

# **Your Legal Questions Answered - the Reproductive Rights Edition**

## **Your Health Unlocked Podcast E037**

0:00:04 - Adele

All right. Welcome, Stephanie, to the Your Health Unlocked podcast.

Steph

Thank you so much for having me today.

Adele

So, who are you and why are you here, and what do you do?

0:00:13 - Steph

I'm Steph Kraft-Sheley. I'm a lawyer, I have master's level training in healthcare administration, I run a nonprofit organization called Right By You that serves Missourians, and I also have a solo law practice that focuses on pregnancy and birth. I am the parent of twins, one of whom was born breach, which is part of my reproductive story.

0:00:39 - Adele

Wow, and you're part of the some Bar Association, isn't that right?

0:00:45 - Steph

Yes, the Birth Rights Bar Association, which is the national legal association of attorneys that work around ensuring rights and childbirth.

0:00:54 - Adele

Right. And then, as I was reviewing your intake form today, I also caught just hours ago that you wrote a comic book?

0:01:02 - Steph

I wrote a story that appears in a comic anthology about abortion.

0:01:08 - Adele

So you have casually five jobs. No big deal, sounds good. All right. Yes, I met this amazing person through one of our consultants and I knew we needed to interview her because a lot of our listeners and a lot of the public at large have a ton of legal questions, not even just surrounding abortion, but surrounding a lot of repro care, right? So, with that, you're a lawyer in Missouri. You focus on repro. What are some of the most common legal issues you see come through your doors as a lawyer that focuses on this?

0:01:37 - Steph

Yeah, that is a tricky question to answer because they all have such different flavors, but I would say they're across kind of three subcategories of pregnancy and birth, which is, folks who are mistreated or harmed during childbirth, folks who experience pregnancy loss or a negative pregnancy outcome and are concerned about being criminalized for that outcome. And then folks who are seeking abortion care and want to do so safely, and so those also encompass some of the providers of that care. So, I also work on behalf of midwives and on behalf of abortion providers and their legal needs in order to provide the care that folks are seeking.

0:02:25 - Adele

Got it and let's just review really quick. So, you practice in Missouri. What is the legal landscape in Missouri right now?

0:02:32 - Steph

Yeah, and I also practice in Illinois as well. I live right on the border and so I actually get to see kind of two very different landscapes. But to answer your question, in Missouri there's a complete abortion ban. So, Missouri was actually the first state to ban abortion, six minutes after the DoB decision came down.

0:02:50 - Adele

Those trigger laws? Am I right?

0:02:52 - Steph

Yeah, yeah, exactly, and so abortion is banned for folks of all ages, and for folks under the age of 18, there are additional restrictions on helping them access abortion care, including helping them leave the state to access that care.

0:03:16 - Adele

I think I'm going to change it up a little bit. I know I had the question list here, but you just described so beautifully three common scenarios that you see right. So, we're going to run into the world of hypothetical. Right now. I'm a 17-year-old Missourian, and I walk into your office. I'm pregnant, I don't want to be. What kind of advice do you give that person?

0:03:35 - Steph

Well, the more likely scenario actually would be that they would contact the text line that I run, which is the nonprofit, and so and through that I don't provide legal advice.

We provide practical support in navigating the exact type of challenge that you're describing, and so I'm more likely to encounter a young person who needs to seek that care and is going to have to go out of state and helping them work through the practicalities of overcoming that barrier and helping them access legal support if needed in the destination state. But like, as a hypothetical, what would I tell them? I would probably tell them, depending on where they live in the state, that Illinois has recently done away with its laws restricting youth access and they can simply make an appointment there and go. And I would tell them that they also can seek care in Kansas but that there are restrictions on those who might help them, so they may want to make a their friend or aunt or whoever may be driving them aware that they could be liable for civil damages in the event that they are found out to be helping them access the care.

0:05:01 - Adele

Right. Well, and let me ask you are you liable for giving that kind of advice as a lawyer? Like I've heard, a lot of lawyers are afraid of practicing, and this is all you do. Really is reproductive rights, so talk to me about that.

0:05:12 - Steph

Yeah well, I'm not afraid. If someone's my client, I feel that I am fully permitted to provide legally accurate information and advice about a situation like, what we're not allowed to do is advise folks to break the law right, which I would not do. I also don't feel like, as an advocate who directs other volunteer advocates on the text line, that we are crossing any lines and assisting someone with the information that they need in order to access care, because the Missouri Supreme Court actually specifically carved out information and referrals from the law that restricts helping teams because of the First Amendment, and so we are actually on extremely solid ground, going pretty far with helping folks connect with abortion providers that have available appointments, connect with attorneys, connect with funders of care. Like we are, we're totally allowed to do that, and we do it all the time.

0:06:18 - Adele

That's awesome. Well, and it's here at the network we have, we host something called Charlie, the abortion chatbot, which essentially pulls from vetted websites, right, kind of the information that your team does via text, and this was a question of the developers. It's just like kind of like, well, am I aiding and abetting? And it sounds like in Missouri. You're free and clear, so that's good to hear.

0:06:42 - Steph

Yes, well, I will just add to that we came up against a lot of kind of like fear and resistance in developing this, and so for the longest time, there wasn't a resource that was dedicated or specializing in young people, because this law had a chilling effect and folks were not comfortable like walking as close to the line as we do. But I, we also you know, from a philosophical standpoint feel like we're in a position of privilege and that it's important to wield that in ways that benefit young people, and so, like we try to be bold, we try not to leave them out flapping in the wind while we stay safe ourselves, right, and so that's important.

0:07:24 - Adele

Yeah, well, and so let's go right into then, right by you, tell us what the mission is, how this particular organization focuses on young people.

0:07:34 - Steph

Yeah, so we are a nonprofit organization that serves folks actually folks of all ages now across Missouri who are seeking access to the full range of reproductive health care. And just to like back up a little bit and tell you kind of the evolution, it started out as an idea for a legal resource that was laser focused on abortion care for people under the age of 18. So, the idea was to develop a legal service for teens who needed to access abortion care without involving their parents, and the way to do that in Missouri and in many other states before the abortion ban was to go before a judge in this process called judicial bypass and ask for permission to get abortion care. And there wasn't a resource for this in Missouri. But there were multiple abortion clinics and because of that we wanted folks to be able to have legal services available close to their homes, close to those clinics.

Well, over the ensuing years, as I was trying to develop this project, the state slowly but surely chipped away at all those abortion providers until only one was left and it only did a handful of abortions per month, and so it became essentially moot to assist folks in going through that process because they just need to go out of state to get care and access it through whatever the legal process is in that state.

And so in the meantime, I had been serving as a judicial bypass attorney in Illinois, helping a lot of Missouri teens who are going through the process in Illinois and learning more and more deeply about reproductive justice and what it means and how interconnected reproductive oppressions are, including oppression of teens who might choose to parent and the ways that, even on the pro-abortion side, we have a tendency to stigmatize teen pregnancy, teen parenthood and not provide the same level of support for folks who want to continue pregnancies. And so, it became important to me, as I reimagined

what we might do for teens, to create a practical resource where we could provide the same level of service if you wanted to continue a pregnancy as if you wanted to end it and give you like an accurate picture.

0:09:51 - Adele

That's interesting. So, it's not just it's not just a crisis-abortion text line that you run it's. It's essentially an information line about maternal health care as well.

0:10:00 - Steph

That's correct, and so if a young person were to text us, I can't say this happens very often, but if they were having issues in school because they were being discriminated against on the basis of their pregnancy, we have a long list of resources that are actually created in text-friendly and youth-friendly language that we can share with them about what their next steps could be, about making sure they can access care. So, we went deep about thinking about the lines around teen pregnancy and what teens might need, and developed accordingly, and so we are standing ready to help folks who are pregnant under the age of 18 understand their legal situation under the law, their rights under the law to give birth and make decisions about what interventions they may have during birth all of those types of things.

0:10:56 - Adele

Well, and to keep their child right. I've heard a lot of stories about teen pregnancy being pressured to put children up for adoption, and that might not necessarily be what they want to do.

0:11:04 - Steph

Correct, and so we have a lot of information about their legal rights, their right to an attorney if they're considering placing their child for adoption. Connections to adoption agencies that, for example, don't discriminate on the basis of parents' religion, on LGBTQIA status, adoption agencies that don't identify as pro-life, just to make sure that folks are in the hands of organizations that really want to see them make the best decision for their life and don't have ulterior motives. And so we've been extremely thoughtful across the board in that way, and so we started operating assisting young folks, and then what we found was that adults were reaching out just as much as teens and that there wasn't a place for them to go and text and have this kind of anonymous conversation with folks that had the time and capacity to really talk through whatever barrier they were facing, and so we ultimately decided to just open it up explicitly to folks of all ages, and so, while we were, we have our expertise in youth. We help folks of all ages all the time.

0:12:18 - Adele

That's great and that's so good to hear. I was going to ask you, like what kind of volume do you see? So let's talk about that. So adults reach out as much. It's almost like we never get good AP gov in this country, right? It's almost like we don't know how to interact with the legal system, but yeah, talk to me like what's a typical week of texting look like right by you.

0:12:39 - Steph

It fluctuates tremendously but we'll have really, and we don't get into detail about our volume, but it fluctuates a lot, and we will often get a text. Let me back up. It's really frequent for us to get texts about folks who are trying to get abortion appointments at the clinic closest to them and are struggling to get a timely appointment and so we'll spend a lot of time trying to figure out what is going to be the most accessible for them under their circumstances.

We'll also frequently get outreach from folks who have made appointments but are now very scared that they're not going to be able to keep them because they won't be able to pay for their care or pay to get themselves to that care, and so a lot of what we do is help folks navigate the funding landscape, and that's a whole other system of abortion funds and practical support funds that are available to folks depending on where they're coming from, what type of abortion they're having, where they're going to, and so you kind of have to do this whole analysis of which funds they might be eligible for, and so we do a lot of that.

0:13:57 - Adele

Well, that and like it sounds a little like half legal stuff, half social work. Really it sounds like a lot of social work that you're doing.

0:14:03 - Steph

It's a lot, and I would say so on the text line. It's less providing legal services. We provide legally accurate information, but we, you know, don't put ourselves out as lawyers. I am a lawyer but I don't work as anyone's lawyer on the text line it's really a matter of just advising people about what the law is, what their rights are from the perspective of a peer. But yes, it's very much. This is the the legal situation that you find yourself in, and here are the practical ways in which you can navigate around it. Those are kind of the two pieces of the conversation we tend to have. And then we've also recently, within the last year, launched a free emergency contraception distribution program.

0:14:46 - Adele

I saw that. How did you get the money for that? I mean, that seems like it's expensive, that's cool.

0:14:51 - Steph

It is expensive. Well, we've been lucky to have support for our mission from funders and from individuals, especially in the wake of the DOB's decision. There were a lot of donations that came into organizations like ours that allowed us to innovate in these ways. Also, the manufacturers themselves have donation programs, and so we make kits that contain two doses of emergency contraceptives and then condoms, pregnancy test stickers, information and so those other pieces that are not the emergency contraception we pay for. But we have been able to get all of the contraception donated, which has been incredible, because at the store they can be \$50 a dose and we are able to give people two doses.

0:15:37 - Adele

Well, that and especially if you know we're working with a lot of young people. I know you know there's a lot of stigma about going and buying it. Even though it's over the counter a lot of the time there's still that people are afraid of judgmental catch here, right. So, it's nice to hear that they can just pick it up or get it in the mail.

0:15:50 - Steph

Yep yep, we have pickup locations where they can actually just go into, like the bathroom of a store in town and grab it, and so it's very discreet and also like it's supposed to be over-the-counter but functionally and a lot of true, it's locked up or it's not, it's not available in front of the counter and so it's like you have to have a face-to-face interaction and hope that they'll be willing to actually give it to you

0:16:30 - Adele

Yeah, even at my pharmacy in New York it's behind, like you don't need a prescription.

That's what we mean when we say over-the-counter. Right, but functionally and physically it is behind the counter.

0:16:35 - Steph

Yes, exactly that could be a huge barrier for folks yeah, yeah.

0:16:41 - Adele

No, that's fascinating. So just so that I understand. So how this is mostly a text line. This is the service that you provide like. Give me an overview of the services.

0:16:47 - Steph

So our primary service is the text line, and so we're open six days a week. We've got volunteers, that staff two to three shifts a day, and so we're ready and available to answer questions and navigate people around the issues accessing reproductive health care that they may be encountering, and so we but we not only provide them information, like there is kind of a social work aspect to it in the sense that if someone comes to us with a unique problem, like we will take the burden off of the collar and we will call around and get to the bottom of whatever the issue is, so that they don't have to make a bunch of calls and get turned away because that can be so demoralizing and confusing. And so, we will. We will call and ask for the supervisor and like we will figure it out. I'm very proud of the fact that we provide that level of care and service for folks, and so we've got that going on.

We've got our emergency contraception distribution program in Columbia, Missouri, which is the center of the state, was where we decided to start, just because it's so far away from the closest abortion providers and wanted to make sure that people have the tools in hand to prevent pregnancies to the extent possible. And then we also have recently launched with the Missouri Abortion Fund, which is a public education campaign aimed at letting Missourians know that, despite Missouri's abortion ban, abortion remains available as an option and that there are organizations like right by you and Missouri abortion funds here to help. And so, we've launched a website and we'll be rolling out radio and billboard and other methods later this year that's so awesome.

0:18:33 - Adele

So it's really a public education direct service provision. I mean that's, that's exciting. Yeah, I, I love to hear that. I love especially, you know, in place like Missouri, which is like I believe, now I'm from New York, I believe that's the Midwest right, it's not the south, right?

0:18:49 - Steph

Yeah, well, there's a debate, but I consider it in the Midwest.

0:18:53 - Adele

I gotta tell you I never get the same answer twice from people. So you know, talk to me about. Was you mentioned these volunteers right? What, what, how do you? How does one train? What qualifications Does do these volunteers need, and how does one train them?

0:19:23 - Steph

That's a great question.

We, it's evolved over time, but we've tended to find them in pro-choice circles was kind of how it started and at like social work schools. But the main requirement is to be Pro-abortion, to desire to help folks access reproductive healthcare, to have some understanding of what reproductive justice means and then to have kind of the ability to navigate the technology that we use in order to help folks, because the



way the technical setup we have is pretty sophisticated with the way that text messages come in and then folks are able to trigger their responses, and so there's a fair amount of technical training involved as well, and so there's some pretty deep vetting that we do around volunteers, and then there are interviews to make sure that they're kind of like compatible and have the right orientation toward. I would say the biggest thing is that you know there are folks that mean extremely well but, you know, struggle with letting go of what they think should happen in a situation and really putting this person's autonomy first and foremost, even if this person's making a decision that troubles them or isn't what they would do or is in circumstances that this person can't relate to like, we really need folks that are able to set that aside and honor the needs of folks, even when they're much younger than them, even when they're teenagers, like they're the ultimate decision makers for their lives and we're here to support and so like we need to hear that when we're interviewing folks. And so, aside from that, it's really helpful when we have folks with a social work background, but it's not a requirement and we've been able to train folks that come from a lot of professional backgrounds.

0:21:25 - Adele

That's fascinating. I mean, I heard just so many interesting touchpoints. You know about how tech intersects, about how people's backgrounds intersect, about what the platinum rule I like to say, "treat others as they would like to be treated." Right, no as you would like to be treated and low-key. This is not on the list so you don't have to answer it, but this sounds just so innovative, and I'm wondering what advice do you have for other states that may want to roll something like this out. You know what I mean, what were your biggest challenges getting started? And what advice do you have for, let' say, Illinois or somebody else.

0:22:10 - Steph

yeah, well, I will say I do think it's innovative and, at the same time, we're kind of like standing on the shoulders of others who have created successful Youth-oriented text lines. So Jane's Due Process was an amazing mentor to us and they're in Texas and they help teens access abortion care and birth control, and they helped us like with our tech setup, with learning how to train volunteers, like all of these things, and so I would definitely say number one reach out to others who have done it, because that helped me tremendously in the startup was talking to, like everyone that would be willing to spend time with me about best practices and how to create something like this. And the other thing I would say is one thing that we did that I wouldn't compromise on, is we actually, before we launched, spent a significant amount of time having young people that we recruited from around the state of Missouri actually review like the concept of what we wanted to create, the text line itself. They tested it, our website, our messaging, all of the information on there, and gave us tremendous feedback about like what hours we should be open and the way that our flow of conversation should be, and like some really in-depth feedback about what we should do in order to serve them well, and we compensated them for that input.

- Adele

I love that Pay advisory board. You don't say

- Steph

Yes, and that is critical. I mean especially like ideally no one would be creating something like this for a community they aren't part of. But you know, we're at where we're at and teens don't necessarily have the ability to create something like this for themselves.

The second-best thing, I think, has been to involve them [teens] in the process, and so, post launch, we did another round of review and feedback, and that's something we're committed to, and in fact we're actually launching a micro grant program this coming year where we'll be providing up to \$2,500 to teens and young folks across the state who want to create a discreet reproductive justice project, and the idea there is to kind of not only resource and support communities with their own reproductive justice goals, but also identify folks that can come on and like carry the mantle and actually be closer to the affected population as leaders, not only with Right By You but in reproductive work in the state. And so, I do think that if I could give advice to any organization, it's like come in with that mindset that, like you need to be leveraging the privilege and the power that you have and then handing it off as quickly as possible to folks that really should be the ones in leadership.

0:24:53 - Adele

Right You're building that pipeline. You're building the pipeline of other repro activists and volunteers. We try to do that here too, and it sounds like you're being really intentional about it. So that's exciting. And this kind of leads me to a question that was on your list, which was you know what are some of the unique challenges or some of the advice that surprised you when working with a youthful population or when speaking to the youth about this topic.

0:25:16 - Steph

I think that it was surprising to me, well, I'll say a unique challenge. So a unique challenge is that young folks are not always in control of their circumstances or their schedule, and so helping them figure out how to access care within a system that is not necessarily the most forgiving or accommodating, especially as abortion appointments get harder and harder to come by, especially in this region that is now serving folks coming from the south, and there's just more and more abortion patients going toward fewer clinics, and so that makes it harder and harder for clinics to accommodate a young person who, for example, can only get out of class undetected on Thursday afternoon and has to be back by a certain time. So, there's like really challenging things around that. Or needs a note in order for their parents not to be called, and so we run into a lot of things like that. Or just transportation challenges, or folks whose phones have tracking software on them.

0:26:26 - Adele

Yeah, almost like, I mean, I like to say it's like children have less rights, they have less rights, and so you have to work with this limited citizen.

0:26:34 - Steph

essentially, to get this autonomy.

0:26:38 - Adele

Yeah, that's wild. And what about in terms of relating to youth, right? So, what kind of advice did they give you in terms of the flow of the conversation? I'm fascinated by that.

0:26:48 - Steph

I think a lot of it was, and you may have noticed just in my bearing on this in this interview that I have a tendency and I structured it originally to provide a significant amount of detailed information all at once and they [teens] were like this is horrible in the text format and like we need it piece by piece and we need to have an opportunity to ask questions and, honestly, fewer assumptions about what it is that we care about and want to know, and just leaving it more open-ended and like having the patients to sit and wait for their response and respond accordingly and in little bites, instead of just firehosing them. That was a huge piece of feedback.

0:27:33 - Adele

Let me tell you this is directly in line with what I, as a communications director, have learned about this generation. So, Gen Z and Alpha, and even younger millennials, really appreciate a personalized experience, particularly online. And, yeah, the bite-sized thing is so real, right, because these are the generations that have grown up in the digital world. Right, and that's what they're used to, and I imagine it certainly is, for me, it's almost like learning a different language sometimes. And the firehose has been reached out so funny, because Charlie, the abortion chatbot, can sometimes be a little firehosey, I have found, and so I like to make sure that when people ask me about it, I'm on the phone with them, sometimes, like we don't get the volume, so I have the luxury to do that and be like oh yeah, that's what this means, you can skip down or whatever. So that's interesting, okay, okay.

Well, we talked about youth and the surprises. Let's zoom back out really quickly. Just because you are a lawyer and I like to pick your brain about it. What are some of the unintended or do you that you believe are unintended legal consequences of the current rights landscape? So, the post-row fight to ban abortion in certain places? Like unintended consequences that you wouldn't think about.

0:28:55 - Steph

I love this question, I hesitate to believe that a lot of the consequences, or any of the consequences that I've seen that might surprise people, were in fact not foreseen by the architects of abortion ban, and so, like unintended is a harder question for me to answer. But some of the things that I think would surprise people are, I mean and I do think we've been seeing this in the news but I've certainly witnessed it myself folks who are experiencing pregnancy loss, like a spontaneous pregnancy loss, who are

tremendously fearful of seeking care, even when it's desperately needed, like even when their healthcare status is deteriorating. They are reluctant to go in and get care, and that is worse among folks who perhaps are drug users even if the drug use had nothing to do with the pregnancy loss and it was in fact a wanted pregnancy and this person struggling with addiction or substance use. They are fearful, even though it's not clear that the law would punish them. They don't know that. They've seen a lot of really scary rhetoric and what they know is they don't want. You know, I've heard from people that consider it better to stay home and get sick and die than go to the hospital and perhaps go to prison, like, I've heard this from people's mouths, and that's it's tremendously disturbing to me, and so I think that that is one of the consequences that folks are just really afraid to get the care that they need, even when they aren't the like target of the ban. I also haven't been able to like, I can't point to a case where it was extremely clear that the ban was the factor in a physician's decision, but I am very fearful that the fact that there is an abortion ban will be used to bolster providers who have already been more than willing to violate folks' rights during childbirth, and so the fact that the right to make decisions about one's body during pregnancy has been eroded is further evidence, a further defense for a provider who is already inclined to coerce or mistreat a patient, which happens.

0:31:42 - Adele

We call it a moral hazard in business school. Yeah, a moral hazard. It's a bad incentive or a perverse incentive. Yeah, correct.

0:31:52 - Steph

And pre-dobs, we were already seeing plenty of mistreatment. I'm just routine mistreatment in childbirth and so I am very worried that this gives them more legal cover for that.

0:32:02 - Adele

Yes, okay, the first thing you mentioned was folks who are having a spontaneous miscarriage. Can you talk about what is a person's rights and what are the dos and don'ts, maybe, if you're having a spontaneous miscarriage and you need medical attention, as a lawyer, what are some of the basic things they should know?

0:32:34 - Steph

I mean I would not entertain any discussion about what might have caused the miscarriage or disclose any facts about what might have caused it, because even things that are unlikely to have caused it there are cases in which factors that were disclosed that are, in fact, clinically unlikely to cause a miscarriage were still used as a basis for criminalization.

So, disclosing as little as possible about the circumstances that surrounded your miscarriage which is, it's really troubling to give that warning, because folks should feel free to disclose the full picture of their

medical circumstances to their providers, but it's becoming less safe to do so. I would also advocate taking someone along with you who can help you advocate, because pregnancy loss and miscarriage is traumatic in itself, can be traumatic in itself, even under the best circumstances, and so having someone else who is specifically there to watch out for your best interests and well-being is a great idea, and in fact, I've done this as a lawyer. I think it's really innovative and something that more folks need to be doing. I've appeared at the hospital as a lawyer doula and have supported folks in preventing a situation from devolving into criminalization before it ever can.

0:34:07 - Adele

That's fascinating. A lawyer doula. Are there death doulas? There's birth doulas. Yeah, that's fascinating. Now do you do this formally? Was this just something you packed into?

0:34:20 - Steph

It's been. Yeah, so I've been thinking about it in the context more of birth. I'm not the first one to think of this in the context of birth. There's another really amazing attorney who's done this in the past and I'm also trained as a doula and a pregnancy loss advocate, and so it has felt really natural to think about appearing as someone who can stand really strongly for the rights of a person who's giving birth in a hospital setting and also provide that kind of general doula support if they want it. And I've not yet done something quite like that. But what I have done, because I've been called upon to do so by circumstance is appear at the hospital in the event of pregnancy loss, and so that's more been like in a one-off scenario, but I was ready to do that because I kind of prepared myself for it.

0:35:12 - Adele

Right, well, and you mentioned, don't disclose, I just want to be really clear. You don't have to disclose. There is no law or obligation, if you enter a hospital setting, to disclose much of anything other than your legal, other than what's happening. Is that right?

0:35:29 - Steph

Yeah, I mean, that's correct. Generally, you are there as a consumer who's seeking a service, and so I think that sometimes these systems behave so much like authorities and in fact, wield law enforcement authority over patients. You are perfectly allowed to say no, you can decline treatment, you can decline disclosure across the board.

0:36:35 - Adele

Is that true, even if, let's say, somebody goes in and they're having a miscarriage, doctor picks up the phone, calls the cops. Cops come to the hospital. What do they do then?

Steph

What does who do?

Adele

Sorry, what does the patient who's having the miscarriage? Or just have the cops called on them? And maybe they're being interviewed in the hospital while they're having their miscarriage? Because I've heard that yes, what are their obligations when they're talking to a police officer?

0:37:03 - Steph

Absolutely do not speak to the police. Absolutely do not speak to the police without a lawyer present. What I would say is like before, let me back up, before you even go to, if you are concerned for some reason about being criminalized for your pregnancy outcome and you need to seek follow-up care, I would highly suggest calling the repro legal helpline. It's an attorney helpline that is specifically set up for this situation and to provide legal advice and make sure that you can access that care in as safe a manner as possible. So, they could give you specified legal advice about what's safe or not safe to disclose. But if you find yourself already in that situation, absolutely do not speak to the police and do not speak to your providers anymore because you cannot trust that they're not providing that information to the police. You call the repro legal helpline or an attorney immediately.

0:37:57 - Adele

Staying silent is never illegal is what I'm hearing. Protect yourself. Yes, yes.

0:38:26 - Steph

And I will say to that, and not to get on my soapbox about this but like, this is also this is not the way it has to be. Doctors have a choice about whether, and hospital staff have a choice, about whether they report patients. There are mandatory reporting requirements that could place them at certain risks, but they have been overinterpreted and folks are practicing extremely conservatively to the detriment of their patients, and I really don't think that we should be accepting that. There's just like a lot of subjugation of patients that I think needs to be deeply examined and there needs to be a reckoning among the medical community about the way that they approach these issues.

0:39:32 - Adele

Yeah, I wanted to. I'm glad you brought that up, because I wanted to return back to the third thing that you're always lawyering about, which is mistreatment during birth, pregnancy, postpartum, all that stuff. What kind of mistreatment do you see as a lawyer broadly?

0:39:47 - Steph

Yeah, it can really run the gamut. It definitely breaks down along racial lines, drug use lines for sure, like suspected drug use. Black women in general and black birthing people are harmed, mistreated, and die at a much higher rate across the board and especially in Missouri. Missouri has an abysmal maternal mortality rate and even worse for people of color and black people. And so definitely see that and the way that folks aren't listened to about what's happening to their bodies, aren't believed, aren't cared for.

But I also see again, kind of like across the board, folks that are white, well resourced, are coerced into interventions through inaccurate information about their condition. That happens frequently. So, like the provision of inaccurate information about their condition or the condition of their baby is used as a coercive tool. So commonly, yes, and so there's that there are unconsented interventions like membrane sweeps, which is a form of induction that providers will do. They'll get consent for a cervical exam, to check how dilated a patient is, and then, while their fingers are inserted, they'll sweep the membrane around the amniotic sac to try to induce labor, and this happens, I hear this story, I hear it from my friends, I hear it from patients that come to me. This is a feature of obstetric care, not an aberration. There are just really, I mean folks, there's violence, like folks being shoved onto their backs when they want to be upright in delivery, babies being held into the birth canal while they're waiting for the provider that wants to bill for the delivery to arrive and catch the baby.

0:41:55 - Adele

Are you kidding me right now?

0:41:55 - Steph

No, no, this is like the other lawyers that work with this, yes, and it's an abomination. And the other lawyers that I work with on this. When I bring these things to them, they're like yeah, we hear this too. We hear it all the time.

0:42:11 - Adele

That is. I mean because there's things, I think, that are in the public consciousness now, thank goodness, which is like the overuse of cesareans, right, the general, like what you're saying, the general not listening, but these are very specific things that I think a lot of people don't know about. This is the first time I've heard about that thing. The cervical thing, and then the, I mean, and holding a baby in the birth canal was dangerous, right, like I mean that's.

0:42:44 - Steph

It is dangerous, and it's dangerous without any clear medical benefit. Like there are some of these things you could kind of argue over right, like whether there was a medical benefit in a certain situation and I would argue no, but there's like a live debate. Perhaps holding a baby in a birth canal is I can't think of any clinical justification for doing that, unless you know very few clinical justifications for that. Like if there was a cord prolapse. Like the cord is coming out, but like in a birth where, like the only motivation for it, the only issue is that the provider that wants to bill for the service hasn't arrived. That's astonishing that that would be permitted to happen.

0:43:24 - Adele

Wow, well, okay. So again, this wasn't on the thing. Are there any green flags that people should be looking for when choosing where to give birth? Like from your perspective. Like-

0:43:35 - Steph

Yeah, I mean, I think that's complicated, because whether or not people have access to a certain setting can really depend on their socioeconomic status, what kind of insurance they have, what kind of out-of-pocket they can manage. I myself, with all of my knowledge, was very nearly railroaded into a C-section for my breach baby, and it took like three weeks of making calls and crying on the phone with people until I was able to actually access a doctor who was supportive, and so like I guess the best case, the best green flag, is someone who's like extremely relaxed about what it is you're proposing to do, who says, oh, of course we can do that. We do that all the time. Anyone in my practice would support that. That's great.

0:45:39 - Adele

They were delivering breach babies at home in the 60s. Okay, I mean, that happened. So, I just, you know, it's not some of the things that people say that are like impossible, like I'm glad to hear that you saw several opinions because yeah, no, that's wow. I'm sorry, I'm a little bit in shock, I just didn't realize. Something like this happens to you. Do people have legal recourse? I mean, I assume they do because you're in practice.

0:46:38 - Steph

It's actually really challenging, I think a lot of what I do, I'll be honest, is telling people well, the first thing I do is I ask people, like, what would justice feel like to you? And what's super interesting is that what a lot of people want is an apology and to be reassured that it won't happen to someone again. And these are two things that hospitals and doctors are incredibly unwilling to offer, even though they're the right thing to do. And I think fewer of my clients are interested in going through the process of trying to get financial recompense for it, because it's not something that I mean, it's very hard to, you're not really



ever made whole by money in situations like this, but it's a hard road because the legal, like the civil, law that has developed around maternity care has largely favored intervention in order to save the baby.

What happened to the mom be damned. And so that is really hard to overcome, because there's a whole body of law that preferences intervention and that rewards a healthy baby and ignores the health condition of the mom. And so, I'm working right now on a case and, like intend to continue working on these cases to try to turn that ship around and turn that tide. But the reality for most people is that it's a really hard road and you have an entire culture that believes that the safest thing to do is to be in the hospital with a doctor who will intervene at a moment's notice. And that's an incredibly difficult thing to overcome and convince folks that just because the doctor said X and Y needed to happen, that wasn't the best interest or actually was like harmful in an illegal way toward the person giving birth. That doesn't feel very good.

0:48:51 - Adele

You're fighting against structural incentives and culture right. So, you've got an uphill battle, but I'm glad we have people like you out there who are actually taking care of these people, because I would imagine that even just being able to tell somebody like you what happened goes a long way into helping with birth trauma right? We've heard from people on this podcast who have suffered from birth trauma and the feeling of being heard is half the battle, truly.

0:49:19 - Steph

Absolutely, and I do my best to reassure clients like that's one of the first things I say is like this was not your fault, that this happened to you, and it was wrong. You know, and I'll reassure them about that multiple times. And there are consumer advocates that are working really hard around this. For example, Birth Monopoly is a wonderful resource and they actually have an obstetric violence map where you can share your story and it maps it into a location and it is incredible.

0:49:47 - Adele

We're going to find that that's awesome yeah.

0:49:50 - Steph

Definitely look at that. And you know the other thing that we will do, which in the individual may not be tremendously impactful, but like I will assist folks in filing licensing complaints against their providers and facilities, and you know that one might not result in any sort of really adverse action against the person, but it is a way to push back and they do add up.

0:50:22 - Adele

And so I was going to say like Dr Macchiarini, do you listen to the podcast, Dr. Death about the spinal surgery. So, it took like a few of those complaints before anybody really looked at him, but then they did eventually take him down because of those complaints, right?

And it sucks. You know this might not be very comforting to the person who just went through this thing, but yeah, we at the NWHN, if you see something, say something. That's our motto. Right, even if it feels like screaming into the void, you might help somebody. Yes, all right, Stephanie. Well, this has been incredible.

- Adele

You've given me personally a lot to think about, and I'm sure you've enlightened our listeners, so thank you. Thank you so much for your time today.

0:51:36 - Steph

Thank you so much for having me and for this podcast and the professionals that you bring on.

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