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To: Chair Dave Burke
Vice Chair Stephen Huffman
Ranking Member Nickie J. Antonio
Members of the Senate Health, Human Services, and Medicaid Committee

From: Rachel Citak
Legal Counsel, Citizens for Community Values

Re: Proponent Testimony, SB 260 Telemed Abortion

Chair Burke, Vice Chair S. Huffman, Ranking Member Antonio, and Members of the Senate Health, Human Services and Medicaid Committee:

My name is Rachel Citak and I am Legal Counsel for Citizens for Community Values, Ohio's largest Christian public policy organization. I submit this testimony as legal support for SB 260 and I encourage you to pass this preventative measure for girls and women facing a chemical abortion. During prior testimony for SB 260, several legal concerns were raised:

(1) Should the risk of unsuccessful litigation raise concern? (2) Should any other telemed procedures or prescriptions be banned in Ohio? In that, I intend to address the underlying question, *is abortion is being unconstitutionally singled out in regulating Ohio telemedicine?* (3) Does the prohibition of telemed chemical abortions violate the undue burden standard? And lastly, as a policy concern, (4) Why do we need this law in Ohio?

1. Should the risk of unsuccessful litigation raise concern?

The risk of unsuccessful litigation concerning SB 260 should not raise concern because SB 260 will provide constitutional, much-needed parameters for telemed health services in Ohio. According to Guttmacher Institute,¹ there are 18 states that currently require the physical presence of a physician for chemical abortions and do not support telemed abortions—*Ohio is not yet counted among these 18 states.*

The United States Supreme Court has upheld in *Roe v. Wade*² and *Connecticut v. Menillo*³ that a state can limit abortion providers to licensed physicians. In *Akron v. Akron Center for Reproductive Health, Inc.*⁴ and *Mazurek v. Armstrong*,⁵ the Supreme Court continued to uphold that a state may limit and punish anyone who performs an abortion but fails to meet the state's definition of "physician." This means that the state has the ability to mandate in-state licensing requirements and define the role of physicians in abortion.

¹ <https://www.guttmacher.org/state-policy/explore/medication-abortion> As of 2/6/2020: Alabama, Arizona, Arkansas, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, West Virginia, Wisconsin.

² 410 U.S. 165 (1973).

³ 423 U.S. 9, 11 (1975).

⁴ 462 U.S. 416, 448 (1983)

⁵ 520 U.S. 968 (1997)



2. Should any other telemed procedures or prescriptions be banned in Ohio if telehealth technology continues to expand? *Is abortion is being unconstitutionally singled out in regulating Ohio telemedicine?*

Abortion has repeatedly and constitutionally been “singled out” for certain statutory regulations and protections. In *Harris v. McRae*⁶ the US Supreme Court held that “[abortion] is inherently different from other medical procedures because no other procedure involves the purposeful termination of a potential life.” Additionally, as described in prior testimony, chemical abortions offer unique risks. A chemical abortion prescribes pills to replace a procedure—the second pill is taken out of the presence of a doctor leaving the woman to cope with any adverse effects, and the results can be deadly.

3. Does a prohibition of telemed abortion violate the undue burden standard?

Requiring a doctor to be present during an abortion does not constitute an undue burden. The state has a compelling interest in the mother and the pregnancy. Preventative measures, like requiring doctors to see patients in-person when prescribing a chemical abortion, functions as a constitutional safeguard. Under *Cincinnati Women's Services, Inc. v. Taft*,⁷ our 6th Circuit federal appellate court held that requiring a woman to see a doctor in person and a 24-hour waiting period are constitutional measures. Women should be guaranteed the physical presence of a doctor when they find themselves making life-altering decisions like abortion. They deserve the opportunity to ask questions as a patient to a *person*, not a screen.

4. Why do we need this law in Ohio?

Just as abortion presents unique legal concerns, each woman who seeks an abortion has unique concerns. Specifically, while some women undergo abortion with no issues of legal consent, many others find themselves coerced or forced to do so. The definition of *forced abortion* is *the intentional termination of a pregnancy without true consent* because the pregnant woman was threatened, coerced, or under the influence of drugs or alcohol and unable to consent.

I am a volunteer with a residential nonprofit organization for Ohio’s sex-trafficked youth—the perfect candidates for a forced abortion. The girls I spend time with are often abuse survivors, and they have often formed romantic or paternal “trauma bonds” with their trafficker. They are often victims of kidnapping or runaways, threatened with death or harm to themselves or their family members if they do not carry out the trafficker’s demands. They are often offered or forced into drug addiction in order to cope or comply. Abortion often enables traffickers to keep their abuse, sexual misuse, and commoditization of these girls a secret.

⁶ 448 U.S. 297, 325 (1980)

⁷ 468 F.3d 361 (2006)



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Human trafficking experts Laura Lederer and Chris Wetzel published a 2014 study entitled, “The Health Consequences of Sex Trafficking and Their Implications for Identifying Victims in Healthcare Facilities.” The work of these experts explores ways that we can improve identification and rescue of human trafficking victims within healthcare facilities. In analyzing forced and elective abortion for over 100 trafficked women and children, the paper surmises:

The prevalence of forced abortions is an especially disturbing trend in sex trafficking...Notably, the phenomenon of forced abortion as it occurs in sex trafficking transcends the political boundaries of the abortion debate [...] (73-74)

Survivors also had significant contact with clinical treatment facilities, *most commonly Planned Parenthood clinics*, which more than a quarter of survivors (29.6%) visited... At least two prior studies have demonstrated that medical care providers are woefully unprepared to identify trafficking victims... (77) [...]

Clinics and other abortion providers should be especially attentive to warning signs particularly with regard to younger patients. Multiple abortions and evidence of coercion (such as the presence of a significantly older or controlling “boyfriend,” or the physical and psychological symptoms [of abuse] discussed above) in these patients should prompt the healthcare provider to seek more information about the patient’s situation. More than half (52.9%) of survivors (N=34) indicated that at least one abortion was partly or wholly forced on them, making this concern especially grave.” (81) (emphasis added)

Telemed abortions can increase the risk of enabling traffickers by hiding important warning signs. Human Trafficking Hotline statistics and World Populations Review use call frequency and reported incidences to determine the top ten states for Human Trafficking. Out of the top ten states for human trafficking, *eight currently have no ban in place for telemed abortions.*

There are still many more steps yet to take in eradicating human trafficking in our state, but SB 260 is a step in the right direction. It ensures that all pregnant women and girls facing abortion have in-person access to a physician.

I encourage you to support Senate Bill 260. 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.

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