



**Testimony of Jaime Miracle,
Deputy Director for NARAL Pro-Choice Ohio,
to the Senate Health, Human Services, and Medicaid Committee
Opposing House Bill 214
December 12, 2017**

Chairman Burke, Ranking Member Tavares, and members of the Senate Health, Human Services, and Medicaid Committee, my name is Jaime Miracle. I am the deputy director of NARAL Pro-Choice Ohio. I am here to speak in opposition to H.B. 214 on behalf of our more than 40,000 activists and members in Ohio.

Since the first version of this bill was introduced several years ago, supporters have claimed this legislation is not about abortion. Although I respect the convictions of these people, I must unequivocally disagree. If this bill is not about abortion, why is its sole purpose banning the provision of abortion services to a specific group of women in our state? Why is the only criminal punishment in this bill the criminalization of doctors who provide abortion care? The true motive of this bill is the same as all the other abortion bans recently enacted, or under consideration by the Ohio Legislature: in the short-term, to limit access to a health care procedure; and in the long term, to ultimately overturn *Roe v. Wade*, making abortion illegal in our country. Just like many of those other proposals, this bill is an unconstitutional restriction on pre-viability abortion. A federal judge in Indiana has just permanently blocked a similar bill in our neighboring state. You have written testimony from Jessie Hill, Associate Dean for Academic Affairs at Case Western Reserve University detailing more about the unconstitutional nature of this legislation.

Beyond the unconstitutionality of H.B. 214, we have serious concerns about the imprecise language used in this bill. As written, this bill would forbid a physician from performing, inducing, or attempting to perform or induce an abortion if “the person has knowledge that the pregnant woman is seeking the abortion, in whole or in part,” due to a “test result indicating Down syndrome,” a “prenatal diagnosis of Down syndrome,” or “any other reason to believe” the fetus has Down syndrome.

How would the court define “knowledge” and what would be considered “any other reason to believe” the fetus had Down syndrome? Would a doctor have cause to believe any woman over age 40 (who, because of advanced maternal age, has a higher risk of having a child with

Down syndrome) would possibly be terminating the pregnancy because of a potential Down syndrome diagnosis? How would a doctor be able to prove that he or she had no reason to believe this was the case? Would “knowledge” include knowing that a woman had a diagnostic test for Down syndrome without knowing the outcome of the test? Or would “knowledge” only be if the woman specifically told the doctor she was having the abortion at least in part because of a prenatal Down syndrome diagnosis?

What if a woman had received a potential Down syndrome diagnosis and decided to carry the pregnancy to term, but then something else happened to complicate either her health or the health of the fetus? Would this bill block a doctor from being able to provide lifesaving abortion care to a pregnant woman in crisis just because her medical record shows a positive test result for Down syndrome? This bill has absolutely no protections for a doctor treating a woman in a life-threatening situation or a condition that threatens her long-term health. What happens to that woman when her doctor’s hands are tied by this Ohio General Assembly? Or what about a pregnancy where Down syndrome and another more serious life-threatening condition is present in the fetus. Does the Down syndrome diagnosis still count as “in part” for the woman deciding to have an abortion and block a doctor from carrying out her wishes to end a pregnancy that will never end in a live baby?

This type of uncertainty would create a chilling effect on the medical profession in Ohio. Doctors would face a fourth-degree felony and the loss of their medical license if they thought they followed the law, but a local prosecutor decided that they didn’t do enough to fit the prosecutor’s interpretation of the definition of “knowledge” or they treated a woman who was in a medical crisis of her own or her fetus where a Down syndrome diagnosis was also present.

When a woman faces a complicated medical diagnosis during pregnancy there are a million things that go through her mind. Some of the questions she will try to answer include:

- Can I raise a child with disabilities?
- Do I have access to health care?
- Are there services for people with disabilities in my community?
- Can I take the time off work needed to take care of my child?
- Do I have maternity leave so that my child and I can figure out this complicated diagnosis?
- Do I have access to specialists to help my child develop, as well as medical professionals to treat possible medical complications?
- Does my school system have adequate programs in place to educate my child so that they can grow to their full potential?
- Do I have the support system I need to navigate this new world?

Does this legislation help address any of these issues? No, it does not. The future of Medicaid expansion in Ohio remains uncertain. This is a program that families across the state who have children with special needs rely on to help take care of their children's complicated healthcare needs. Congress has failed to re-authorize the CHIP child health program, leaving the future of coverage for 9 million children and pregnant women at risk.¹ During the debate on how to "repeal and replace" the affordable care act, Congress proposed completely eliminating the Medicaid expansion and instead providing block grants to states to run the program. These block grants would have woefully underfunded the Medicaid program and, according to disability rights groups across the nation, left millions without the healthcare services they needed.² Thirteen of the 19 sponsors of H.B. 214 are also sponsors or co-sponsors of H.C.R 6, a resolution that urges congress to eliminate the Medicaid expansion in the ACA and replace it with block grants that will leave people with disabilities without the care and coverage they need. If this bill is about supporting people with disabilities and not about abortion as many supporters claim, how can you simultaneously support this bill, and support the elimination of the program that provides the vast majority of people with disabilities with the health care services they need to survive?

According to the Ohio Coalition for the Education of Children with Disabilities, special education funding in Ohio fell \$210 million dollars short of what was needed.³ Our nation as a whole, and specifically our state, falls woefully behind in the provision of paid leave for workers. How are these families supposed to be able to take care of a child with special needs when 45.9% of workers in our state have no access to paid leave,⁴ forcing a parent to have to choose between their child's needs and losing their job?

If the Ohio General Assembly truly wants to address the needs of families raising children with special needs, these are the issues that should be addressed. We at NARAL Pro-Choice Ohio strongly encourage you to do so.

During a pregnancy, a woman can be faced with many deeply personal and often complex decisions. Ultimately, decisions about whether to choose adoption, end a pregnancy, or raise a child must be left to the woman and the counsel of those she trusts--her family, her health care provider, and her faith community—not the legislature. Thank you for this opportunity to address your committee. I urge you to vote no on H.B. 214 and am happy to try to answer any questions you may have.

¹ <http://nymag.com/daily/intelligencer/2017/10/chip-extension-dangerously-delayed-past-expiration-date.html>

² http://www.slate.com/articles/business/moneybox/2017/06/the_senate_health_care_bill_is_terrifying_for_americans_with_disabilities.html

³ <http://www.ocecd.org/Downloads/OCECD%20Sp%20Ed%20Funding%20Update-Final%205%202014.pdf>

⁴ <http://www.nationalpartnership.org/research-library/work-family/psd/workers-access-to-paid-sick-days-in-the-states.pdf>