

Senate Judiciary Committee

SB 2150

January 16, 2023

Chair Larson and members of the Committee, I am Dr. Brendan Boe and am here to support Senate Bill 2150 and to request amendment and clarification to some language within the bill. I am a board-certified Obstetrician and Gynecologist practicing in Grand Forks, ND. I am here to speak for myself and not on behalf of my colleagues or any institution.

I appreciate Senate Bill 2150 changing the language from “affirmative defenses” to “exceptions”, and I thank you for that. I also appreciate that it doesn’t change much regarding current legislation and law regarding the practice of obstetrics and gynecology within the state of North Dakota.

While I support the passage of this bill, I request amendment and clarification to the following areas within the bill:

First, I agree with the North Dakota Medical Association in requesting amendment to the wording of page 2, line 6 from “substantial AND irreversible” to “substantial OR irreversible”, as I cannot in good conscience sit and watch my patient deteriorate to the point of “substantial AND irreversible” harm before intervening. Cardiologists don’t wait for irreversible myocardial damage prior to placing stents in diseased coronary arteries; general surgeons don’t wait for bowel death, gangrene, or systemic sepsis prior to repairing abdominal wall hernias; medical oncologists don’t wait for stage IV cancer in order to provide chemotherapy, so why should pregnant women wait for “substantial AND irreversible physical impairment of a major bodily function” prior to receiving medical intervention?

*Some specific obstetric disease states that come to mind are pre-viable pre-eclampsia with severe features (elevated blood pressure with end organ dysfunction prior to viability), chorioamnionitis (infection within the uterus requiring evacuation), and pre-viable prelabor rupture of membranes (amniotic membrane rupture prior to viability).*

Second, I request clarification regarding the term “postfertilization” (page 2, line 27; page 4, line 26; page 6, lines 13 and 14), as I haven’t encountered that term in medical training or medical practice and have never used it in patient counseling or medical decision making. Throughout this bill, I am implored, by law, to use “reasonable medical judgement”, and I, a board-certified OBGYN, request amendment to return to “gestational age” which is standard language used in obstetric practice set forth by the American Board of Obstetrics and Gynecology.

Third, I ask you to consider allowing abortion for lethal fetal anomalies. End of life decisions are made every day in this state. These are impossible and heart-wrenching decisions that families sometimes have to make, and I ask that you consider allowing them to make those decisions prior to advanced gestation or after delivery.

Finally, I request amendment to page 2, lines 27 and 28 to increase the upper limit of abortion in the setting of gross sexual imposition, sexual imposition, sexual abuse of a ward, or incest. Many women do not know they are pregnant until well after 6 weeks GESTATIONAL age and victims of sexual trauma tend not to present to care until a later time.

I was born in Bismarck and raised in Beulah. I received my Doctor of Pharmacy from North Dakota State University and my Medical Degree from the University of North Dakota. I completed four years of Obstetrics and Gynecology training at the University of Colorado and chose to return to North Dakota to practice medicine as a board-certified OBGYN. My father, sister and I raise canola and wheat 15 miles northwest of Golden Valley, North Dakota.

I love North Dakota. My family lives here; my friends live here; and my patients live here. My life is here.

If I cannot provide intervention in order to prevent substantial OR irreversible harm to my patients, then I can no longer practice obstetrics and gynecology in North Dakota.

I appreciate your time and consideration.

Brendan Boe MD, PharmD