



**Statement of Rebecca Hart Holder  
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**United States Senate Committee on Banking, Housing, and Urban Affairs  
Subcommittee on Economic Policy  
Field Hearing on “The Economic and Health Impacts of Threats to Reproductive Rights”**

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Senators Warren and Markey, my name is Rebecca Hart Holder and I am the president of Reproductive Equity Now. As a state and regional organization, Reproductive Equity Now works in Massachusetts and across New England to make equitable access to the full spectrum of reproductive health care a reality for all people regardless of their gender, age, race, ethnicity, zip code, income, immigration status, disability, or sexual orientation. Advancing reproductive health, rights and justice by working to eliminate barriers to abortion care is central to our mission.

Thank you for the opportunity to submit written testimony regarding the economic and health impacts of threats to reproductive rights, and specifically, the state of abortion access in Massachusetts and nationwide. In this testimony, I will discuss (I) Massachusetts’ abortion access landscape and the bold state leadership that allowed us to prepare for *Roe*’s fall and react with a bold post-*Dobbs* response, (II) barriers to care remaining in Massachusetts, and (III) how ongoing threats to abortion and the full spectrum of reproductive health care nationwide position Massachusetts to act as a regional and national leader to protect and expand access to abortion care.

## **I. MASSACHUSETTS ACTED BOLDLY IN THE WAKE OF *DOBBS* TO PROTECT PROVIDERS, HELPERS, AND PATIENTS**

In the last two years since Donald Trump’s Supreme Court overturned the constitutional right to abortion, 21 states have banned or severely restricted access to care across our country.<sup>1</sup> One in three women of reproductive age currently live in a state without abortion access, and patients are traveling farther than ever before for care—if they can afford to travel at all.<sup>2</sup> While *Roe* stood,

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<sup>1</sup> *Tracking the States Where Abortion is Now Banned*, N.Y. TIMES (last updated May 1, 2024 4:40 PM), <https://www.nytimes.com/interactive/2022/us/abortion-laws-roe-v-wade.html>.

<sup>2</sup> Geoff Mulvihill et al., *A year after fall of Roe v. Wade, 25 million women live in states with abortion bans or restrictions*, PBS: NEWSHOUR (June 22, 2023, 8:07 PM), <https://www.pbs.org/newshour/politics/a-year-after-fall-of-roe-v-wade-25-million-women-live-in-states-with-abortion-bans-or-restrictions>.

approximately 18,000 people lived in counties that were more than 300 miles away from the nearest abortion provider, but today, that number has increased to 16 million.<sup>3</sup>

Here in Massachusetts, we have no doubt felt the tidal wave of patients coming to our Commonwealth to access abortion. We know that providers have already seen patients from Alabama, Arkansas, Florida, North Carolina, South Carolina, Tennessee, Mississippi, Texas, Wisconsin, Louisiana, Georgia, the surrounding New England states, and more, and this cascading impact of bans reverberating in Massachusetts began long before the *Dobbs* decision.<sup>4</sup> When the Supreme Court upheld Texas' outrageous SB8 abortion ban in 2021, Massachusetts providers began to see patients traveling from the Southwest immediately.<sup>5</sup>

Even before the *Dobbs* case had made its way to the U.S. Supreme Court, Massachusetts took action to codify the right to abortion into state law. With the passage of the ROE Act, Massachusetts also saw the importance of expanding access to abortion, not just protecting its legality.<sup>6</sup> The ROE Act also repealed parental consent requirements for 16 and 17 year olds, expanding access to abortion care for young people who cannot afford the delay or difficulty of having to go through judicial bypass.<sup>7</sup> The law also expanded the scope of practice for advanced practice clinicians, including nurse practitioners, certified nurse midwives, and physician assistants, to provide abortion care.<sup>8</sup>

This landmark legislation laid the groundwork for our response to the *Dobbs* decision—we understood what was to come when the Supreme Court ultimately ruled to eliminate reproductive health care access across our country. We joined with partners at Planned Parenthood Advocacy Fund of Massachusetts and the ACLU of Massachusetts before the *Dobbs* decision was even released—or leaked—to put forward the Beyond Roe Agenda for Massachusetts—a 21-point plan predicated on the idea that Massachusetts has both an obligation and an opportunity to go “beyond *Roe v. Wade*” and ensure equitable access to reproductive health care for all people in our state.<sup>9</sup> Our recommendations ranged from ways to continue expanding access to reproductive health care in the Commonwealth, such as investing in the grassroots work of abortion funds and eliminating cost sharing for reproductive health care; to supporting providers, helpers, and patients and protecting them from the harmful reach of hostile states seeking to prosecute and criminalize care beyond their state borders; and finally, to deploying research and education efforts to ensure the Commonwealth understands the size and scope of the crisis we continue to face, in order to deploy the resources needed.

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<sup>3</sup> Clare Trainor et al., *One Year Without Roe v. Wade: How Access to Abortion Has Changed*, REUTERS (June 21, 2023) <https://www.reuters.com/graphics/USA-ABORTION/DISTANCE/zgpobowdqvd/>.

<sup>4</sup> Martha Bebinger, *How the Dobbs abortion decision is playing out in Massachusetts, one year later*, WBUR (June 23, 2023), <https://www.wbur.org/news/2023/06/23/abortion-supreme-court-one-year-massachusetts>.

<sup>5</sup> *Id.*

<sup>6</sup> *An Act Providing for Access to Reproductive Health Care Services*, 2020 Mass. Acts ch. 263.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Massachusetts Beyond Roe: An Agenda for Abortion Access and Reproductive Equity*, BEYOND ROE COALITION, <https://massbeyondroe.com/> (last visited May 28, 2024).

Mere weeks after the Supreme Court issued its decision in *Dobbs v. Jackson Women's Health Organization* in June 2022, the Massachusetts Legislature acted boldly to pass a reproductive health care package that included several of our recommendations, including best-in-the-nation shield protections for abortion providers and patients, mandated insurance coverage without cost-sharing for abortion and abortion-related care, expanded access to medication abortion for public college and university students, a statewide standing order to ensure access to no-cost emergency contraception without a prescription, expanded access for care later in pregnancy to prevent patients from having to travel out of state, and an expanded confidential address program to protect the personal addresses of abortion providers.<sup>10</sup> This shield law also specifically protected Massachusetts providers who offer care via telehealth, by ensuring that providers' licenses are protected from medical malpractice insurance rate hikes, from out-of-state hostile litigation related to reproductive health care and gender-affirming care that is legal in Massachusetts, and from professional or disciplinary repercussions from a professional board of registration, all regardless of the patient's location, whether in Massachusetts or elsewhere.<sup>11</sup> This unique protection has now been modeled in shield legislation passed in California, Colorado, Maine, New York, Washington, and Vermont.<sup>12</sup> The legislature has also invested nearly \$20 million for reproductive health care access, security, and infrastructure, including grants to abortion funds and providers, which has helped us expand access to care and support patients traveling from afar to afford their care.

The provision of medication abortion via telehealth combined with shield law protections is crucial for keeping access to abortion across the nation. Patients are increasingly opting for medication abortion. Massachusetts Department of Public Health data from 2022 indicates that medication abortion accounts for more than 50% of abortions in Massachusetts and newly released national data indicates that in the U.S. health care system, the use of medication abortion has risen from 53% in 2020 to 63% in 2023.<sup>13</sup> While Massachusetts data for 2023 has not yet been published, newly released data from the last few months of 2023 indicate that nearly 1 in 5 abortions across the nation (or roughly 17,000 per month) are medication abortions accessed via telehealth.<sup>14</sup> New data indicates that in addition to traveling to Massachusetts for care, many patients are also being given care under the Massachusetts Shield Law without ever traveling to the Commonwealth. Telehealth medication abortions by providers utilizing shield law protections,

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<sup>10</sup> *An Act Expanding Protections for Reproductive and Gender Affirming Care*, 2022 Mass. Acts ch. 127.

<sup>11</sup> *Id.* §§ 1, 4, 20, 23, 32-39. Specifically, the Massachusetts Shield Law amends M.G.L. ch.13 § 105 to add new protections for genetic counselors; amends M.G.L. ch.112 to add a new section to insulate physicians; amends M.G.L. ch.112 § 9H to protect physician assistants; amends M.G.L. ch.112 § 32 to insulate pharmacists; amends M.G.L. ch.112 § 77 to insulate nurses; amends M.G.L. ch.112 § 128 to protect psychologists; amends M.G.L. ch.112 § 137 to insulate social workers. See 2022 Mass. Acts ch. 127 § § 5, 10 - 11, 14-17.

<sup>12</sup> In addition to Massachusetts, California, Colorado, Maine, New York, Washington, and Vermont have enacted telehealth shield laws. See 2023 Cal. Stat. ch. 260; 2023 Colo. Sess. Laws ch. 68; 2024 Me. Laws ch. 648 ; 2023 N.Y. Laws ch. 138; 2023 Wash. Laws 193; 2023 Vt. Acts & Resolves 14 & 2023 Vt. Acts & Resolves 15.

<sup>13</sup> MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH, *Abortion Tables* (2022), <https://drive.google.com/file/d/1Onw0uKtPAn1gjh98N33TOpY3TCWdia6l/view?usp=sharing>; See also *Monthly Abortion Provision Study*, GUTTMACHER INSTITUTE, <https://www.guttmacher.org/monthly-abortion-provision-study> (last visited May 1, 2024).

<sup>14</sup> *#WeCount Report: April 2022 to December 2023*, SOCIETY OF FAMILY PLANNING (May 14, 2024) [https://societyfp.org/wp-content/uploads/2024/05/WeCount-report-6-May-2024-Dec-2023-data\\_Final.pdf](https://societyfp.org/wp-content/uploads/2024/05/WeCount-report-6-May-2024-Dec-2023-data_Final.pdf).

such as those enshrined in Massachusetts law, averaged 8,000 per month from October to December 2023, comprising nearly half of all telehealth abortions.<sup>15</sup> Massachusetts providers are utilizing these groundbreaking shield law protections to ensure patients can receive abortion care, regardless of their location.<sup>16</sup>

Our work to protect patients, providers, and all those involved in abortion access in Massachusetts has not stopped at passing legislation. Immediately after the passage of the shield law, Reproductive Equity Now began to field questions from providers about its impact, their risks, and how to protect themselves and their families. Their confusion and concern made it clear that we needed to stand up a resource to connect them with pro bono services. Reproductive Equity Now partnered with the Massachusetts Attorney General's Office, the ACLU of Massachusetts, and five private law firms across the state—Foley Hoag, Goodwin Procter, Goulston & Storrs, Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, and Ropes & Gray—to launch the Abortion Legal Hotline—a free and confidential resource for patients and providers to learn more about their rights to provide or obtain care. This hotline now offers live translation services, and to date, we have trained over 150 lawyers who stand ready to provide legal analysis and support to callers. Since the hotline was launched last year, its website has been viewed over 4,300 times and it has helped over 120 callers, many of which were providers, enabling them to continue to serve countless patients across the Commonwealth and beyond.

## II. BARRIERS TO CARE REMAIN IN MASSACHUSETTS

Even as people come to Massachusetts for care, patients in our state are still being turned away. And that is because there is a big difference between the legal right to reproductive health care and a person's ability to actually access that care.

Patients continue to travel to Massachusetts to seek abortion care, and preliminary data suggests the number of patients traveling to Massachusetts is increasing. In 2022, the year *Roe* fell, there was a 16% increase in the number of out-of-state patients receiving abortion care in Massachusetts, with 792 out-of-state patients documented in 2021 compared to 920 out-of-state patients in 2022, accounting for just over 5% of all abortions in Massachusetts in 2022.<sup>17</sup> State data does not capture where out-of-state patients are traveling from. Similarly, a study by researchers at Brigham and Women's Hospital, the Harvard T.H. Chan School of Public Health, and the ASPIRE Center for Sexual and Reproductive Health at Planned Parenthood League of Massachusetts estimated that in the first four months post-*Dobbs*, our state saw a 37% increase in

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<sup>15</sup> *Id.*

<sup>16</sup> Based on conversations between Reproductive Equity Now with providers offering telehealth abortion care through the Massachusetts Shield Law conducted on April 22, 2024, telehealth abortion providers operating under the Massachusetts Shield Law estimate conservatively that 3,500 medication abortions are provided each month by Massachusetts clinicians, primarily to patients located in states with severe abortion restrictions or bans.

<sup>17</sup> MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH, *Abortion Tables* (2022), <https://drive.google.com/file/d/1Onw0uKtPAn1gjh98N33TOpY3TCWdia6l/view?usp=sharing>.

patients from out of state—a number we expect to only grow.<sup>18</sup> Researchers reported the increase was driven largely by people outside of New England, with a notable number of patients traveling from Texas.<sup>19</sup> This data indicates that Massachusetts’ health care system is facing new strain under the influx of patients, as our clinics are contending with more patients and appointments than ever before, Massachusetts abortion funds are seeking to fund exponentially more care. This demands *continued* bold investment to support our patients in Massachusetts.

Access deserts, or areas where in-person abortion clinics are more than 50 miles away, still exist throughout Massachusetts – particularly for in-clinic abortion care in Western and Southeastern Massachusetts. Travel and transportation barriers to abortion appointments persist, highlighting that the reproductive justice crisis is also a transit and economic justice crisis. And restrictions on abortion throughout pregnancy continue to send patients out of state for care. Low-income, communities of color, LGBTQ people, and young people continue to face the steepest barriers to abortion.

Meanwhile, the Commonwealth is facing a critical juncture with regard to addressing a worsening maternal mortality and morbidity crisis. Severe maternal morbidity nearly doubled in Massachusetts from 2011 to 2020, with Black mothers experiencing the worst rates of complications.<sup>20</sup> Additionally, with just one free-standing birth center located in Western Massachusetts compared to 400 across the country, out-of-hospital birthing options are few and far between, eliminating a real “choice” in birth setting.<sup>21</sup> And while the state may be a national leader with regard to securing abortion access, Massachusetts ranks 32nd in the nation with regard to our integration of midwifery care into our health care system<sup>22</sup>, despite research proving that the midwifery model of care can improve birthing experiences, lower cesarean rates, lower rates of premature birth and infant mortality, increase breastfeeding rates, and more.<sup>23</sup> Licensing Certified Professional Midwives under a Massachusetts Board of Midwifery is a critical way to unlock a key midwife workforce specifically trained in out-of-hospital births, improve access to tangible choice of birth settings, and expand maternity care providers. Even in hospital settings, hospitals with a higher proportion of midwife-attended births in Massachusetts were more likely

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<sup>18</sup> Brianna Keefe-Oates et al., *Use of Abortion Services in Massachusetts After the Dobbs Decision Among In-State vs Out-of-State Residents*, JAMA OPEN ACCESS (Sept. 6, 2023), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2808962>.

<sup>19</sup> Jessica Bartlett, *Number of out-of-state travelers seeking abortions at Mass. Planned Parenthood grew 37% after Dobbs*, THE BOSTON GLOBE (Sept. 6, 2023, 6:55 PM), <https://www.bostonglobe.com/2023/09/06/metro/number-out-of-state-travelers-seeking-abortion-mass-grew-by-37-percent-after-dobbs/>.

<sup>20</sup> MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH, *Data Brief An Assessment of Severe Maternal Morbidity in Massachusetts: 2011-2020* (July 2023), <https://www.mass.gov/doc/an-assessment-of-severe-maternal-morbidity-in-massachusetts-2011-2020/download>.

<sup>21</sup> Shira Schoenberg, *Hoping to Deliver at a Massachusetts Birth Center? Good Luck*, PUBLIC COMMONWEALTH MAGAZINE (Nov. 20, 2022), <https://commonwealthmagazine.org/health-care/hoping-to-deliver-at-a-massachusetts-birth-center-good-luck/>.

<sup>22</sup> MASSACHUSETTS HEALTH POLICY COMMISSION, *Certified Nurse Midwives and Maternity Care in Massachusetts Report Findings* (Oct. 6, 2021), <https://www.mass.gov/doc/certified-nurse-midwives-and-maternity-care-in-massachusetts-1062021/download>.

<sup>23</sup> Kathleen Sebelius & Tommy Thompson, *If We Want to Save Black Mothers and Babies, Our Approach to Birthing Care Must Change*, TIME MAGAZINE (Apr. 13, 2023 7:00 AM), <https://time.com/6270915/black-mothers-childbirth-care-midwife/>.

to see shorter inpatient stays, lower cesarean and episiotomy rates, and lower spending on maternity services.<sup>24</sup>

The right to reproductive health care, including care for pregnancy, delivery, abortion, and miscarriage care, is not a real right unless every individual is able to safely access that care with autonomy and dignity. That right must include the right to choose where and how to give birth. Just as we affirm a pregnant person's choice about whether and when to carry a pregnancy to term, we must also affirm their choice of maternity care provider and birth setting.

Abortion access is intrinsically connected to maternal health, and we cannot address these crises in a silo. Especially when more than 30 anti-abortion centers, or so-called "crisis pregnancy centers" throughout Massachusetts continue to spew medical disinformation, dissuading patients from accessing abortion and putting public health at serious risk.<sup>25</sup> These facilities, which outnumber legitimate abortion providers in the state by more than double,<sup>26</sup> purport to be full-spectrum reproductive health clinics, but actually exist to dissuade people from accessing abortion, often using deceptive practices. In Massachusetts, one of these centers, Clearway Clinic in Worcester, is currently facing a lawsuit for misdiagnosing a patient's ectopic pregnancy, forcing her to later undergo emergency life-saving surgery that resulted in the loss of a fallopian tube.<sup>27</sup>

As anti-abortion extremists become more creative with their attacks by the day, reproductive health care advocates must also wear new hats, including as digital privacy experts. The state and federal government can and must do more to protect abortion providers and patients' location data and personal information before it is weaponized by hostile actors in other states. Efforts to criminalize abortion care are ever-evolving, and prosecutors and bounty hunters alike are well aware of the opportunity to use digital information to bolster their evidence. Already, we have seen data brokers use location information to create heat maps of where people visiting Planned Parenthood clinics came from, how long they stayed at the clinic, and where they went afterwards.<sup>28</sup> While our statute prohibits Massachusetts law enforcement agencies from engaging in hostile out-of-state investigations,<sup>29</sup> it does not prohibit law enforcement or prosecutors in other banned states from purchasing location data, which will allow them within minutes to identify every single phone—and therefore every single patient—that may have traveled across state borders to seek abortion care. As the cellphone location market remains unregulated, the

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<sup>24</sup> MASSACHUSETTS HEALTH POLICY COMMISSION, *supra* note 22.

<sup>25</sup> Frequently, AACs are religiously affiliated and do not provide abortion or contraception or make referrals for abortion or contraceptive care, though some do provide pregnancy tests, STI testing, and ultrasounds. See Melissa N Montoya et al, *The Problems with Crisis Pregnancy Centers: Reviewing the Literature and Identifying New Directions for Future Research*, INT'L JOURNAL OF WOMEN'S HEALTH (June 8, 2022), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9189146/>.

<sup>26</sup> REPRODUCTIVE EQUITY NOW, *New England Abortion Care Guide*, <https://reproequitynow.org/abortioncareguide> (last visited May, 28, 2023).

<sup>27</sup> Praveena Somasundaram, *Clinic missed ectopic pregnancy signs, endangered woman's life, suit says*, WASHINGTON POST (July 3, 202, 3:33 AM), <https://www.washingtonpost.com/nation/2023/07/03/crisis-pregnancy-center-lawsuit-massachusetts/>.

<sup>28</sup> Joseph Cox, *Data Broker Is Selling Location Data of People Who Visit Abortion Clinics*, VICE (May 3, 2022, 12:46 PM) <https://www.vice.com/en/article/m7vzjb/location-data-abortion-clinics-safegraph-planned-parenthood>.

<sup>29</sup> 2022 Mass. Acts ch. 127 § 20.

widespread availability of granular cellphone location information enables anyone with a credit card—even an anti-abortion extremist thousands of miles away—to track people seeking abortion care in the Commonwealth. This exposes people seeking care from gravely serious threats to their personal safety and puts health care providers at risk of personal harm. We must pass the Location Shield Act in Massachusetts and Senator Warren’s Health and Location Data Protection Act in Congress to secure digital privacy before location information is weaponized to criminalize care provided in Massachusetts.

### III. AMIDST NATIONAL THREATS, MASSACHUSETTS IS POISED TO PLAY A LEADING ROLE IN PROTECTING ABORTION ACCESS

Anti-abortion extremists’ end goal is not to ban abortion in 21 states; they want to ban abortion nationwide. Donald Trump, the leading Republican candidate for President, has bragged about his role in overturning *Roe v. Wade*,<sup>30</sup> said that pregnant people should be punished for accessing abortion care,<sup>31</sup> and hinted that he will sign a national abortion ban if elected president this November.<sup>32</sup> Just last week, Trump suggested that he would be open to restricting access to contraception nationwide.<sup>33</sup> And after the Alabama Supreme Court ruled this April that frozen embryos are “extrauterine children,” effectively ending in vitro fertilization in the state, it’s clear that the anti-abortion movement will use fetal personhood statutes to attempt to ban not only abortion nationwide, but assisted reproduction, too.<sup>34</sup>

In a post-*Roe* world, Massachusetts has a critical role to play in protecting against these attacks and advancing reproductive equity. With strong legislative and executive partners, and an unwavering congressional delegation, our state has the ability to go on *offense* to protect and expand access to care. Advocates, elected officials, and leaders in Massachusetts must work with partners in red, purple, and blue states to ensure as many people are able to access the reproductive health care they want and need in this ever-changing abortion landscape. Our movement is strongest when we share strategies, policy ideas, and playbooks across state lines, and Massachusetts—and the New England region at large—can lead the way for reproductive equity.

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<sup>30</sup> Trump says he’s proud of role in overturning *Roe v. Wade*, CBS NEWS (Apr. 8, 2024),

<https://www.cbsnews.com/video/trump-says-hes-proud-of-role-in-overturning-roe-v-wade/>.

<sup>31</sup> Pema Levy, *Trump Says States Could Prosecute Women for Abortions Under His Watch*, MOTHER JONES (Apr 30, 2024),

<https://www.motherjones.com/politics/2024/04/donald-trump-abortion-prosecutions/>.

<sup>32</sup> Michelle L. Price, *Trump suggests he’d support a national ban on abortions around 15 weeks of pregnancy* (May 20, 2024 8:06 AM), AP NEWS <https://apnews.com/article/trump-abortion-ban-15-weeks-91a9e0ce87d11dff0fa761f327bd0566>.

<sup>33</sup> *Trump says he’s ‘looking at’ restricting birth control access*, MSNBC: ALL IN (May 23, 2024),

<https://www.msnbc.com/all-in/watch/trump-says-he-s-looking-at-restricting-birth-control-access-211503685938>.

<sup>34</sup> Alander Rocha, *Alabama Supreme Court ruling could end IVF treatments in state*, ALABAMA REFLECTOR (Feb. 19, 2024, 2:43 PM), <https://alabamareflector.com/2024/02/19/alabama-supreme-court-ruling-could-end-ivf-treatments-in-state/>.