



**The Establishment of a Health Insurance Exchange in New York State
May 18, 2011
Baruch College, Vertical Campus Conference Center**

**Testimony submitted by
Kelly Baden, Director of Local Advocacy
NARAL Pro-Choice New York
212-343-2031, ext. 3523
Kbaden@prochoiceny.org**

Thank you for the chance to comment on the opportunities New York has to improve women's health care during the establishment of the New York Health Insurance Exchange. My name is Kelly Baden and I am the Director of Local Advocacy for NARAL Pro-Choice New York. We work to protect safe, legal abortion and expand the full range of reproductive rights for women regardless of age, race or income.

NARAL Pro-Choice New York supports the establishment of the New York Health Insurance Exchange and will work to ensure the creation of the exchange represents diverse consumer and community perspectives. We will also work to ensure women maintain the same or better access to reproductive health care coverage on New York's exchange. Establishing the Exchange this legislative session is vital to delivering on the promise of health reform for New Yorkers.

The 2010 Patient Protection and Affordable Care Act represented a key opportunity to improve the health of millions of Americans by bringing more than 30 million Americans into the health-care system. New York State's participation in this once-in-a-generation opportunity is our chance to ensure health reform lives up to its promise in our state.

Part of the promise of health reform is to expand access to quality, affordable health care, especially comprehensive reproductive health care. However, one aspect of comprehensive reproductive health care has been maligned both during and after the passage of the Affordable Care Act: coverage for abortion care.

After a lengthy and contentious debate, the Affordable Care Act ultimately addressed the issue of coverage for abortion care by restating the long-standing, discriminatory prohibitions on federal funding for abortion and, disappointingly, opening the door for new restrictions on private insurance coverage of abortion. The restrictions negatively singled out a health care option that enables women to plan their families and their futures.

Under what are called the Nelson provisions of the Affordable Care Act, there are no requirements or prohibitions on abortion coverage in plans on state exchanges, but states were given explicit permission to pass a law to ban abortion coverage on any exchange established in the state. In addition, the Secretary of Health and Human Services was prohibited from including any coverage of abortion as part of the essential benefits package required of health plans. Absent a state law, health plans operating on a state's exchange can decide what abortion coverage, if any, they want to offer. If an insurer offers coverage of abortion for reasons beyond pregnancies resulting from rape or incest or those that threaten a woman's life, they are prohibited from using federal subsidies to pay for those abortion services and must follow strict and onerous payment segregation requirements.

A consumer purchasing a plan on the Exchange that includes coverage for abortion care must provide two separate payments: one for the main premium and another for the abortion coverage. The insurance company must establish separate accounts and maintain strict segregation requirements. Additionally, in determining the cost of the abortion coverage, the issuer of the plan must determine the actuarial value of the abortion coverage and cannot take into account any cost reductions estimated to result from abortion coverage, including the absence of prenatal care or labor and delivery costs.

The federal regulations detailing the payment segregation process are still to be determined by HHS, but we do know that a burdensome administrative process could deter insurers from offering abortion coverage at all. This would fly in the face of the prevailing industry standard regarding insurance coverage of abortion: currently, more than 80% of private insurance plans nationally provide coverage for abortion. Maintaining this coverage is vital to ensuring that women are better off because of health reform.

Many states responded to the passage of the Affordable Care Act's abortion coverage provisions by taking advantage of the opportunity they had been given to restrict abortion rights. In 2010, five states passed abortion coverage bans. So far in 2011, five additional states have passed laws to restrict abortion coverage either on the exchange or in private insurance generally. More than 60 bills on the issue have been introduced in 23 states throughout the country. At the same time, emboldened by electoral gains, some members of Congress are seeking further restrictions on private insurance coverage of abortion at the federal level.

As this newest attack on reproductive rights makes its way through other state legislatures and Congress, New York will have to consider the issue of abortion coverage in the plans that will be offered on our Exchange. Ongoing research we are conducting in New York confirms that, similar to the statistics nationally, most private insurance plans in New York currently treat abortion coverage as they treat other reproductive health care coverage: it is a necessary and commonly-covered procedure. If

implementation of health care reform impedes the ability of insurance companies to continue this practice, many women in New York could be placed in difficult and sometimes dangerous situations when they need to seek abortion care.

In fact, we have heard from women throughout the state about why having insurance coverage for their abortion was so important to receiving the quality health care services they needed. A mother of three from North Tonawanda, NY explained: "I was a married mother of three very young children when I was misdiagnosed ... with something called 'Premature Ovarian Failure.' ... I was told I did not need birth control any longer by my general practitioner, as I had the same chance of getting pregnant as someone on the pill... Three months later I discovered I was pregnant. My husband and I were going through real financial hardship at the time - and we had a four year old and two year old twins at home already. We chose an abortion. It was the most difficult decision of our lives. It was bad enough we had to be harassed by protesters on our way into the Dr.'s office, but I was extremely grateful the procedure was covered by our medical insurance. It would have been an added strain to have to come up with the money out of our pocket at the time. I think about my twin daughters, and pray that when they grow up they will have access to safe and legal abortion services should they ever need it."

In New York, we have the opportunity to stand strong in our pro-choice values and protect private insurance coverage of abortion, thereby protecting women's health and safety. Abortion is a critical option for women's overall health care. In fact, one in three women in this country will have an abortion by the age of 45. As New York realizes the promise of health care reform – to make insurance coverage, and therefore comprehensive health care, available to more people in our state – we must continue New York's history of protecting access to comprehensive reproductive health care.

At a minimum, New York must create a mechanism for adhering to the Nelson provisions that does not discourage insurance companies from continuing the current common practice of including abortion coverage in their basic health plans on the new exchange.

Abortion is a common medical procedure sought by women for a broad range of reasons. A woman who decides she needs an abortion should have access to safe, affordable medical care. Taking away a woman's insurance coverage does not reduce the need for abortions, but it may force some women to resort to drastic measures. As the majority of health plans already cover abortion, we look forward to working with those implementing health care reform in New York to ensure that continues. We must remain true to the values of the majority of New Yorkers, who support access to abortion care and believe every woman should have the ability to make the health decisions that are best for herself and her family.