

Date of Hearing: June 25, 2019

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

SB 24 (Leyva) – As Amended June 13, 2019

SENATE VOTE: 28-10

SUBJECT: Public health: public university student health centers: abortion by medication techniques.

SUMMARY: Requires, on and after January 1, 2023, all student health centers (SHCs) at every campus of the University of California (UC) and California State University (CSU), to offer abortion by medication services onsite; and, authorizes those services to be performed by providers on staff at the SHC, or by providers associated with a contracted external agency. Specifically, **this bill:**

- 1) Defines the following, for the purposes of this bill:
 - a) "Commission" as the Commission on the Status of Women and Girls;
 - b) "Fund" as the College Student Health Center Sexual and Reproductive Health Preparation Fund;
 - c) "Grantee" as any qualifying SHC at a public college or university;
 - d) "Medication abortion readiness" includes, but is not limited to, assessment of each individual clinic to determine facility and training needs before beginning to provide abortion by medication techniques, purchasing equipment, making facility improvements, establishing clinical protocols, creating patient educational materials, and training staff. Excludes the provision of abortion by medication techniques from this definition; and,
 - e) "Public university student health center" as a clinic providing primary health care services to students that is located on the campus of a university within the UC or CSU systems.
- 2) Requires the Commission to administer the Fund for the purposes of providing private moneys in the form of grants to public SHCs for medication abortion readiness.
- 3) Authorizes the Commission to receive moneys from nonstate entities, including, but not necessarily limited to, private sector entities and local and federal government agencies.
- 4) Requires the Commission to use fund moneys to do all of the following:
 - a) Provide a grant of \$200,000 to each public university SHC to pay for the cost, both direct and indirect, of medication abortion readiness. Allows expenses under the grants to include, but not be limited to, all of the following:
 - i) Purchase of equipment used in the provision of abortion by medication techniques;

- ii) Facility and security upgrades;
 - iii) Costs associated with enabling the campus SHC to deliver telehealth services;
 - iv) Costs associated with training staff in the provision of abortion by medication techniques; and,
 - v) Staff cost reimbursement and clinical revenue offset while staff are in trainings.
- b) Provide a grant of \$200,000 to both the UC and CSU to pay for the cost, both direct and indirect, of the following, for each university system:
- i) Providing 24-hour, backup medical support by telephone to patients who have obtained abortion by medication techniques at campus SHC;
 - ii) One-time fees associated with establishing a corporate account to provide telehealth services; and,
 - iii) Billing specialist consultation.
- c) Maintain a system of financial reporting on all aspects of the Fund.
- 5) Specifies that implementation of this bill is contingent upon a total of at least \$10,290.000 in private funds being made available to the Fund in a timely manner on or after January 1, 2020, and that nothing in this bill is to be interpreted as requiring a public university to utilize General Fund moneys or student fees for medication abortion readiness before January 1, 2023.
- 6) Requires the Commission, working with the SHCs, to assist and advise the SHCs on potential pathways for SHCs to access public and private payers to provide funding for ongoing costs of providing abortion by medication techniques.
- 7) Requires the Commission, on or before December 31, 2021, and on or before December 31, of each year thereafter until December 31, 2026, to submit a report to the Legislature that includes, but is not necessarily limited to, all of the following information for each reporting period, separately for the UC and CSU:
- a) The number of SHCs that provide abortion by medication techniques;
 - b) The number of abortions by medication techniques performed at SHCs, disaggregated, to the extent possible, by SHC; and,
 - c) The total amount of funds granted by the Commission to each UC and CSU campus and each campus' SHC that is expended on medication abortion readiness, and, separately, the total amount of any other funds expended on medication abortion readiness and the source of those funds, disaggregated by function and, to the extent possible, disaggregated by SHC.
- 8) Requires the report, as enumerated in (7)(a-c) inclusive, and any associated data collection, to be conducted in accordance with state and federal privacy law, including, but not necessarily limited to, the state Confidentiality of Medical Information Act (Part 2.6 (commencing with

Section 56) of Division 1 of the Civil Code), the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g), and the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

- 9) States Legislative findings and declarations relating to:
- a) Abortion as a constitutional right and integral part of comprehensive sexual and reproductive health care;
 - b) The state's interest in ensuring that abortion is accessible to those who are seeking to terminate a pregnancy;
 - c) The safety of medication abortion;
 - d) The financial and logistical barriers that students face when seeking to terminate a pregnancy; and
 - e) The Legislature intends that UC and CSU SHCs make medication abortions as accessible and cost-effective for students as possible.

EXISTING LAW:

- 1) Establishes the UC, a public trust to be administered by the Regents of the UC and grants the Regents full powers of organization and government, subject only to such legislative control as may be necessary to insure security of its funds, compliance with the terms of its endowments, statutory requirements around competitive bidding and contracts, sales of property and the purchase of materials, goods and services (Article IX, Section (9)(a) of the California Constitution).
- 2) Establishes the CSU and confers upon the CSU Trustees the powers, duties, and functions with respect to the management, administration, and control of the CSU system Board of Trustees (Education Code Sections 66606 and 89030, et seq.).
- 3) Authorizes a licensed physician, or a nurse practitioner, certified nurse-midwife, or physician assistant, who complete specified training and complies with specified standardized procedures or protocols, to perform an abortion by aspiration techniques during the first trimester of pregnancy (Business and Professions Code Sections 2253 and 2725.4).
- 4) Provides for the regulation of health plans by the Department of Managed Health Care under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act). Existing law exempts from the Knox-Keene Act a plan directly operated by a bona fide public or private institution of higher learning which directly provides health care services only to its students, faculty, staff, administration, and their respective dependents (Health and Safety Code (HSC) Sections 1340, et seq., 1343, and 1345).
- 5) Establishes as essential health benefits the Kaiser Small Group HMO plan along with the following ten federally mandated benefits under the Patient Protection and Affordable Care Act as well as other existing state mandated benefits including basic health care services:

- a) Ambulatory patient services;
 - b) Emergency services;
 - c) Hospitalization;
 - d) Maternity and newborn care;
 - e) Mental health and substance use disorder services, including behavioral health treatment;
 - f) Prescription drugs;
 - g) Rehabilitative and habilitative services and devices;
 - h) Laboratory services;
 - i) Preventive and wellness services and chronic disease management; and,
 - j) Pediatric services, including oral and vision care (HSC Section 1367.005 and Insurance Code Section 10112.27).
- 6) Establishes the California Commission on the Status of Women and Girls (Commission) and requires the Commission, in part, to recommend, develop, prepare, or coordinate materials, projects, or other activities, and to give technical and consultative advice to public or private groups or persons concerned with preventing or minimizing problems brought about by the changing roles and responsibilities of women; and, developing programs to encourage and enable women to be fully contributing members of society (Government Code Section 8240, et seq.).

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) General Fund (GF) cost pressures (potentially over \$10.3 million, the amount secured in private funds for the grant years) to offset any shortfall in private funds, and if program provisions are implemented successfully, for the potential of ongoing program support after 2023.
- 2) \$10.29 million in budget authority and 4.0 positions for the Commission.
- 3) Hundreds of thousands dollars for the CSU to provide 24-hour support, support increased campus liability insurance premiums, and equipment purchase and maintenance for their SHCs. Staff notes some of these costs may be covered by a portion of the bill's \$200,000 allocation to each UC and CSU system, however, there remain ongoing GF cost pressures for program implementation post-2023.
- 4) According to the UC, net total of up to \$7.78 million during the grant phase (Fiscal Year (FY) 2019-20, 2020-21, 2021-22, 2022-23) and up to \$3.33 million, ongoing (after FY 2022-23), for the UC. These costs include equipment (up to \$81,800 in 2019-2023 and \$25,000, ongoing); facility reconfiguration up to \$380,000 in 2023; personnel costs (up to \$430,000

annually until 2023, and up to \$245,000 after 2023), medication costs (\$6,500 annually) and ongoing); and telehealth services (\$26,000 annually).

COMMENTS: *Double referral.* This bill was passed by the Assembly Committee on Health on June 11, 2019, with a vote of 10 – 4.

Purpose of this bill. According to the author, "Obtaining an abortion is a constitutionally protected right, and college students face numerous barriers when attempting to access this right". The author argues that, "Denying comprehensive and accessible reproductive care interferes with the well-being and academic success of students and disproportionately impacts students of color and low-income students".

This bill mandates that all UC and CSU campus SHCs provide abortion by medication services.

Student health insurance options at the UC and CSU. Systemwide, the UC requires its students to have health insurance as a condition of attendance. The UC offers a health plan for students called the UC Student Health Insurance Plan (SHIP) which is funded solely by student fees and provides comprehensive health care coverage. To note, UC students who have preexisting health care coverage can opt out of receiving SHIP.

Systemwide, CSU students are not required to have health insurance. To note, the CSU does not offer a student health plan. However, every enrolled student is assessed a student health fee. The student health fee varies campus by campus.

Student health centers at the UC and CSU. All SHCs at every campus of the UC and CSU are supported by student fees.

Every UC campus has a SHC that provides some level of primary care, including some sexual and reproductive health services. No SHC offers abortion services. Students seeking such services are referred to providers in the community. Student health centers are traditionally open Monday through Friday, with a telephone hotline available to assist with referrals for care after hours.

Every CSU campus has a SHC that provides some health care services, although the scope of service varies by campus. No student health center offers abortion services. Students seeking such services are referred to providers in the community. Student health centers are traditionally open Monday through Friday.

To note, at least two CSU SHCs do not have a full-time physician on staff.

Report from sponsors. Committee Staff understands that, at the request of the Senate Health Committee, the sponsors of this bill facilitated the completion of two surveys, conducted by the University of California San Francisco, School of Medicine, Advancing New Standards in Reproductive Health. Surveys were completed by all UC campuses and by 20 of the 23 CSU campuses. The results of the surveys were compiled into two reports: *Evaluating University of California and California State University Capacity to Provide Medication Abortion* and *Assessing Barriers to medication Abortion among California's Public University Students*.

The reports, found here: <http://justcarecalifornia.org/wp-content/files/sb320barriers12-20-17.pdf>

<http://justcarecalifornia.org/wp-content/files/sb320evaluating-access1-3-18a.pdf>, made the following findings and conclusions:

- 1) *Capacity*. The UC is better equipped to implement this bill due to their requirement for students to have adequate health insurance, which covers abortion.

The CSU offers less specialized care and does not require students to have health insurance.

Visiting clinicians and telemedicine could be models to provide medication abortion at sites that have limited internal capacity.

With adequate funding for training and ultrasound machines, services could be integrated into the health care provided at all of the on-campus health centers. Additional funding would be needed to support implementation of this bill.

- 2) *Primary area of need is ultrasound and training*. Six campuses (comprised of both CSU and UC campuses) have ultrasound machines, and 6 have at least one staff member trained in pregnancy dating.
- 3) *Transportation and distance to local clinics*. Twenty-two campuses (both UC and CSU) are more than 30 minutes away from the closest abortion provider via public transportation. For these students, the multiple visits for a medication abortion require a minimum of two hours travel by public transportation.

Fifteen campuses are further than 5 miles from the nearest provider. The median time by public transit to the closest provider is 34 minutes one-way. The maximum was 55 minutes for UCs (Davis), and 1 hour 32 minutes for CSUs (Stanislaus). Travel time for 5 campuses is one hour each way.

- 4) *Time to appointment*. Only 15% of providers closest to campuses are open on weekends. Students have to wait an average of one week for the next available appointment; cumulative delay can make a student ineligible for medication abortion (must be within the first 10 weeks of pregnancy).
- 5) *Costs*. Paying for an abortion may be a significant financial stressor as students may go to a provider that does not accept their student or other private health insurance, may not want to use their health insurance so they can keep the abortion private, may not have health insurance that covers abortion, or may not have insurance coverage at all.

The average out-of-pocket cost of medication abortion at the providers closest to campuses was \$604. On-campus health centers could offer medication abortion at a lower cost because on-campus health centers would not need to charge to cover facility overhead.

- 6) *Estimated demand*. Based on national statistics on the demand for abortions by women aged 18-24, it is estimated that on average, there will be demand for 10-17 medication abortions per month per UC campus, and 9-15 medication abortions per month per CSU campus.
- 7) *Concerns of each segment*. On-campus health centers are most concerned with the need for follow-up care and back up care for emergencies. The UCs are concerned about security and

low perceived demand. The CSUs are concerned about provider training and the need to prioritize basic services given limited fee-based funding.

Arguments in support. According to the California Commission on the Status of Women and Girls, “Medication abortion is safe and extremely effective, with only 3 in 100 patients needing to have a follow-up, in-clinic procedure to complete the abortion”. The Commission contends that, “Medication abortion services, provided on campus, would allow students to seek more robust services from a health center they already know and trust”. Further, the Commission argues that, “This bill will allow students to focus on their future, without the added financial and logistical barriers of seeking reproductive care off campus”.

Arguments in opposition. According to the California Academy of Preventive Medicine (CAPM), “This bill is likely to discourage contraception, which is primary prevention, in favor of just taking a few pills in the event of pregnancy, which will be easier and involve less medication, from 0 to 4 pills/year as compared with a daily birth control pill”. The CAPM contends that, “As the Governor [Brown] noted in his veto message last fall, the bill is totally unnecessary”. Further the CAPM argues that, “A survey had shown that a specialized, fully equipped abortion clinic is available within 5-7 miles of every Cal State and UC campus. Ultrasound and experienced professionals are available at all”.

Committee comments. As currently drafted, this bill is silent as to what can be considered a key policy question - *Should the Legislature mandate a specific health service to be provided at each UC and CSU SHC when the state does not provide any form of financial assistance to these centers?*

To note, all SHCs are supported entirely by student health fees. There is no known case of the Legislature mandating any sort of required health service to SHCs.

The Committee may wish to decide if it wants to pass out a bill that could set a precedent – of the Legislature beginning to mandate what health services should be offered and/or provided at SHCs.

Additionally, there are other policy concerns associated with this bill:

- 1) *Proven need for abortion by medication services?* It is presently unclear if there is a demand or need at each campus of the UC and CSU for students to receive abortion by medication services at their SHCs.

To note, Committee Staff understands that currently, only two institutions of higher education in the nation provide abortion by medication services.

The Committee may wish to ask the author to create a voluntary pilot program for each campus of the UC and CSU to participate in before mandating each campus of the UC and CSU SHCs shall provide abortion by medication services.

- 2) *Security and privacy.* What happens to students going to their SHC for other treatment needs– are they threatened? What about those students going to their SHC seeking abortion by medication services - will their privacy be exposed?

Moving forward, should this measure pass out of this Committee, the author may wish to ensure there is more funding in place in order to provide additional security measures to protect all students entering their SHCs for medical services. Additionally, the author may wish to ensure the SHCs are able to be remodeled in order to provide additional privacy (i.e. tinted windows, sound proof exam rooms, etc.).

- 3) *Liability.* If a student who receives abortion by medication services should experience adverse reactions and suffer bodily or emotional harm or worse, death – who is liable? Does this bill create a situation whereby moneys that could be used for other vital student support needs are redirected by the CSU or UC in order to pay for personal injury law cases, etc. by students and/or their families?

Additionally, what happens if the ultrasound was not performed correctly at a SHC and a student receives the medication, but should not have?

- 4) *Student health fees and billing.* As mentioned above, SHCs are funded mainly through student health fees; they do not receive state funding. If students truly want to receive abortions by medication services, *the Committee may wish to consider if the better policy option would be to have students on every campus vote to increase their student health fees in order to have abortion by medication services provided.*

To note, Committee Staff understands that in most cases, students who have sought additional specific health services at their SHCs did so by a campus wide vote of the students; in some cases the vote was to increase the student health fee in order to offset the costs of the requested health service at the SHCs.

Committee Staff has heard some say that the SHCs can just bill the students' insurance companies, but to note, neither the CSU nor UC are equipped to start billing students' insurance companies (they would have to create and staff a billing office at each campus).

Additionally, Committee Staff understands that the UC and CSU have asked the author for specific amendments to remove references and potential requirements for SHCs to bill; to date, the author has not accepted said amendments.

The author may wish to continue to work with the UC and CSU in order to reach an agreement on whether or not the SHCs will be able to bill, should they have to implement this measure.

- 5) *What is the goal of the legislation?* If the goal of this measure is to ensure that all students have access to reproductive rights, instead of mandating the UC and CSU SHCs provide abortion by medication at said SHCs, why not, on a piloted basis, authorize the Fund to provide travel to and from nearby medical centers that provide these services to the students wishing to receive them?

If the goal of this measure is to ensure that all students have access to reproductive rights, but only at their UC or CSU SHCs, *the Committee may wish to ask the author if that is the best approach, in lieu of the various policy concerns as enumerated in (1 – 4) inclusive in the Committee Comments section of this analysis.*

Prior legislation. SB 320 (Leyva) of 2018, which was vetoed by Governor Brown, was substantially similar to this bill. Governor Brown’s veto message, in part, stated, “Access to reproductive health services, including abortion, is a long-protected right in California. According to a study sponsored by supporters of this legislation, the average distance to abortion providers in campus communities varies from five to seven miles, not an unreasonable distance. Because the services required by this bill are widely available off-campus, this bill is not necessary”.

REGISTERED SUPPORT / OPPOSITION:

Support

Access Women's Health Justice
Act for Women and Girls
American Academy Of Pediatrics, California
American Association of University Women (AAUW) San Jose
American Civil Liberties Union (ACLU) of California
American Medical Women's Association
American Nurses Association/California
American Public Health Association
Anti-Defamation League
Associated Students of the University Of California
Bixby Program In Population And Reproductive Health at UCLA
Business and Professional Women of Nevada County
Cabrillo College
California Commission on the Status of Women And Girls
California Faculty Association
California Latinas For Reproductive Justice
California Nurse Midwives Association (CNMA)
California Pan - Ethnic Health Network
California State Student Association
California Women's Law Center
Center for Relationship Abuse Awareness
City of West Hollywood
Code Blue, University of California at Davis School of Medicine
Community Action Fund of Planned Parenthood Orange and San Bernardino Counties
Equal Rights Advocates
Equality California
Feminist Majority Foundation
Fresno Barrios Unidos
Having Our Say Coalition
Hollywood Now
If/When/How: Lawyering For Reproductive Justice
Ignite
Impact Hub Oakland
Lawyers Club of San Diego
League of Women Voters of California
Legal Services for Prisoners With Children
Medical Students For Choice

NARAL Pro-Choice California
National Abortion Federation
National Association Of Social Workers, California Chapter
National Center for Lesbian Rights
National Center for Youth Law
National Council of Jewish Women
National Council of Jewish Women Long Beach
National Health Law Program
National Partnership for Women & Families
National Women's Health Network
National Women's Law Center
Our Bodies Ourselves
Physicians for Reproductive Health
Physicians for Social Responsibility - San Francisco Bay Area Chapter
Planned Parenthood Action Fund of the Pacific Southwest
Planned Parenthood Affiliates of California
Planned Parenthood California Central Coast
Public Health Justice Collective
Reproductive Health Access Project (RHAP)
RHEDI/Reproductive Health Education in Family Medicine
Sexuality Information And Education Council of the United States (SIECUS)
Society of Women Engineers at UCLA
Stonewall Democratic Club
Students United for Reproductive Justice
The Women's Foundation of California
Training in Early Abortion For Comprehensive Healthcare
UAW Local 5810
University of California Global Health Institute: Women's Health, Gender, and Empowerment
Center Of Excellence Leadership
University Of California Student Association
Voices for Progress
Western Center on Law and Poverty

Opposition

Berkeley College Republicans
California Academy of Preventive Medicine
California Catholic Conference
Fresno Pro-Life Future
Right to Life of Central California
Spartans for Life
Students for Life at Berkeley
1 Individual

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