work on the bill. Rep. Longhurst said throughout the country, a women's right to choose is under threat and that Delaware is moving forward on the matter. She again thanked Rep. Heffernan and looked forward to seeing the bill voted out of committee and onto the House floor. Rep. Heffernan thanked Rep. Longhurst.

Rep. Kowalko wanted clarification on if PAs and APRNs must complete a Prescriber Agreement. Rep. Heffernan confirmed that they would be required to complete a Prescriber Agreement and also use REMS when prescribing, similar to doctors. Rep. Kowalko expressed support for the requirements and the bill.

Rep. Briggs King asked if PAs and APRNs working in high school wellness centers will have the ability to prescribe to school-aged children. Rep. Heffernan does not think they can be prescribed in state run facilities. Rep. Briggs King said the Hyde Act would prohibit that and asked for clarification on whether or not school wellness centers would be able to prescribe these medications. Most student wellness centers are staffed by PAs and Nurse Practitioners (NP). Rep. Heffernan believes that if physicians are not currently able to prescribe in wellness centers, then neither would PAs or APRNs. Rep. Briggs King asked for clarification on whether physicians can prescribe the medication currently through school wellness centers. Patti Davis, Department of Professional Regulation (DPR), commented remotely. Currently, the law, with regard to school-based health centers, limits the ability to diagnose and treat sexually transmitted diseases, provide reproductive health counseling, and the provision of contraception. She requested more time to thoroughly research the issue.

Chair Bentz asked if there were any further questions for Mrs. Davis from DPR. There were none at the time.

Rep. Collins asked the committee if there was a portion of the Delaware Code that allowed a school to assist a student in getting an abortion without telling their parents. Rep. Heffernan reminded Rep. Collins that bill specifically refers to line 10 and 11 allowing with PAs and APRNs the ability to prescribe the medications listed in accordance with the REMS process already in place with the FDA. Chair Bentz reminded the committee to keep questions and comments relevant to the bill and the prescribing authority of APRNs and PAs.

Rep. Smith asked about the settings in which these medications are being prescribed. Chair Bentz asked Natalie Woloshin, House Attorney, to provide comment. She stated that prior to the pandemic, the FDA required that a woman that was prescribed this medication was required to appear in person at the health facility in order to receive the medication. During the pandemic, and now permanently, patients were able to receive these prescribed medications through the mail. There is nothing in Delaware law currently that prohibits PAs and APRNs from prescribing these medications, but it is unclear because this is the only medication with rigorous federal oversight. This bill provides clarity on the matter. Rep. Smith thanked Ms. Woloshin and mentions that he sees an NP as his primary care provider.

Rep. Minor-Brown expressed support for the bill and mentioned the ability of women to seek specific care pursuant to their individual needs.

Rep. Heffernan said the bill had the support of the American College of Obstetricians and Gynecologists.

Rep. Collins said according to the CDC, between 1973 and 2019 there were over 60 million abortions in the United States. That number does not include California, so the estimate is likely higher. He expressed concerns about the morality of abortion.

Chair Bentz asked if there were any other questions or comments from the committee members. There were none. Chair Bentz opened the meeting to public comment.

Matt Bittle, of Planned Parenthood of Delaware Advocacy Fund, expressed support for the bill. Abortion is safe and simple with medication abortion being low risk. A patient takes Mifepristone and a day or two later takes Misoprostol. A few weeks later the patient meets with their healthcare provider for a check-up. Abortions do not increase a woman's risk of infertility, preterm birth, or breast cancer. Access to these medications is particularly important in Kent and Sussex counties because they are medically underserved.

Melanie Ross Levin, Director of the Office of Women's Advancement and Advocacy, expressed support for the bill. These prescribing abilities are already legal in 17 states and the District of Columbia. Expanding access is imperative because abortions later in gestation are associated with higher risks of complications. Underserved, particularly low income and minority, populations have, traditionally, experienced the greatest barriers to abortion care.

Dr. Susan Conaty-Buck, speaking on behalf of the Delaware Coalition of Nurse Practitioners, expressed support for the bill. APRNs that complete necessary competency training will be able to safely assist women seeking to terminate a pregnancy. Medication assisted abortion is more common than abortion procedures. The bill is supported by nurse midwives.

Javonne Rich, Policy and Advocacy Director of the American Civil Liberties Union (ACLU) of Delaware, expressed support for the bill, but also expressed support for including procedural abortions as well.

Chair Bentz opened the meeting to remote public comment.

Moir Sheridan, of Delaware Right to Life, opposed the bill. Delaware is a small state with a small population and women have a variety of options to seek abortion care. Women who have an ectopic pregnancy can have fatal outcomes using these medications and an ultrasound should be required prior to prescribing.

Joseph Fitzgerald opposed the bill.

Kelly Nickels, a women's health nurse practitioner, expressed support for the bill. Medicated abortion is just as safe when administered by doctors as when administered by other health professionals. Two of the medications are already used for conditions other than abortion including management of post-partum hemorrhage, labor, and miscarriage complications.

Jordan Warfel opposed the bill citing a current suspension of the REMS requirements.

Ruth Lytle-Barnaby expressed support for the bill and including language that allowed advanced healthcare providers the ability to legally prescribe these medications.

Nandi Randolph opposed the bill. She expressed concern over prescribing medication for abortion to individuals with undiagnosed ectopic pregnancies, in which case the consequences can be fatal.

Patrick Duffy, a PA in Sussex County, expressed support for the bill.

Beth McEnany opposed the bill and expressed concern over the potentially fatal side effects of medication assisted abortion. She expressed concern over future access to these medication in schools.

Carrie Gregory, a PA in New Castle County, expressed support for the bill. She expressed concern over the healthcare work force shortage in Delaware, particularly in the area of obstetrician-gynecological (OBGYN) services.

Jackie Metz Frederic, a retired school nurse, opposed the bill. She expressed concern over school health centers eventually being able to prescribe these medications.

Chair Bentz asked if the committee had any additional questions or comments.

Rep. Johnson referenced growing up in a religious environment where abortion was not discussed, but she became an advocate for choice when her best friend became pregnant at the age of 15. She thanked Rep. Heffernan and expressed support for the bill.

Vice Chair Minor-Brown thanked Rep. Heffernan for her work and expressed support for the bill. She recognized the Rep. Longhurst, Chair of the Women's Caucus, for her work in advocating for women.

A motion was made by Vice Chair Minor-Brown and seconded by Rep. Johnson to release HB 320 from the committee: motion carried. Chair Bentz began the roll call to release HB 320. Yes = 8 (Bentz, Minor-Brown, Johnson, Baumbach, Heffernan, Morrison, Kowalko, and Lynn), No = 5 (Postles, Smith, Briggs King, Hensley, Collins). The bill was released from committee with a F=5,M=3,U=0 vote.

Rep. Briggs King requested a motion to adjourn.

Rep. Baumbach seconded the motion.

Chair Bentz adjourned the meeting at 12:38 p.m.

Respectfully submitted by:

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