Concurrence

Date: February 28, 2019

To: Barth E. Bracy
Executive Director
Rhode Island Right to Life

From: Victoria M. Almeida, Esq., Edmund L. Alves, Jr., Esq., Nicholas C. Barrett, Esq., Brandon S. Bell, Esq., Jane E. Brockmann, Esq., Joseph V. Cavanagh, Jr., Esq., Joseph V. Cavanagh, III, Esq., Thomas B. Coffey, Jr., Esq., Diane S. Costantino, Esq., Nicholas Denice, Esq., Marc DeSisto, Esq., Michael A. DeSisto, Esq., Lynne Barry Dolan, Esq., John I. Donovan, Esq., Robert M. Duffy, Esq., Mary C. Dunn, Esq., Robert E. Flaherty, Esq., Robert G. Flanders, Jr., Esq., Maria Piro Fusaro, Esq., William R. Landry, Esq., Joseph S. Larisa, Jr., Esq., Arthur J. Leonard, Esq., Mary Ellen McQueeney-Lally, Esq., Kevin B. Murphy, Esq., Matthew T. Oliverio, Esq., Daniel P. Reilly, Esq., Thomas E. Romano, Esq., Scott T. Spear, Esq., John A.Tarantino, Esq.

Re: Analysis of the Impact of 2019 – H 5125 and 2019 – H 5127 / 2019 S 152 Upon the Regulation of Abortion in Rhode Island

We have reviewed the memoranda by Paul Benjamin Linton, Esq., dated January 24 and February 6, respectively, and concur with his findings regarding abortion legislation recently filed in the Rhode Island General Assembly.

In summary, both H 5125 (Williams) and H 5127 (Ajello) / S 152 (Goldin) would:

- Eliminate any constitutional restrictions on *late-term abortions*
- Eliminate any constitutional restrictions on methods of abortion, *e.g., partial birth abortion*
- Eliminate any penalties for engaging in *experimentation on human fetuses*
- Undermine the authority of the State and the Department of Health from enacting and adopting constitutional restrictions on the performance of abortions at facilities where abortions are performed
- Require the State to pay for all abortions sought by Medicaid-eligible pregnant women and women covered by the "payor of last Resort" program
- Neither bill preserves existing limitations as to who may perform abortions, thus opening the door to non-physicians performing surgical abortions

In addition, H 5127 / S 152 would

- Repeal existing constitutional protection from a viable unborn child from criminal assaults on the child's mother
- Arguably abrogate the parental consent statute by not retaining the provision of state law (§ 23-4.6-1) that disqualifies a pregnant minor from consenting to an abortion

… and H 5125 would

- Substantially erode the State's parental consent statute by allowing consent to be obtained from persons who have no constitutional right to give consent (grandparents and adult siblings)

Neither H 5125 nor H 5127 / S 152 could plausibly be regarded as merely "codifying" the principles of *Roe v. Wade*.

Of particular note and concern is that that these bills strike down our existing post-viability ban, along with a wide range of other longstanding restrictions. And while some sort of watered-down post-viability ban might, hypothetically, be permitted under their proposed "non-interference" statutory framework, no new ban is actually proposed in these bills. Being that everything that is not forbidden by law is allowed, present restrictions by the Rhode Island Department of Health on third trimester abortion would no longer have statutory basis and abortion right up to the moment of birth would be permitted in Rhode Island under these bills.

Considering the amount of misinformation by bill proponents about such basic facts, it seems wholly irresponsible to hastily consider such an historic change to the laws of our state, one explicitly at odds with our Constitution, in the present environment of fear, uncertainty, and doubt created by bill proponents. We urge the General Assembly to regard with suspicion, and very carefully scrutinize, these bills and any amended version(s) thereof, and, indeed, to reject them outright.