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TO: House Families, Aging & Human Services Committee  
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio  
DATE: December 2, 2021  
RE: Sub. Senate Bill 157 – Opponent testimony

To Chairwoman Manchester, Vice Chair Cutrona, Ranking Member Liston, and members of the House Families, Aging & Human Services Committee, thank you for this opportunity to provide the following opponent testimony for Substitute Senate Bill 157.

I do not appear today to address the original, thoroughly unneeded, abortion provider harassment provisions of SB 157. Instead, I appear to address the provisions deliberately added by the Senate just before SB 157 passed out of committee, after testimony opportunities had been exhausted.

This new language prohibits physicians from serving as both a) a consulting physician for an ambulatory surgical facility granted a variance from the existing written transfer agreements under Ohio law and b) work for or with any state hospital, any medical school affiliated with a state college or university, or any other “public institution.” Please note “public institution” is undefined in SB 157.

In other words, over the past several years the General Assembly has piled on restrictions and regulations regarding abortions performed at ambulatory surgical facilities. Among these are a requirement that these facilities have a written transfer agreement with a hospital located within 25 miles of the facility. Basically, these facilities can receive a waiver from that law if they employ or contract with a physician available to perform the same, relevant services available at a hospital.

This latest version of SB 157 addresses this specific issue by now requiring these same physicians to essentially sign an incredibly broad, McCarthy-esque “loyalty oath” attesting they do not work for and are not compensated by any and all government/public institutions – public schools, prisons and jails, local departments of health, police, fire, and other emergency services, courts, prosecutors’ offices, public hospitals, state universities and colleges, and more.

In fact, this language is so broad it prevents even any direct or indirect teaching, or instruction, or consultation by these doctors with regard to all these public institutions, even when that teaching or instruction or consultations has nothing to do with abortion.

That would include any books or materials the physician writes. Or any webinars, participation in public events, or informal guidance used by state universities, medical schools, and every other government entity on virtually any subject from domestic violence to human trafficking, from lead exposure to eating disorders, and everything else.

All this because they dare to work for or consult with an ambulatory surgical facility that provides an entirely legal medical procedure.

In addition, restrictions and regulations found in current law regarding ambulatory surgical facilities are the subject of an ongoing lawsuit in federal court. Whether or not abortion should be banned after a fetal heartbeat is detected (essentially a ban on all medical abortions) is the subject of another federal lawsuit. I have not yet heard it explained why it is necessary to rush this new language while those two lawsuits, which directly impact this bill, have yet to be resolved. At a minimum, we believe this new language should be part of its own bill where it can be properly debated and considered by your constituents and all Ohioans.

Still, for all these reasons and more, the ACLU of Ohio urges this committee's rejection of Substitute Senate Bill 157.