

HeyJane

2758 BROADWAY #580
NEW YORK, NY 10025

August 15, 2024

NYC Department of Health & Mental Hygiene Board of Health
Gotham Center, 42-09 28th Street, CN 30
Long Island City, NY 11101-4132

Re: Proposed Amendment to Articles 203 and 205 of the New York City Health Code

To: New York City Department of Health & Mental Hygiene Board of Health

Possible Health Medical, P.C. is a New York provider of abortion care and other reproductive and sexual health services through a site owned and operated by Possible Health Inc., www.heyjane.com (the two entities are hereafter referred to as “Hey Jane”). Since 2021, Hey Jane has served over 60,000 patients, including thousands with shipping addresses in New York City (the “City”). Many of these patients reside in restrictive states and travel to the City to access telemedicine care.

Hey Jane commends the Proposed Rule’s addition of a provision to allow certification of induced terminations of pregnancy by designees. This facilitates the preservation of confidentiality for practitioners who may face privacy and security risks due to their provision of abortion care. The Proposed Rule’s impact on practitioner confidentiality could be further strengthened if the reporting form did not require the identification of the specific type of license held by the attending practitioner. For small practice groups which may only have a single practitioner with a particular type of license, disclosing the practitioner’s licensure more specifically than “physician” or “advanced practice practitioner” could result in the ability to identify the attending practitioner.

Hey Jane further commends the Department’s removal of most of the HIPAA identifiers from the reporting form, which helps preserve the confidentiality of patient information. The confidentiality of patient information could be further strengthened if the reporting form did not require the date of prescription, which is also a HIPAA identifier. As an alternative to the date of prescription, the reporting form could collect the month of prescription, which is less likely to be linked to a particular patient.

The additional modifications to the reporting form suggested above would allow telehealth providers to have greater confidence that submission of the reporting form protects practitioner and patient confidentiality as much as possible. This is especially important after *Dobbs* stripped away the constitutional right to privacy in abortion care, and as anti-choice groups are using litigation to gain access to termination of pregnancy reports maintained for public health purposes.¹

Respectfully submitted,

Adriana Benedict

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¹ See, e.g., Complaint, *Voices for Life v. Indiana Department of Health* (Marion County Superior Court, Indiana, filed May 1, 2024), available at https://cdn.prod.website-files.com/63d954d4e4ad424df7819d46/6633cee5d765701f51fa7fc8_Complaint%20%26%20Exhibits%20IN.pdf.