



CITIZENS FOR COMMUNITY VALUES

Since 1983 | ccv.org

To: Chairman David Burke
Vice Chairman Matt Huffman
Ranking Member Nickie Antonio
Members of the Senate Health Committee

From: Rachel Citak, J.D.
Legislative Liaison
Citizens for Community Values

Re: Support of SB 155

My name is Rachel Citak and I am the Legislative Liaison for Citizens for Community Values, Ohio's Family Policy Council.

I am here today to talk about choice.

Yes, Citizens for Community Values is a proudly pro-life organization that supports the freedom of Ohioans to live and thrive from womb to tomb. But, a lot of what we do also revolves around making sure that some of the most vulnerable segments of society have the power to choose.

Specifically, I am here today as an advocate for SB 155 from the perspective of a legal professional and a graduate of UC College of Law.

Informed consent under SB 155 does not violate doctors' 1st Amendment rights to Free Speech.

The most pressing legal issue at hand in SB 155 is the 1st Amendment right to free speech of doctors who will be required to provide chemical abortion recipients with a link to APR information. It is already settled law that 1st Amendment rights are not absolute, and doctor's rights to not to speak as compelled by the state may be controlled by "reasonable licensing and regulation by the state."

This year, our federal Sixth circuit court specifically addressed the issue of informed consent as it specifically applies to abortion doctors. In *EMW Women's Surgical Center P.S.C. v. Beshear*, the Sixth Circuit court held:

“[e] ven though an abortion-informed-consent law compels a doctor's disclosure of certain information, it should be upheld so long as the disclosure is truthful, non-misleading, and relevant to abortion.”

The court ruled that doctors' 1st Amendment rights were not infringed. The law requires Kentucky abortion providers to offer ultrasound images and heartbeat sounds to patients considering an abortion.

Like the statute considered in *Beshear*, SB 155 does not create a free speech violation because:



CITIZENS FOR COMMUNITY VALUES

Since 1983 | ccv.org

1. **SB 155 is a “reasonable regulation” related to abortion.** Granting a woman the opportunity to see the ultrasound and hear the fetal heartbeat allows her to be fully informed about the pregnancy she plans to terminate. Informing a woman of her available choices if she regrets her choice should include information in case she regrets her decision.
2. **SB 155 does not require doctors to endorse state morality.** A speculative pro-life intent in passing informed consent measures does not automatically create compelled speech. Offering to provide the ultrasound and heartbeat sounds does not require the doctor to support beliefs of the state nor legislators, just as providing information on APR does not require the doctors to support its claims nor content.
3. **SB 155 does not penalize doctors for voicing opposition or guidance in addition to the required informed consent.** The doctor is free to say that the state requires him/her to provide this information to the patient or discuss his/her reservations about the information. Under SB 155, the doctor may even encourage the patient to proceed with an abortion. This statute concerns the *omission* of patient information, not the suppression of doctor-patient communication. Under SB 155, the Ohio Revised Code §2919.124 (B)(2)(c) would read:

The pregnant woman may choose to examine or not examine the materials. A physician or an agent of a physician may choose to be disassociated with the materials and may choose to comment or not comment on the materials

4. **SB 155 does not penalize patients nor doctors if a patient rejects the informed consent measures.** The doctors in *Beshear* were not punished for obeying patients who asked them to turn off the ultrasound images or mute the fetal heartbeat. Likewise, doctors will not be penalized under SB 155 if the patient rejects the URL or throws it away. Doctors will not be penalized for advising the patient that she does not have to use the information.

SB 155, if passed, will be also be held reasonable regulation as properly decided by the elected officials whom Ohio patients chose and voted into office.

Without SB 155, doctors will be permitted to withhold information that could potentially aid someone and make the difference—literally—between life and death. Healthcare providers will be allowed to withhold information and effectively eliminate an option for many women simply because this entire class of patients is deemed too easily confused and incapable of making an informed decision.

That, I would argue on behalf of the patient, is not just a “compelled” decision.

That is what I would call *paternalistic coercion*—the elimination of a woman’s power to choose because she has been deemed incompetent to choose. This is what happens when a doctor withholds information from her that could better inform her decision.



**CITIZENS FOR
COMMUNITY VALUES**

Since 1983 | ccv.org

Truly trusting women means making sure they have *all* of the information that they need in order to make an informed decision.

I ask that the Senate Committee choose to approve this bill requiring doctors to provide women with greater information.

Choose to give women the power of choice to make an informed decision, including information that may reverse their previous choices.

Thank you for your time and consideration.

Citizens for Community Values (CCV) is a non-profit, non-partisan organization that endeavors to create an Ohio where God's blessings of life, family, and religious freedom are treasured, respected, and protected.

www.ccv.org -- (513) 733-5775