



Testimony

of

**Gretchen Van Wye, PhD
Assistant Commissioner, Bureau of Vital Statistics
New York City Department of Health and Mental Hygiene**

before the

New York City Council Committee on Health

on

Intro 1308: In relation to redacting the name of physicians whose license has been suspended, surrendered or revoked from birth certificates.

**February 7, 2019
Committee Room – City Hall
New York City**

Good afternoon, Chair Levine and members of the Health Committee. My name is Gretchen Van Wye, and I am the Assistant Commissioner of the Bureau of Vital Statistics at the New York City Department of Health and Mental Hygiene. On behalf of Commissioner Barbot, thank you for the opportunity to testify on Introduction 1308.

New York City is one of 57 jurisdictions in the United States that registers births. In each of these jurisdictions, the registration of a birth begins with a physician or other professional attendant witnessing the birth of an infant. The Health Department's Office of Vital Records is responsible for issuing birth certificates for all births that occur within New York City. We work closely with the other jurisdictions and the federal government to maintain a system that upholds the integrity and security of this essential vital record.

Birth certificates are legal and medical records for which factual information must be corroborated by external parties. In the United States, a birth certificate is our primary identity document. It is proof of U.S. citizenship, afforded the full faith and credit of other jurisdictions and countries, and is honored by U.S. states and other countries.

There are two forms of birth certificates that are issued by the Office of Vital Records. The short form birth certificate, otherwise known as the certification of birth, contains only the name, sex, date of birth, place of birth, and parent(s) name. The short form can be used for most purposes, including applying for a state driver's license and U.S. passport. The long form birth certificate, contains all items on the short form birth certificate, plus other information including attendant at delivery.

All United States birth certificates begin with medical certification and Federal law mandates national collection and publication of births and other vital statistics data. A variety of national standards exists for the reporting of birth data to promote uniformity and comparability of data across the United States. Under the New York City Health Code when a birth occurs in a hospital or en route thereto, the birth certificate and the confidential medical report of birth are required to be prepared and certified by the physician, licensed midwife or registered physician assistant in attendance or assisting, or by a certified nurse practitioner or registered professional nurse present at or after the birth, or by a designee of the person in charge of the hospital who is trained or approved by the Health Department. The attendant is swearing that the facts on the birth certificate are correct. This is critical given the importance of birth certificates as fundamental identity documents.

The requirement to display the certifier's information on the birth certificate also exists in New York Public Health Law, which governs the Vital Records processes for the rest of New York State. This is also the standard set by the Centers for Disease Control and Prevention, which sets a national exemplar certificate to promote uniformity and comparability of data across the United States.

In New York City, the only information on a birth certificate that is subject to an amendment by self-attestation is the gender marker. In discussion with other states and advocates over the past several years, the Health Department found that gender marker was not something that can be corroborated by anyone other than the individuals themselves. All other information on the New York City short and long form birth certificates can and must be corroborated by an external party through the submission of documentary evidence. This includes paternity, time and place of birth, parent(s) name and signature of those present at the birth, including the physician. The requirement of documentary evidence or some other form of proof is a fundamental legal tenet. It is also codified in the U.S. Model State Vital Statistics Act, which the Department of Health and Human Services promulgates in partnership with the 57 vital records jurisdictions to provide models for the development of local laws and regulations.

For anyone seeking substantive factual changes to their birth certificate, which have legal implications, the Health Department requests a court order certifying that the requested information is valid. This is the process all applicants follow when they seek an official proclamation defining legal relationships among the parties listed on the birth certificate, including name, paternity or presiding physician.

Intro 1308

I would now like to turn to the bill under discussion today. I want to be clear that Ms. Hoechstetter's experience with her former OBGYN is horrific, criminal and should never have happened to her or to anyone else. The Department stands ready to assist her in the process of removing the presiding physician's name from her daughters' birth certificates.

We support the intentions of this legislation, as reflected in our commitment to helping Ms. Hoechstetter and anyone else who wishes to pursue such a change. I would however note that there are legal considerations that we must take into account in altering our processes: we

look forward to working with Council to ensure our processes continue to be fair, just, and equitable.

Thank you for the opportunity to testify, this hearing will generate important conversations. I am happy to answer any questions.

February 7, 2019

To: New York City Council Committee on Health
Mark Levine (Chair), Alicka Ampry-Samuel, Inez Barron, Mathieu Eugene, Keith Powers

From: Marissa Hoechstetter

Re: Introduction 1308 - In relation to redacting the name of physicians whose license has been suspended, surrendered or revoked from birth certificates.

While this is difficult, I am grateful for the opportunity to address the Committee on Health today. I have publicly shared my experience in an effort to help shed light on sexual assault by medical professionals, on the failings of the criminal justice system in supporting survivors when they do come forward to report crimes, and on the long trail that trauma leaves in your life. This bill allowing the Department of Health and Mental Hygiene Office of Vital Records to redact the name of a physician from a birth record when that physician's license has been suspended, surrendered or revoked by the New York State Office of Professional Medical Conduct, would be a tangible step towards justice for me and others like me.

I'd like to start by thanking Council Member Mark Levine for introducing this legislation in response to my advocacy and in support of survivors of sexual assault. I am also grateful to Council Members Margaret Chin, Keith Powers, Helen Rosenthal, and Kalman Yeger for their co-sponsorship. I am privileged to have an amazing community supporting me and would like to acknowledge my husband, David, and my family and friends for their unwavering support. Also, my friends Leigh Graham, who is here with me today, Marissa Elkins, and Kate Kurera; our attorney Anthony DePietro; Assemblymember Dan Quart; and finally Albert Samaha whose thoughtful telling of my story in BuzzFeedNews last summer helped me get this out and start bringing the many injustices that I and others have faced to light.

The assaults and subsequent experiences seeking justice have dramatically altered my life. I will try to be brief today and to focus my remarks specifically on what it means for me to have the name of the doctor who abused me on my kids' birth certificates.

A few years ago, while registering my twin daughters for kindergarten, I had to present their birth certificates. I hadn't really looked closely at them before, but when I did, I saw that listed under "name of attendant at delivery," was Robert Hadden. I was shocked.

I was pregnant during all but three of my visits as Hadden's patient at Columbia University and New York-Presbyterian hospital facilities from 2009 to 2012. During that time, he performed overly touchy exams, made inappropriate comments about my body, examined me without nurses in the room, and on my last visit with him, undoubtedly sexually assaulted me. When I realized what was happening, I never went back. I turned inward to protect myself, my new

babies, my marriage, my job. I'm still haunted by what else he did while I was unaware. He so clearly took advantage of me during a most vulnerable time in my life.

The assaults poisoned the memories of my pregnancy. I felt like a failure as a woman for not turning him in. I felt like a hypocrite as a mother telling my daughters to be truthful and to question things. How could I ask them to do these things when I hadn't?

So, after much deliberation, in the fall of 2015, I reported the assaults to the Manhattan District Attorney. When I went to their Special Victims Unit, I learned that I was one of more than 20 women who had come forward. The ADA told me that my accusation was outside of the statute of limitation - something I would later learn was not true. Cy Vance's office was already negotiating a plea and I see now that the timing of my report was inconvenient for them and they chose not to act on it. In February 2016, Hadden plead guilty to crimes against just one victim - a criminal sex act in the third degree, which is a felony, and forcible touching, which is a misdemeanor. Two minor counts culled down from a long list — a list that would have been longer had the DA included me and others in the case in Molineux or with a second indictment.

As a condition of the plea, Hadden had to surrender his medical license to the state's Office of Professional Medical Conduct and agree to not seek licensure elsewhere. But, he got no jail time and received a nauseating guarantee of immunity. The DA agreed to never charge him for additional conduct that had turned up in the course of the investigation. It felt like they were saying the crimes against me and an untold number of other women never happened and now, they could never be tried. Because my abuser was well connected and supported by his employer, he was able to effectively just retire. Much has been reported about the campaign contributions Vance received from Hadden's defense attorney and chair of Columbia University's board, so I won't digress here except to say that Vance's justice system trivialized the fact that I was sexually assaulted and anyone who was culpable has effectively ignored their responsibility or bought their way out of it.

I share all of this to say how empty the experience of coming forward left me. I did "the right thing" and came forward, turning to those in this city who were supposed to help me. Instead, I was discarded. When friends swap birth stories, I cringe, never wanting to share my own. My C-section scar makes me sick. I knew I'd never see Hadden again after watching him plead guilty in court. So why did I have to keep seeing his name on the birth certificates?

I knew that to find some closure or acknowledgement of my pain, I had to remove his name from those documents. In some states, that information isn't even listed. You can order new copies online. You can request changes for errors. But you can't change the name of the person who attended the birth.

After nearly two years of unreturned phone calls and emails to the Department of Health and Mental Hygiene, I received a cryptic email that read: "Your inquiry is currently under investigation, and we will inform you when an answer is received." I never heard anything

further, and two attorneys helping me at different times couldn't get anywhere either. I refused to give up though. City rules allow anyone attending the birth to be listed. If this had been a home birth, it could've been my husband's name. For that matter, it could've been my name.

Eventually the Department told me that they'd need an order from the State Supreme Court to make the change. However, I was advised that the court might reject such a request because Hadden's name was not there in factual error. If I obtained a letter from the hospital where I'd delivered offering an alternative name, then maybe the change could be made. Unfortunately, Columbia University and NewYork-Presbyterian Hospital, where Hadden worked for more than two decades, refuses to acknowledge the role they played in enabling him. So, getting a new letter wasn't an option.

That brings us to the introduction of this legislation.

Hadden continued seeing patients even after the police and the DA were notified of the allegations against him in June 2012. There are dozens of known victims, and probably hundreds or even thousands of others out there. His own defense attorney said during the criminal trial that Hadden had over 30,000 patient visits. Almost all of the victims I'm aware of were pregnant when we were assaulted. For 10 of us, Hadden delivered our children - 13 babies who carry his name on their birth certificates. I sit up at night thinking about how many babies he must have delivered in his career. A privilege that he used to gain access to women's bodies. The worst part of all of this is that he was the first person in the entire world to touch my children. His hands physically took them out of me during my c-section. Those are the same hands that abused me.

I ask that you support this bill so that children like my daughters don't have to keep the name of a serial sexual criminal on the document that marks their entrance into this world. It's a small ask but a meaningful one.

Thank you.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 2.7.19

(PLEASE PRINT)

Name: Maissa Hoehstetter

Address: _____

I represent: _____

Address: _____

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

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Date: _____

(PLEASE PRINT)

Name: Gretchen Van Nye

Address: DOHHM

I represent: _____

Address: _____

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