Jon Wainwright: Hello, and welcome to another episode of California Lawmaking In Depth. I am your host Jon Wainwright. Today we're going to be talking about a bill working its way through the California Legislature right now, SB 320. To talk about that bill we have brought in McGeorge School of Law professor Ederlina Co. Professor Co, thanks for joining us.

Ederlina Co: Thanks for having me.

JW: Before we dive in, a little background. Professor Co, before she started teaching at McGeorge, was also counsel at NARAL Pro-Choice America in Washington, D.C., so the bill we're going to be diving into deals a lot with reproductive rights. So that background is certainly helpful in being able to analyze this particular piece of legislation.

At the very basic level here, SB 320, what does it do?

EC: SB 320, introduced by Senator Leyva in February 2017, would require public universities with an on campus student health center to offer medication abortion.

Medication abortion, what people know as RU 486, is an alternative to surgical abortion. The regiment is safe, it's effective. It involves two drugs, mifepristone and misoprostol, which are approved by the FDA to terminate pregnancies up to ten weeks of gestation.

Medication abortion should be - should not be confused, rather - with the morning after pill or Plan B, which is a form of emergency contraception taken after unprotected sex to prevent pregnancy. This regimen actually terminates a pregnancy.

JW: So, you said public universities off the bat here. We're talking UC, CSU's, and community colleges?

EC: I believe the bill now is only including universities - the UC system and the CSU system.

JW: Okay. This would be expanding access to medical abortion. Where is the problem that the bill is trying to solve? Why is there a need to expand the access?

EC: As you said, the bill is seeking to improve access to medication abortion for students. Abortion care is commonly needed by students attending California universities. According to research done by the Department of Obstetrics, Gynecology, and Reproductive Sciences at UCSF, every month there is an estimated 519 students at the 34 UC's and CSU campuses that are seeking medication abortion off-site at healthcare facilities.

In doing so, they're facing a number of different barriers. According to the UCSF study, income is one of them. Over half of the students in the UC and CSU system are considered low-income and paying for an abortion can be a significant financial burden

for them if they go to a provider that does not accept their student health insurance or other private health insurance. The average cost of a medication abortion is $604 at the providers that are closest to these campuses.

Another barrier that the study looked at was the mobility of UC and CSU students. More than 60% of these students live more than 30 minutes away from the closest abortion provider via public transportation. Public transportation is key for this population because so many of them do not have a car. Two thirds of UC students and one third of CSU students don't have a car.

So when you consider those two barriers and you combine them with typical scheduling issues, only 15% of providers closest to the UC campuses are open on weekends, so students need to alter their classes, exams, work schedules to attend appointments.

And they usually need to wait, in any case, about a week, for the next available appointment. So these cumulative delays can actually result in students being ineligible for medication abortion because it needs to be taken within the first ten weeks of gestation.

JW: That was something I wanted to ask about too. If they have this wait time built in, is there the potential then for someone to set an appointment, but then, afterwards because of scheduling issues, arranging transportation, coming up with the money - potential out of pocket if they have to go off campus. I mean, there's a chance that they could, by the time they get to see the doctor, not be in a position where they can take the medically induced abortion as an option. That would be off the table?

EC: Right, it would be off the table. Most women will find out that they are actually pregnant around six weeks, assuming they are looking for it. Younger women and women who experience unintended pregnancies, tend to find out that they're pregnant later. They have a small window to a) find out that they're pregnant, and b) make their decision on how they're going to deal with the pregnancy.

Combined with the barriers, as well as built in delays of just getting into a clinic, I think that's what the bill is essentially trying to address.

JW: And it seems like that by bringing it on to campus then, it gives these young women more time to be able to make a decision since they don't have to worry about, or potentially worry as much about, the timing of things and getting an appointment and arranging everything. They can just go to the student health center on campus and that gives them a little more breathing room to make a decision.

EC: Yeah. It would provide students with increased access to the choice if they choose it. It would result in less unneccessary interruption in their schedules.

JW: Do any other states have a law like this on the books?

EC: California would be the first state with this law. California is rather exceptional in its protection of women's' reproductive rights and access to abortion. SB 320 is very much in line with California's leadership, or progressive approach in this area. For example, in California, a woman's right to abortion is protected not only by the Supreme Court decision Roe v. Wade, but also by the California Constitution which explicitly recognizes the right to privacy. The right is also protected by state statute, The Reproductive Privacy Act codifies Roe and says the stage should not, or cannot deny, or interfere with a woman's fundamental right to choose to bear a child or choose to obtain an abortion.

JW: So California would be the first. Has anyone even tried passing a law like this before? Or is California truly on the bleeding edge here when it comes to this kind of legislation?

EC: I'm not aware of other states trying to pass a law like this, but I will say that California universities wouldn't be the first to provide medication abortion on campus. The University of Illinois at Chicago, for example, has provided medication abortion since 2006. But a widespread state law, California would be the first.

JW: Okay, the first to have a state mandate for this at public universities.

EC: Correct.

JW: Okay. The next question then is, obviously, this is a new program that schools would be having to take on. How is this getting funded? Is this coming out of General Fund dollars? Is it coming out of student fees? Or are they trying to set up a new Special Fund to generate the revenue to fund this program?

EC: SB 320 does not require use of any state or university money. Instead private funds from a consortium that includes the Women's Foundation of California, the Tara Health Foundation, and a private donor is being set up to absorb the costs of implementing this bill.

According to the President of the Tara Foundation, it's going to be an estimated cost of $14 million. That includes training, new equipment, billing, etc. But it will not come out of state funds or university fees.

JW: Okay. So that $14 million is just the upfront cost. They have an estimate on what the ongoing costs would be like for this?

EC: I haven't' seen them.

JW: The other question then, is if this is all being privately funded, what happens if the private funding dries up?

EC: Well, hopefully it wouldn't dry up. The private sources would continue to have to fund it because the bill specifically says that the law cannot be interpreted to require public universities to support it by the General Fund appropriations or student fees.

JW: Does that mean that if the private funding dries up that this program would go away? The schools wouldn't be required to continue to provide this service?

EC: It would seem so.

JW: Okay. We talked about this a bit already when we were trying to get at the root of what the problem is here. We're talking about, in particular, the distance students have to travel. What's the average distance that a student would have to travel off campus right now to be able to get one of these medically induced abortions?

EC: Well, this is according to that UCSF study that I mentioned earlier that assess barriers to medication abortion among CSU and UC students. What they found was that 62% of these students live more than 30 minutes away to the closest abortion provider, and that's via public transportation.

So, with multiple visits to complete the regimen and for follow up care that would require about two hours of travel for these students.

JW: And that's on top of the time they're spending at the clinic as well.

EC: Correct.

JW: Okay. Just to play devil's advocate a little bit here, UC, CSU, they're already required to, they already are providing sexual and reproductive health services - like you mentioned contraception, emergency contraception like Plan B. Why go the extra step and start requiring them to provide medical abortion services?

EC: Well, like you said, student health centers are providing these sexual and reproductive health services already - birth control, testing for STD's. So they're addressing prevention of pregnancy and healthy sexual practices. They're not, however, providing abortion care, which is part of the range of reproductive health services women - especially in this age group - need access to.

As I mentioned earlier, the UCSF study found that there's an estimated 519 students at the UC and CSU campuses each month that seek medication abortions at off site health care facilities. And in fact, the idea and the impetus behind SB 320 came from college students at the University of California, Berkeley who found that, "Hey, our student health center is offering eighteen forms of contraception, but not abortion." And that this was a need that needed to be met by students as well.

And although members of that student group went to the health administration and sought support from Berkeley's health center, it just didn't happen and that's when Senator Leyva's office took on the issue.

So given the barriers that exist in connection with medication abortion for this population, given the safety and efficacy of the medication abortion, and a woman's constitutional right to it, requiring inclusion of medication abortion as an option at student health centers is necessary to ensure that women on these campuses can safely access this service and that they're able to exercise their legal right to do so.

JW: So that's an interesting point there. This sounds like this was actually a student-led initiative that has now made its way from the Berkeley campus to the State Legislature.

EC: Yes.

JW: One other question here, and this is something else I found interesting looking at the bill, is that the implementation date is January 1st, 2022. Most bills, when they're passed into law, they go into effect January 1 of the following year.

So a bill that's passed this year goes into effect January 1st, 2019. Sometimes you'll see with particularly more complex bills, they'll delay that a little bit. They'll go into effect July 1st, if something was passed this year it'd be July 1st, 2019. Or if it's particularly, or exceptionally complex it would be July 1st 2020. Why the exceptionally long implementation here, of not getting started until 2022?

EC: I would speculate it probably has something to do with both securing of private funding as well as the implementation of this throughout the UC and CSU system. All of the UC's and CSU's have student health centers. The size of them varies, and how much they provide varies, but they all provide some kind of primary care services.

That being said, whether they have the capacity to provide medication abortion, UCSF's study has found that they do, but there will be some changes that need to be made. With additional funding they need to purchase additional equipment and have backup care and things of that nature when you're providing this service.

JW: Okay. And then I think one last thing before we wrap up here is another, just interesting thing to keep an eye on with the bill is that this is, you had mentioned earlier this had started in 2017. The Legislature runs a two-year session. So this is on a bit of an expedited timeline right now. I believe the next hurdle is this would actually have to pass its house of origin, the State Senate, by the end of January. And we'll see where it goes from there. But, for now, thank you so much for taking the time to walk us through this bill and explain the intricacies of it.

EC: Thank you for having me.