

November 4, 2019

Chairman Dave Burke
Senate Health, Human Services and Medicaid Committee
Senate Building
1 Capitol Square, Ground Floor
Columbus, OH 43215

Ranking Minority Member Nickie J. Antonio
Senate Health, Human Services and Medicaid Committee
Senate Building
1 Capitol Square, Ground Floor
Columbus, OH 43215

VIA ELECTRONIC MAIL

Re: Letter in Opposition to Senate Bill 155 and Senate Bill 208

Dear Chairman Burke, Ranking Minority Member Antonio, and Members of the Health, Human Services and Medicaid Committee:

The Center for Reproductive Rights (“Center”) is a legal advocacy organization dedicated to protecting the right to access safe and legal abortion and other reproductive health care services. For more than 25 years, we have successfully challenged restrictions on abortion throughout the United States. In 2016, we won the landmark case *Whole Woman’s Health v. Hellerstedt*,¹ in which the U.S. Supreme Court reaffirmed the Federal Constitution’s robust protections for abortion care. As a part of our mission, we litigate cases across the United States in which patients’ rights to access abortion are limited. In fact, through the Center’s litigation, two laws similar to Senate Bill 155 are currently blocked from enforcement today.²

The Center opposes Senate Bill 155 (“S.B. 155”) and Senate Bill 208 (“S.B. 208”). We strongly urge the Committee to reject these measures.

I. Senate Bill 155

¹ 136 S. Ct. 2292, 2324 (2016).

² *American Medical Association V. Stenehjem*, No.: 1:19-cv-125 (D.N.D Sept. 10, 2019) (preliminarily enjoined). Sean Murphy, *Okla. judge blocks new abortion law from taking effect*, Associated Press (Oct. 23, 2019), <https://apnews.com/2d3f8a910800476ab712c5f5131cb2ec> (bench opinion enjoining enforcement).

S.B. 155 forces doctors to lie to their patients by telling them it may be possible to “reverse” a medication abortion.

There is no evidence to support this claim. As Dan Grossman, M.D., University of California, San Francisco, and Kari White, Ph.D., M.P.H., University of Alabama, Birmingham, write in the *New England Journal of Medicine*, medication abortion “reversal” “is troubling because of the lack of medical evidence demonstrating the safety and efficacy of the treatment; laws promoting it essentially encourage women to participate in an unmonitored research experiment.”³

Furthermore, no major public health organization or medical association has endorsed the practice of medication abortion “reversal.” The American College of Obstetricians and Gynecologists (“ACOG”), the nation’s leading expert on reproductive health care, denounces this practice, stating that “claims regarding abortion ‘reversal’ treatment are not based on science and do not meet clinical standards...and ACOG does not support prescribing progesterone to stop a medical abortion.”⁴

Finally, S.B. 155 infringes on physicians’ right to free speech, which harms the medical profession and patient health. The First Amendment to the United States Constitution, which applies to the States through the Fourteenth Amendment, restricts laws that curtail an individual’s freedom of speech.⁵ As recently as 2018, the Supreme Court held that the government cannot regulate the speech of medical professionals to further its viewpoint.⁶ By forcing doctors to parrot false claims, this bill unconstitutionally restricts a doctor’s ability to provide the best care possible.

As S.B. 155 lacks any evidentiary support and is an unconstitutional attack on the speech rights of doctors in Ohio, we urge you to reject this measure.

II. Senate Bill 208

S.B. 208 creates unnecessary and harsh civil and criminal penalties for abortion providers that perpetuate shame, stigma, and unfounded assumptions.

³ Daniel Grossman, M.D., and Kari White, Ph.D., M.P.H., Abortion “Reversal” — Legislating without Evidence, *N Engl J Med* 2018; 379:1491-1493 (2018).

⁴ American College of Obstetricians and Gynecologists, Facts are Important: Medication Abortion “Reversal” is Not Supported by Science, <https://www.acog.org/-/media/Departments/Government-Relations-and-Outreach/FactsAreImportantMedicationAbortionReversal.pdf?dmc=1>.

⁵ U.S. Const. amend. I; U.S. Const. amend. XIV.

⁶ *Nat’l Inst. of Family & Life Advocates v. Becerra*, 138 S. Ct. 2361, 2376 (2018).

This harmful legislation does nothing but create false narratives about abortion by attacking physicians who provide that care. Existing federal and state law require doctors to care for patients in need of medical attention. In fact, Ohio law already explicitly requires doctors to provide infants with care in the extremely unlikely scenario of a birth after an abortion attempt.⁷ Even that law agrees that doctors already care for *all* patients as a routine part of their medical practice, as language in that statute states doctors must take “measures required by the *exercise of medical judgment* in light of the attending circumstances to preserve the life of” an infant born under such a circumstance.⁸ Yet, S.B. 208 implies that abortion doctors do not provide the same level of care and medical judgement as other health care providers. This assertion is simply not true.

Proponents of this bill aim to mislead the public by suggesting that abortion providers do not provide required care, yet there is no evidence to that any provider has violated existing law. This legislation is nothing more than an attempt to stigmatize abortion and limit access to safe, legal reproductive health care.

Patients need and deserve access to compassionate and appropriate medical care. S.B. 208 inappropriately injects politicians into the patient-physician relationship, disregarding a provider’s training and clinical judgment and undermining their ability to determine the best course of action with their patients.

We urge you to reject this attack on Ohioans’ access to reproductive health and vote no on S.B. 208.

III. Conclusion

S.B. 155 and S.B. 208 disregard a person’s fundamental right to determine when and whether to have children by creating harmful liabilities for physicians who provide that care. Both bills do nothing but stigmatize abortion care and target abortion providers. One in four women will have an abortion in her lifetime, and these bills would seriously harm them.⁹ Ohioans need more access to healthcare, not less.

We urge you to vote no on S.B. 155 and S.B. 208 and reject both measures. Please do not hesitate to contact us if you would like further information.

⁷ See Ohio Rev. Code Ann. § 2919.13 (emphasis added).

⁸ *Id.*

⁹ Rachel K. Jones & Jenna Jerman, *Population Group Abortion Rates and Lifetime Incidence of Abortion: U.S., 2008*, 107 *Am. J. Pub. Health* 1904, 1904 (2017).

Sincerely,



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