



POLICY POSITION

SEXUAL & REPRODUCTIVE HEALTH

2022 BOARD OF DIRECTORS AND ADVOCACY COMMITTEE

The Delaware Nurses Association (DNA) has served all Delawareans for over 100 years with a focus on restoring optimal health, alleviating suffering, and preventing illness and diseases through the art and science of nursing. The World Health Organization (WHO) defines sexual health as a “state of physical, emotional, mental and social well-being in relation to sexuality; it is not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence.” (WHO, 2022). Additionally, the WHO states “reproductive health implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so.” (WHO, 2006).

This policy position statement was created and approved to inform nurses about foundational principles, ethical guidance, current Delaware law, and evidence-based practice related to **sexual and reproductive health** in Delaware. Additionally, this policy position statement guides DNA’s advocacy and policy engagement on issues related to nursing and sexual and reproductive health (SRH). As identified by the American Nurses Association (ANA), SRH issues include respect for a person’s reproductive choices; sex education; access to contraception; access to abortion care; ensuring equity in reproductive health, access and care delivery; and matters of conscience for nurses in SRH care (ANA, 2022).

BACKGROUND

The right to seek and receive reproductive health care in the United States has often been contested in the law and debated in public policy at the state and federal levels. For instance, access to contraception was not constitutionally protected until 1965 when the Supreme Court of the United States (SCOTUS) ruled in *Griswold versus Connecticut* (381 U.S. 479 (1965)). In 1973, the SCOTUS issued *Roe versus Wade* (410 U.S. 113 (1973)), which recognized a constitutional right to abortion during the first trimester of pregnancy. Since 1973, states and courts have refined abortion law and clarified the restrictive powers of state legislatures to regulate abortion care. Advocates in favor of and opposed to abortion rights have repeatedly sought judicial rulings to support their positions. In 2021, the SCOTUS agreed to

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reconsider Roe versus Wade. On June 24, 2022, the SCOTUS decided, in Dobbs versus Jackson Women's Health Organization (19-1392 U.S. 597 (2022)), there was no federal right to abortion during the first trimester of pregnancy. This ruling effectively left it up to the individual states to decide the right to abortion.

STATEMENT OF DNA POSITION

The DNA does not support the SCOTUS ruling in Dobbs versus Jackson Women's Health Organization (19-1392 U.S. 597 (2022)). We have serious concerns for the privacy, safety of and access to SRH services across the nation. This ruling paves the way for laws that will fundamentally come between patients and health care professionals, including nurses, who must be guided by ethical obligations to their patients and profession.

DNA affirms that:

- Everyone has the right to privacy and the right to make decisions about SRH based on full information and without coercion.
- Nurses are obligated to share with their patients in an unbiased manner all relevant information about SRH choices that are available and to support that patient regardless of the decisions that patient makes.
- Abortion is a reproductive health alternative that nurses and other providers can discuss when counseling patients.
- SRH care should be widely available, accessible and affordable for all.
- Nurses have the right to refuse to participate in SRH care based on ethical grounds, as long as patient safety is assured, and alternative sources of care have been arranged.

ETHICAL DUTY

The ANA Code of Ethics for Nurses (the Code) defines expectations related to the primary goals, values, and obligations of our profession. ANA and DNA believe that the Code is nonnegotiable and that each nurse has an obligation to uphold and adhere to its ethical precepts.

The Code acknowledges that patients under the care of a nurse have the moral and legal right to self-determination. Nurses have a duty to respect the decisions of their patients, including those decisions that are related to sexual health and pregnancy. Respect for patient decisions does not mean that the nurse must agree or support the decision. The Code requires nurses to provide their patients with "accurate, complete and understandable information in a manner that facilitates an informed decision." Nurses should assist patients with weighing benefits, burdens, and available options, including the choice of no treatment, when discussing sexual health issues and pregnancy. ANA believes that nurses should be aware of the history of misogyny, racism, sexism and other forms of discrimination that has led to the

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existing inequities, inequalities and limited access to SRH care for certain populations. Nurses who provide SRH care should deliver care that promotes reproductive justice and sexual health within their scope of practice, such as care coordination that supports a patient's decision not to have children, or to safely have and raise children in a just society. (ANA, 2015)

DELAWARE LAW (AS OF JUNE 30, 2022)

On June 8, 2017, Governor John Carney Jr. signed into law Senate Substitute 1 for Senate Bill 5 of the 149th Delaware General Assembly that ensured abortion remained legal in Delaware, even if Roe versus Wade (410 U.S. 113 (1973)) was overturned at the federal level (Goldberg, 2017).

Until April 28, 2022, Delaware was a “physician-only” state for the provision of abortion services. On this day, Governor John Carney Jr. signed into law House Bill 320 of the 151st Delaware General Assembly that states “a physician assistant or advanced practice registered nurse may prescribe medication for the termination of pregnancy including Mifeprex, Mifepristone, and Misoprostol” (24 Del. C. § 1790).

On June 29, 2022, Governor John Carney Jr. signed into law House Bill 455 of the 151st Delaware General Assembly related to women's reproductive health. This bill does several things for Delawareans, Americans and advanced practice registered nurses:

- Affirms that reproductive health services in Delaware includes abortion, termination of pregnancy, emergency contraception and “services relating to pregnancy or the termination of pregnancy including medical, surgical, counseling, or referral services” (24 Del. C. § 1702).
- Licensed providers of abortion services in Delaware cannot be found guilty of unprofessional conduct for the “performance, recommendation, or provision of any reproductive health service that is lawful in this State even if such performance, recommendation, or provision is for a person who resides in a state where such performance, recommendation, or provision is illegal or considered to be unprofessional conduct or the unauthorized practice of medicine” (24 Del. C. § 1731).
- Delaware licensed certified nurse midwives and certified nurse practitioners “who demonstrate knowledge and competency including successful completion of a training or certification approved by the Board of Nursing” may “terminate, assist in the termination of, or attempt the termination of a human pregnancy before viability” (24 Del. C. § 1790).
- Provide certain health record, civil and insurer protections for Delawareans licensed to provide reproductive health services (10 Del. C. § 3926A; 10 Del. C. § 3928; 10 Del. C. § 3929; 10 Del. C. § 2506; 18 Del. C. § 2535).

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