June 12, 2018

Assembly Member Jim Wood, Chair
Members of the California State Assembly Committee on Health
California Legislature—2017-2018 Regular Session

Re: Testimony of Bradley N. Kehr, Esq., Government Affairs Counsel, Americans United for Life, Against SB 320, Regarding Requiring Student Health Clinics to Provide Chemical Abortions

Dear Chair Wood and Honorable Members:

I am Bradley N. Kehr, Government Affairs Counsel with Americans United for Life (AUL). Established in 1971, AUL has been active in all fifty states and is known as the legal architect of the pro-life movement. AUL attorneys are experts on constitutional law and abortion jurisprudence. We appreciate the opportunity to submit legal testimony concerning SB 320, regarding requiring student health clinics to provide chemical abortions.

I have thoroughly reviewed SB 320, as amended, and it is my opinion that SB 320 puts women's health at risk and lacks accountability and oversight.

The Act Puts Women's Health At Risk

Mifeprex (mifepristone or RU-486), the only chemical abortion drug currently available and intended to be made readily available on college campuses by this bill, carries a black box label from the FDA stating that the drug can cause "[s]erious and sometimes fatal infections and bleeding."[1] The drug manufacturer admits that *"[n]early all of the women who receive [RU-486] will report adverse reactions, and many can be expected to report more than one such reaction."*[2] These adverse reactions include, but are not limited to, abdominal pain, cramping, vomiting, headache, fatigue, uterine hemorrhage, viral infections, and pelvic inflammatory disease.[3] Further, RU-486 is particularly dangerous because its side effects are confusingly similar to the symptoms of an ectopic pregnancy.

[1] *See* Mifeprex (RU-486) Final Printed Labeling (FPL), available at http://www.accessdata.fda.gov/drugsatfda_docs/label/2005/020687s013lbl.pdf (last visited August 31, 2017); FDA, Mifeprex (mifepristone) tablets label (July 19, 2011), available at http://www.fda.gov/drugs/drugsafety/postmarketdrugsafetyinformationforpatientsandproviders/ucm111323.htm (last visited June 11, 2018).
[2] *Id*.
[3] *Id*. at 12 (Table 3).

Failing to properly diagnose an ectopic pregnancy can lead to a rupture of the fallopian tube which may cause bleeding, severe pain, and even death.

The impact on women's health is not theoretical. In the last five years, 273 women have been hospitalized after using mifepristone, 182 required transfusions for severe blood loss, and 103 acquired infections.[4] Twenty-two woman have died after using the drug since its introduction.[5]

Despite a recent change in the approved regimen, the U.S. Food and Drug Administration (FDA) left in place the black box label and a Risk Evaluation and Mitigation Strategy (REMS) for RU-486. The REMS maintains distribution restrictions due to the drug's potential for serious complications. It requires that the use of RU-486 be under the supervision of a qualified healthcare provider who has the ability to assess the duration of pregnancy, diagnose ectopic pregnancies, and provide surgical intervention (or has made plans to provide surgical intervention through another qualified physician).[6]

The Act recognizes none of this, claiming that chemical abortions are a "basic health service." The Act makes no provision to ensure that women know about the risks of a chemical abortion. In addition, it does not require complications tracking, and has minimal safeguards in place to ensure that providers are prescribing RU-486 according to FDA guidelines. In fact, there are no assurances that providers are appropriately established according to the provider agreement.

The Act Lacks Oversight

Additionally, the only reporting requirement in the Act is that University of California and California State University maintain a financial reporting system for use of the fund and that the Commission on the Status of Women and Girls report on the number of health centers providing chemical abortions. There are no reporting requirements on qualifications of providers in the university system, numbers of chemical abortions provided, or tracking of chemical abortion prescriptions.

The Act does not include any indication of what qualifies as training or what that training is supposed to include. In short, it appears that these decisions are left to an unelected board that was originally intended to provide recommendations for the general welfare of women and girls. The board is not intended to be a medical board, yet is given governance over a program that would significantly impact women's health. The guidelines provide no directions regarding protecting women from coercion, for ensuring awareness of domestic abuse, or for counseling women on the realities of pregnancy, including options for adoption or prenatal care.

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[4] Mifepristone U.S. Post-Marketing Adverse Events Summary through 12/31/2017, available at https://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/UCM603000.pdf (last visited June 11, 2018).

[5] *Id.*

[6] Mifeprex (mifepristone) Prescriber Agreement Form, available at https://www.accessdata.fda.gov/drugsatfda_docs/rems/Mifeprex_2016-03-29_Prescriber_Agreement_Form.pdf (last visited June 11, 2018).

Finally, the Act gives up any oversight by the California Assembly by funding the program through private funding streams and permanently appropriating any funds in the program. In doing so, the California Assembly doesn't retain a reason to look at the program on a regular basis. Such a program could exist indefinitely, so long as private funding exists, regardless of outcome or impact. In short, the program could have tragic consequences for the health of women and never be brought before the California Assembly for oversight or reconsideration.

Ultimately, the Act disregards the dangers of chemical abortions by not putting forward the risks to women seeking abortion and places no oversight over the program. Only by rejecting SB 320 can this committee further California's important state interest in protecting women's health.

Sincerely,

Bradley N. Kehr
Government Affairs Counsel
Americans United for Life