

Dr. Ana Tobiasz
Testimony in Opposition to HB 1511
Senate Judiciary Committee
March 17, 2025

Chair Larson and members of the Senate Judiciary Committee,

My name is Dr Ana Tobiasz. I am an obstetrician/gynecologist and maternal fetal medicine physician practicing in the state since 2017. My specialty is in caring for high-risk pregnancies. I urge a DO NOT PASS on HB 1511.

I am a consultant to general ob/gyn's, family practice physicians, and any medical specialty who has questions regarding management of pregnancy. I routinely receive phone calls from other physicians across the state asking for my advice. Nearly every obstetrician who practices in the western half of the state has my personal cell number and contacts me with questions at all hours of the day. For this reason, I have a good sense of what has been happening in the state since SB2150 was passed. It is not only ob/gyn's who are struggling with the meaning of the law and fear of being charged with a crime for providing the standard of care to their patients. It is other medical specialties, and even hospital legal teams. **There is no amount of education from the medical board that is going to correct the concern. The concern has to do with the law itself and the fact that anyone can question "reasonable medical judgement" and every physician's understanding of the definition of a serious health risk as defined by ND Century code will differ. Every physician's tolerance for risk will vary.** These are **felony charges** we are discussing for performing an abortion that does not meet the exception as outlined by ND century code. I would like to share several examples that have occurred.

A patient presented to a hospital in the state with heavy bleeding prior to the time the pregnancy was viable. The ob/gyn evaluating the patient contacted a colleague in the state—a colleague with over 20 years' experience for that matter—who advised her that the patient was "not sick enough" to meet with serious health risk exception. This patient was hemorrhaging and becoming unstable. Thinking that this could not be accurate, this ob/gyn then called me for advice. My advice to her was that I feel this should meet the health exception, however I am not a lawyer and cannot guarantee that someone won't question it. Despite that, I recommended she provide the standard of care to her patient and if anyone questioned it, I would be willing to testify on her behalf as to the necessity of the abortion care provided.

A patient presented to a hospital in the state with membrane rupture before viability and had signs of an intra-amniotic infection. The only cure for an intra-amniotic infection is to terminate the pregnancy irrespective of gestational age. The ob/gyn caring for this patient knew that that was the right thing to do and felt it met the serious health risk exception. Unfortunately, her hospital legal team was uncertain, and required her to provide guidelines indicating that this is the standard of care prior to allowing her to proceed with caring for the patient.

A patient presented to a hospital in the state with heavy bleeding to an emergency room and was not evaluated by an ob/gyn. The pregnancy was pre-viable. She was evaluated in the emergency room

and according to the patient was discharged and instructed not to return to the hospital again if she has more concerns because they can't care for her due to the ND abortion law.

A colleague with over 25 years of experience called me to give "permission" to terminate a pregnancy at 22 weeks due to fetal anencephaly. Anencephaly is a lethal condition in which the skull is not covering the brain. Most infants who survive to delivery with this condition will die within hours or days of birth. I informed this colleague who had been practicing in the state since I was in elementary school that abortions for fetal anomalies have been illegal since at least 2017. He was unaware of this and planned to send the patient out of state.

I could give more examples, but these are a few to highlight the fact that years of experience does not equate to understanding ND abortion law. Additionally, from my experiences, ob/gyns are not the ones questioning the proper course of care. It is colleagues, other specialties, and hospital legal teams. And the reality is that anyone can question a person's "reasonable medical judgement" and what is a substantial enough physical impairment to meet the serious health risk exception. The fear comes from the thought of someone questioning it and then being charged with a crime.

This requirement from the board will not improve health care providers understanding of abortion law in ND, nor does it guarantee that they won't face criminal charges for following the advice given in the education. An amendment was added in the House to ensure that we have no right of action against the board for relying on the content of the material. So, what is the purpose then if we cannot rely on the information?

This requirement will only lead to more confusion and delays in providing patients the appropriate care. Not to mention, the component of ND century code that has been in question is not even in effect and in the midst of a ruling from the ND Supreme Court.

Obstetricians/gynecologists, family practice physicians, ER physicians, and all physicians and health care providers in this state are doing their best to care for their patients under difficult circumstances. We are in both a maternity care desert, and a health care desert. We already have a shortage of physicians. Adding to their administrative burden to practice here, on top of threats of criminal charges, will only continue to drive physicians away.

I strongly urge a DO NOT PASS on 1511.

Dr Ana Tobiasz, MD

American College of Obstetricians and Gynecologists, ND section chair

NDMA member

Maternal Fetal Medicine Physician