



New Jersey

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AMOL SINHA
Executive Director
MARC BEEBE
President

December 7, 2022

Via Email to AdvanceNotice@dobi.nj.gov

Marlene Caride, Commissioner
c/o Office of Regulatory Affairs
NJ Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, NJ 08625

**RE: ACLU-NJ Feedback for N.J.A.C. 11:24A, Health Care Quality Act
Implementing the Freedom of Reproductive Choice Act**

Dear Commissioner, Caride:

On behalf of the American Civil Liberties Union of New Jersey (ACLU-NJ), we write to provide input regarding the advance notice of the intended rulemaking action for N.J.A.C. 11:24A, Health Care Quality Act, implementing the Freedom of Reproductive Choice Act, as described in the synopsis issued by the Department of Banking and Insurance ("Department") on November 23, 2022.

Through the passage of the Freedom of Reproductive Choice Act (S49/A6260) in January 2022, New Jersey took an important step by codifying the fundamental constitutional right to reproductive autonomy, including the right to abortion. The ACLU-NJ is deeply committed to protecting and expanding equitable access to the fundamental right to reproductive health care, including abortion care, throughout New Jersey. All people who can become pregnant have the right to decide – free from discrimination, coercion and violence – when and whether to have a family, with the necessary information and resources to exercise that decision.

As noted in the Freedom of Reproductive Choice Act Report to the Governor and Legislature, the right to abortion is protected in New Jersey and the pressing need remains to remove the barriers that stand in the way of accessing this right. This is particularly true for the communities most impacted by systemic barriers to healthcare, including immigrants, communities of color and people with low incomes.

We commend the Department's efforts in developing its thorough report detailing New Jersey's abortion access landscape and the existing gaps and barriers to abortion care that persist across the state. The ACLU-NJ welcomes the Department's steps toward addressing these barriers through regulatory action.

The proposed amendments and rules put forth by the Department would require that health benefit plans delivered, issued, executed or renewed in New Jersey provide coverage for abortion care. These amendments and rules are important improvements by making coverage more consistent, and in some cases extending coverage for abortion care that was not previously available. The ACLU-NJ strongly supports these changes and urges the Department to pass and implement them swiftly.

Additional action, however, is needed to fully address the financial barriers to accessing abortion care. As noted in the report, deductible costs and cost sharing mechanisms can be significant barriers that prevent or hinder people from accessing care. Specifically, the report highlights the impact that financial costs, such as out-of-pocket insurance costs and the need to meet deductibles have on people seeking abortion care, especially for individuals who are low income. The Freedom of Reproductive Choice Act (FRCA) affirmed the right of New Jerseyans to choose when and whether to have children regardless of a person's income level and overall resources, and cites the significant impacts that an unplanned pregnancy can have on a person's life. Section 1(h)(4) of the Act sets forth that "it shall be the policy of this State to . . . ensure that all laws, rules, regulations, ordinances, resolutions, policies, standards, or parts thereof, that are currently in force or enacted in the future, conform to the provisions and the express or implied purposes of this act". Given the FRCA's unequivocal policy declaration, the ACLU-NJ urges the Department to use its authority to eliminate cost sharing and deductible costs for abortion care. We urge the Department to take this necessary step to ensure that all New Jerseyans can access their right to abortion care regardless of their economic circumstances and resources.

We look forward to working with the Department in supporting efforts to ensure equitable access to comprehensive abortion care for all New Jerseyans and hope you will consider the ACLU-NJ a resource in the process of advancing reproductive freedom for all in our state.

Sincerely,



Jeanne LoCicero
Legal Director



Sarah Fajardo
Policy Director