On June 3, 2019, the Director of Elections issued an invitation for public comments regarding petition summaries for two proposed statewide initiative petitions sponsored by the Michigan Heartbeat Coalition and Michigan Values Life. The invitation for public comments describes the new, optional process by which the sponsor of an initiative, referendum, or constitutional amendment petition may request approval of the summary of the purpose of the petition, prior to placing the petition in circulation. MCL 168.482b(1), as enacted by 2018 PA 608.

The Bureau of Elections received over 500 public comments regarding the petition summaries for both proposed initiative petitions, many of which were duplicative or reflected the same sentiment using identical or substantially similar language.

Copies of 17 public comments are attached; these submissions are representative of all of the comments received by the June 10, 2019 deadline:

<table>
<thead>
<tr>
<th>Exhibit No.</th>
<th>Total No. of Same or Substantially Similar Submissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>82</td>
</tr>
<tr>
<td>2</td>
<td>354</td>
</tr>
<tr>
<td>3</td>
<td>72</td>
</tr>
<tr>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>8</td>
<td>1</td>
</tr>
<tr>
<td>9</td>
<td>1</td>
</tr>
<tr>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>11</td>
<td>1</td>
</tr>
<tr>
<td>12</td>
<td>1</td>
</tr>
<tr>
<td>13</td>
<td>1</td>
</tr>
<tr>
<td>14*</td>
<td>1</td>
</tr>
<tr>
<td>15*</td>
<td>1</td>
</tr>
<tr>
<td>16*</td>
<td>1</td>
</tr>
<tr>
<td>17*</td>
<td>1</td>
</tr>
<tr>
<td>TOTAL</td>
<td>522</td>
</tr>
</tbody>
</table>

*Inadvertently omitted from original publication.*
Dear Bureau of Electives,

I am a family medicine resident physician at the University of Michigan and I am writing with several concerns regarding the proposed wording for the "Michigan Heartbeat Coalition/Michigan Values Life" ballot proposal. These include medical inaccuracies in the language, lack of mention of the maternal safety of the procedure compared to alternative methods, and the lack of context for signators to understand the potential impact of this bill on maternal health in Michigan. These are major issues that need to be addressed prior to the ballot proposal going out to the public.

The term "dismemberment abortion" is not a medical term and should be removed from the proposal and replaced with the medical name of the procedure, dilation and evacuation. The proposal language includes a graphic description of the dilation and evacuation procedure in terms of fetal removal, but does not acknowledge the maternal benefits of the procedure, or increased maternal risks with alternative options such as medical induction of labor, which are critical for potential signators to understand in weighing the impact of this ban. Additionally, the proposal does not provide readers with a context of the gestational ages of surgical abortions which would be banned with this proposal; signators should be informed that banning dilation and evacuation procedures would result in a ban on surgical abortions after 14 weeks of pregnancy. Finally, the proposal should alert signators to the lack of exceptions in the legislation for circumstances including lethal fetal diagnosis, rape, incest, or maternal well-being.

Banning this safe, evidence-based procedure has significant negative consequences for maternal health in the state of Michigan. We urge the Bureau of Elections to consider these comments and require changes to the "Michigan Heartbeat Coalition/Michigan Values Life" ballot proposal language to ensure Michigan voters receive fair, balanced, and accurate information when considering this proposal.

Thank you,

Jonathan Gabison, MD

********************************************************************************

Electronic Mail is not secure, may not be read every day, and should not be used for urgent or sensitive issues
To Whom It May Concern,

I would like to comment on the advertised open public comment period. I have read the 100 word summary proposed for the upcoming petition drive “Michigan Values Life” and potential ballot issue. I think the verbiage is fine. It clearly communicates the procedures that would be prohibited.

Thanks for your consideration,

Kathy Leach

Electronic Mail is not secure, may not be read every day, and should not be used for urgent or sensitive issues.
I approve of the following wording for the Michigan Values Life petition:

An initiation of Legislation to enact the Partial-Birth and Dismemberment Abortion Ban Act. The initiated law would ban the dismemberment abortion procedure. “Dismemberment abortion” generally means an abortion in which the physician, deliberately and intentionally uses any instrument, device, or object to dismember a living fetus by disarticulating limbs or decapitating the head from the fetal torso and removing the dismembered fetal body parts from the uterus regardless of whether the fetal body parts are removed by the same instrument, device, or object or by suction or other means. If not enacted by the Michigan State Legislature in accordance with the Michigan Constitution of 1963, the proposed legislation is to be voted on at the General Election, November 3, 2020

Sincerely,

Kathleen C. Day
Lab Manager & Sr. Research Associate
Rogel Cancer Center at NCRC
Bldg. 520, lab 1408-9, Office 1310
1600 Huron Parkway
Ann Arbor, MI 48109-2800
Lab phone: (734) 647-2528
kcd@umich.edu or kcd@med.umich.edu

Electronic Mail is not secure, may not be read every day, and should not be used for urgent or sensitive issues.
Dear Bureau of Electives,

I am a 4th year OB/GYN resident at the University of Michigan. I will be an attending at St. Joseph Mercy Hospital this fall. I am writing with concerns regarding the proposed wording for the "Michigan Heartbeat Coalition/Michigan Values Life" ballot proposal. I have several concerns this proposal. My concerns include: medical inaccuracies in the language, lack of mention of the maternal safety of the procedure compared to alternative methods, and the lack of context for signators to understand the potential impact of this bill on maternal health in Michigan.

Please consider the following:
- Use the term Dilation and Evacuation, not the term "dismemberment abortion"
- Please acknowledge the maternal benefits of the procedure
- Please acknowledge the maternal risks with alternative options such as medical induction of labor (ie less bleeding associated with D&E)
- Please inform voters that banning dilation and evacuation procedures would result in a ban on surgical abortions after 14 weeks of pregnancy
- The proposal should alert signators to the lack of exceptions in the legislation for circumstances including lethal fetal diagnosis, rape, incest, or maternal well-being.

Banning this safe, evidence-based procedure has significant negative consequences for maternal health in the state of Michigan. We urge the Bureau of Elections to consider these comments and require changes to the "Michigan Heartbeat Coalition/Michigan Values Life" ballot proposal language to ensure Michigan voters receive fair, balanced, and accurate information when considering this proposal.

Thank you,
Meghan Bugosh, MD

**********************************************************************************************************************************************

Electronic Mail is not secure, may not be read every day, and should not be used for urgent or sensitive issues
Dear Bureau of Elections,

I am an obstetrician-gynecologist practicing in Michigan, and I am writing with serious concerns regarding the proposed wording for the “Michigan Heartbeat Coalition/Michigan Values Life” ballot proposal.

First, as a clinical care provider the proposed wording is so vague that it would be unclear precisely what is banned. While it may be that the intent is to ban the D+E (dilation and evacuation) procedure, which is generally performed only after 14-16 weeks, the language is broad enough to include all abortion procedures at any gestational age. Potentially even very early procedures performed via suction could be considered to be covered by this ban, if there is even a theoretical possibility that the fetus was not intact at the time that it was removed. When combined with the federal ban on intact dilation and extraction procedures, this ban leaves healthcare providers with no option for caring for patients – it will be illegal to perform a procedure whether the fetus is intact or not.

It may be that the ballot initiative is aimed at requiring my colleagues and I to perform a procedure to induce fetal demise prior to the surgical removal, but that adds risk and pain for women with no benefit other than compliance with the language of the ballot proposal. Alternatively, it may be that the intent of the ballot proposal is to require all women to have a labor induction to end their pregnancy. It is the very strong preference of many women to avoid this, not to mention that there are simply not enough hospital beds in the state to care for women should labor induction be required, and that medical evidence shows that D+E is a safer option than any alternatives.

However, my most important concern is not for the difficulty it will pose for healthcare providers or health systems, but for the impact on women and families in Michigan. Even assuming that the ballot proposal’s intent is only to ban D+E procedure in the 2nd trimester of pregnancy, its effects on women would be devastating. I have personally cared for two patients in the past year who required D+E procedures to spare their health and likely lives in the face of serious infection. I can’t say for sure if they would have died without it, but it is likely, and even if they didn’t, they would have both likely lost their future fertility, and potentially suffered other severe consequences like kidney failure. I have cared for countless women who received unwelcome news about fetal conditions or anomalies that led them to end their pregnancies in the second trimester. Care options for these patients would be severely restricted, and impacted for the worse, if this ballot proposal passes.

I offer my patients, as well as the family members and advisors they involve in their care, as much time and counsel as they need in the face of abortion decisions. The ballot proposal as written means that people other than the pregnant women, her family, her religious mentors should she involve them, and her doctors determine the course of medical care, including its very specific medical details. That seems to put medical decision-making in the wrong place.

Reasonable people may disagree about whether abortion should be permitted, and under what circumstances. I don’t write in order to persuade anyone on the topic of abortion. I do write to underscore that the details of medical care are best left to the caregiving team and their patients, and not decided by a ballot initiative that (seemingly deliberately) doesn’t provide all of the information for voters to make an informed decision.

Many thanks.

Lisa Harris, MD, PhD
Ann Arbor, MI
Dear election staff:

I write as a board-certified Ob/Gyn who does c-sections, provides abortion care, and takes care of women throughout their reproductive lives. The ballot language proposed regarding banning a dilation and evacuation ban (the medically correct term - not dismemberment) and a "heartbeat" ban is concerning, misleading, and medically inaccurate. The former ban would make me a felon for providing my patients care in line with the medical standard of care for abortion in the second trimester. Moreover, it would deny my patients a safe, common method of abortion care regardless of their personal reasons for choosing it.

Although both these bans represent extreme interference in the patient-physician relationship, the latter ban would ban almost all abortions in the state of Michigan. Cardiac activity can be detected on ultrasound at about 2 weeks after a patient's missed period. Many of my patients don't realize they're pregnant at this point, and many others can't muster the resources to access abortion care by this point in pregnancy. For these women, this ban eliminates their access to abortion care in the state of Michigan.

Neither of these bans takes into account rape, incest, fetal anomalies, or women's health concerns short of life-threatening ones. Both bans would prevent my patients from accessing the full spectrum of reproductive health care. Please consider Michigan ACOG's commentary on these proposals' language with respect to the medical language they contain; also, please consider what these mean for the women of Michigan.

Respectfully,

Lauren Owens, MD, MPH
Dear Bureau of Electives,

I am a Family Medicine physician and I am writing with concerns regarding the "Michigan Heartbeat Coalition/Michigan Values Life" ballot proposal.

I have several concerns about this proposal. My concerns include: medical inaccuracies in the language, lack of mention of the maternal safety of this procedure compared to alternative methods, and the lack of context for signators to understand the potential impact of this bill on maternal health in Michigan.

In medicine, we have a duty to provide informed consent so that patients have all-encompassing knowledge regarding consequences of medical intervention (or lack thereof) prior to making a decision. This is a responsibility, regardless of biases or personal experiences. Many patients are not medically trained, nor are politicians. In the same way, many medical professionals are foreign to the world of lawmaking and policy. I believe individuals from various arenas should work together to make the most informed decisions possible.

The term "dismemberment abortion" is not a medical term and should be removed from the proposal and replaced with the medical name of the procedure, dilation and evacuation. The proposal language includes an inaccurate graphic description of the dilation and evacuation procedure in terms of fetal removal, which would manipulate signators into ignorant decision-making. The language does not acknowledge the maternal benefits of the procedure, or increased maternal risks with alternative options such as medical induction of labor, which are critical for potential signators to understand in weighing the impact of this ban. Additionally, the proposal does not provide readers to a context of the gestational ages of surgical abortions which would be banned with this proposal; signators should be informed that banning dilation and evacuation procedures would result in a ban on surgical abortions after 14 weeks of pregnancy. Finally, the proposal should alert signators to the lack of exceptions in the legislation for circumstances including lethal fetal diagnosis, rape, incest, or maternal well-being. The impact that this could have on the future generations of Michigan and the mental health of today’s population is truly daunting.

Banning this safe, evidence-based procedure has significant negative consequences for maternal health in the state of Michigan. We urge the Bureau of Elections to consider these comments and require changes to the "Michigan Heartbeat Coalition/Michigan Values Life" ballot proposal language to ensure Michigan voters receive fair, balanced, and accurate information when considering this proposal.

Thank you,

Yasmine Kahok, MD

***********************************************************************

Electronic Mail is not secure, may not be read every day, and should not be used for urgent or sensitive issues
This proposal calls the procedure, "dismemberment abortion" which is not a medical term.

The language unnecessarily graphically describes a perception of the procedure, but does not provide information about the potential maternal benefits of this procedures, nor the risks of the alternatives such as induction of labor. The language does not inform that this is the most common method of abortion after 14 weeks, nor that the bill does not include any exceptions (ex: rape, incest, severe or lethal fetal diagnosis).

The lack of context provided is of significant concern to me.

Carissa Orizondo, MD
Clinical Lecturer, Department of Family Medicine
University of Michigan, Integrative Family Medicine at Domino’s Farms

*****************************************************************************

Electronic Mail is not secure, may not be read every day, and should not be used for urgent or sensitive issues
Dear Bureau of Electives,

I am a family medicine physician who provides obstetrical care and also cares for many families with stillbirth and infant death.

This proposal uses a graphic and misrepresentative presentation of a D&E. D&E is used in situations in which induction of labor is unsafe or less safe for the mother. The goal is NOT deliberate dismemberment of a fetus but simply to extract the fetus as gently as possible in the safest way for a mother. Parents needing this procedure usually are those who have a fetus with a life-threatening fetal anomaly a fetus who has ALREADY died inside the womb, or a mother who medically is not able to continue to carry the pregnancy.

This language does not respect women and has no exceptions for rape, life-threatening diagnosis, or maternal medical needs, and is written in a political way to sound as graphic and horrific as possible. Abortion is legal in the U.S. and physicians need to be able to perform abortion in the way that is safest for a mother.

This proposal must absolutely be worded differently so that it is evidence and fact-based rather than sensationalistic and misleading.

Thank you,

Katherine J. Gold
University of Michigan

Electronic Mail is not secure, may not be read every day, and should not be used for urgent or sensitive issues
Please enact the Partial-Birth and Dismemberment Abortion Ban Act to ban the
dismemberment abortion procedure. “Dismemberment abortion” generally means an
abortion in which the physician, deliberately and intentionally uses any instrument, device, or
object to dismember a living fetus by disarticulating limbs or decapitating the head from the
fetal torso and removing the dismembered fetal body parts from the uterus regardless of
whether the fetal body parts are removed by the same instrument, device, or object or by
suction or other means. This action is inhumane and painful for the child.

If not enacted by the Michigan State Legislature in accordance with the Michigan Constitution
of 1963, the proposed legislation is to be voted on at the General Election, November 3, 2020.

We cannot go on killing our children, who are the future of our society.

Thank you.
Cheryl Neuroth

Sent from my iPhone
If not too late, it would be a good idea to use the word evacuation. It might seem pointless in light of the other language in the summary which makes it all crystal clear, but Dana Nessel is smart enough to pretend she doesn't understand it and so claim it's misleading.

Tom Powers, kalamazoo
Please do not let Abortion go through. I am so saddened that Our Political System would ever allow anything like this to even make the Ballot. I Pray everyday for Life and You should too. God has Blessed Me with 4 Beautiful Children and I cannot Th...
I am part of Right to Life of Michigan. I do want babies saved. See what Dr. Livitina says. He has lived through losing a child and other things. He has seen both sides of the issue.

God bless you,

Martha Burton
Sally and Melissa,

My understanding is that the ACLU of Michigan’s public comments, along with one or more other organizations were omitted from what the Bureau has re-published.

Would you please confirm that our public comments were received, reviewed and considered? Would you also confirm that the omission of our public comments from what the Bureau has re-published will be rectified at your earliest convenience.

Best regards,

Sharon

From: Merissa Kovach  
Sent: Monday, June 17, 2019 10:10 AM  
To: elections@michigan.gov  
Cc: Sharon Dolente <sdolente@aclumich.org>  
Subject: RE: Letter from the ACLU of Michigan  

Hello,

On Monday, June 10th at 3:51 pm, we submitted public comments regarding Michigan Value’s Life’s proposed petition language (see below). Upon reviewing a summary of all submitted comments on the Board of State Canvassers website, we cannot find our submitted comments (attached). Can you please provide confirmation that you did receive our comments prior to the deadline. Thank you.

-Merissa

Merissa Kovach  
Pronouns: she, her, hers  

Merissa Kovach, Policy Strategist  
American Civil Liberties Union of Michigan  
2966 Woodward Ave. Detroit MI 48201  
(Offices in Detroit, Grand Rapids and Lansing)  
269.330.2813 | mkovach@aclumich.org  
aclumich.org  

Dear Director Williams:

Attached please find the ACLU of Michigan’s public comments regarding the proposed petition summary language. Thank you.

Sincerely,

Lisa Gore
Paralegal
American Civil Liberties Union of Michigan
2966 Woodward Avenue, Detroit, MI 48201
Offices in Detroit, Flint, Grand Rapids and Lansing
313.578.6826 • lgore@aclumich.org
June 10, 2019

Sally Williams, Director
Michigan Department of State, Bureau Of Elections
Richard H. Austin Bldg., First Floor
430 West Allegan
Lansing, MI 48918

Dear Ms. Williams,

The ACLU of Michigan writes to provide public comment on the proposed petition summary language submitted by the Michigan Values Life (MVL) committee.

Michigan made significant changes to the laws governing initiative petitions in 2018. See, Public Act 608 of 2018. The ACLU of Michigan raised serious questions about the constitutionality of PA 608 in the House and Senate and again with then Governor Snyder. The ACLU of Michigan submitted a legal memorandum challenging the constitutionality of PA 608 to Attorney General Nessel, who has since issued an opinion finding numerous provisions of the law unconstitutional. In the last several weeks, three lawsuits have been filed regarding PA 608. It remains to be seen whether PA 608, which provides for summary language to be drafted prior to circulation, will be upheld by the courts. Nevertheless, we hereby submit these comments to protect the record and ensure a fair outcome.

Pursuant to MCL 168.482b(1), as currently amended by PA 608, a proponent of a petition “may, before circulating any petition, submit the summary of the purpose of a proposed amendment or question … to the Board of State Canvassers for approval as to the content of the summary.” The Director of Elections is responsible for preparing the summary of the purpose of the proposed amendment or question proposed. MCL 168.482b(2). The summary is “limited to not more than 100 words and must consist of a true and impartial statement of the purpose of the proposed amendment or question proposed in language that does not create prejudice for or against the proposed amendment or question proposed”. MCL 168.482b(2)(b). The summary “must be worded so as to apprise the petition signers of the subject matter of the proposed amendment or question proposed but does not need to be legally precise. MCL 168.482b(2)(c). Finally, the summary “must be clearly written using words that have a common, everyday meaning to the general public.” MCL 168.482b(2)(d).

MVL’s proposed summary language does not meet the standard provided by law because it is neither true nor impartial. Rather it is incendiary and would create prejudice in favor of the initiative by misleading the public. The proposed summary language does not use words that have
a common, everyday meaning to the general public, nor does it use accurate medical terminology. Moreover, the proposed summary language would not apprise potential petition signers of what the initiative would do. It should therefore be rejected.

Although the language of MVL’s initiative is medically inaccurate and misleading, it is apparent that its purpose is to ban the dilation and evacuation (D&E) procedure, which is the standard of care and medically-preferred method of abortion starting at 14-15 weeks of pregnancy. The American College of Obstetricians and Gynecologists (ACOG) defines D&E as: “A procedure in which the cervix is opened, and the contents of the uterus are removed with suction or other surgical instruments” – a far more neutral and accurate description than what MVL has proposed.

In a 2015 statement, ACOG condemned the language that proponents of abortion bans, like MVL, typically use, saying: “These legislative efforts [to ban D&E] are based on nonmedical, subjective language. This language will create confusion, thus putting women at risk...” (emphasis added) The statement goes on to say that such laws force doctors, “by ill-advised, unscientifically motivated policy, to provide lesser care to patients.”

In short, MVL’s initiative would, through subterfuge and provocation, ban the D&E procedure for no medically-supported reason and would put physicians at risk of criminal prosecution for exercising their best medical judgement.

The use of misleading and inaccurate language is a common occurrence in the regulation of women’s health, particularly with regard to abortion care. The Eastern District of Michigan struck down a “Legal Birth Definition Act” as, among other things, unconstitutionally void for vagueness because the Act did provide notice of what actions “constitute a violation of the Act”. Given that “dismemberment abortion” is not a medical term, and the initiative does not use a commonly accepted medical definition for the procedure it seeks to ban, the proposed language should likewise be rejected because it fails to notify physicians and petition signers alike of which medical procedure it purports to ban.

The petition summary language proposed by MVL is neither accurate nor impartial. As such, it would create prejudice in favor of the initiative by using nonmedical and intentionally inflammatory language. The proposed summary would not apprise petition signers of the subject of the petition, and it would mislead petition signers. For all these reasons, the language proposed by MVL should not be adopted.

---

1 D&E is medically-preferred due to “its low risk of complications, relative simplicity, and short duration...” W. Ala. Women’s Ctr. v. Williamson, 900 F.3d 1310, 1327 (11th Cir. 2018) (quotations omitted).
4 Northland Family Planning Clinic, Inc. v. Cox, 394 F. Supp 2d 978, 989 (E.D.Mi 2005). Right to Life of Michigan was the proponent of the “Legal Birth Definition Act” that was found unconstitutionally vague and is the organization behind the citizen initiative proposed by Michigan Values Life.
Thank you in advance for your review and consideration of these public comments submitted by the ACLU of Michigan. Please feel free to contact us at mkovach@aclumich.org or sdolente@aclumich.org if you have any questions.

Sincerely,

ACLU of Michigan

Merissa Kovach

Sharon Dolente
Our contacts at the ACLU recommended we forward our comments again as a few seem to have been lost in the shuffle. Can you please confirm that our comments were received?

Thank you,
Amanda

From: Amanda West
Sent: Monday, June 10, 2019 4:49 PM
To: elections@michigan.gov
Subject: Materials regarding statewide ballot proposals

Please see the attached Memo and supporting materials from Planned Parenthood Advocates of Michigan.

Thank you,

Amanda West (she/her/hers)
Director of Government Relations
Planned Parenthood Advocates of Michigan | Planned Parenthood of Michigan
115 W. Allegan, Suite 500 | Lansing, MI 48933
Ph: (517) 482-1080 Ext. 3 | Cell: (517) 214-7529

You can support our work at www.miplannedparenthood.org

Please consider the environment before printing this email. Notice: This E-mail (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521, is confidential and may be legally privileged. If you are not the intended recipient, you are hereby notified that any retention, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone at (734) 926-4800 or email and proceed with deleting this message. Thank you.
The ACLU of Michigan works to preserve and strengthen the constitutional liberties, including the right to reproductive freedom, of every person in Michigan. We oppose Senate Bills 229 and 230 because they will ban a very safe method of abortion used by many physicians because of its proven record through years of research and medical practice. In addition, the legislation targets physicians that provide critical reproductive health care by criminalizing the use of this safe procedure.

Multiple Supreme Court and lower court decisions have consistently reaffirmed the right of a woman to end a pregnancy safely and legally for the past four decades. This ban flies in the face of clear Supreme Court precedent which has squarely held that a ban on the most commonly-used method of abortion is unconstitutional. In Stenberg v. Carhart, the Court held specifically that a D&E method ban, similar to one contemplated by SB 229, was unconstitutional. Moreover, in Gonzales v. Carhart, the Court ruled that a ban on another second-trimester procedure, D&X, was constitutional in reliance on the continued availability of D&E, the most commonly used method of second trimester abortion. Accordingly, courts have blocked D&E bans each time they have been challenged over the past 4 years, specifically in Alabama, Arkansas, Kansas, Kentucky, Louisiana, Ohio, Oklahoma, and Texas.

This law is not only unconstitutional but dangerous. A woman must be able to make her own decisions with the advice of the health care professional she trusts – without interference from politicians who presume to know better. Medical professionals like the American Congress of Obstetricians and Gynecologists oppose these bans because doctors, at threat of prosecution, would be forced to perform a procedure in a manner dictated by politicians rather than best medical standards, even if they think it is inappropriate for their patient. In no other field of medicine would this be acceptable.

---

2 See Stenberg, 530 U.S. at 945-46.
A woman’s health, not politics, should guide important medical care at every point in a pregnancy. Many things can go wrong during a pregnancy. A woman’s health could be at risk in ways that we cannot even imagine, especially if complications develop. It is callous to impose one rule on every woman, regardless of the circumstances of her pregnancy. Every pregnancy is different and we cannot presume to know all the circumstances surrounding a personal, medical decision to have an abortion.

We’ve seen what happens when politicians interfere in these deeply personal medical decisions. In states that have passed other abortion bans, some women and their families have been put into unimaginable situations – needing to end a pregnancy, but unable to do so.

Criminal laws should not be used to endanger women’s health. We therefore urge you to oppose Senate Bills 229 and 230 because they are unnecessary, unconstitutional, and unsafe.

Merissa Kovach, Policy Strategist
ACLU of Michigan
mkovach@aclumich.org
c: 269-330-2813
May 1, 2019

The Honorable Peter Lucido  
Senate Judiciary Committee, Chair  
Post Office Box 30036  
Lansing, MI 48910

Dear Chairman Lucido:

On behalf of the Michigan State Medical Society (MSMS), which represents over 15,000 physicians caring for millions of patients statewide, I am writing to share our feedback on Senate Bills 229 and 230, which seek to ban the practice of “dismemberment abortion,” as it is defined in the bill.

Our concerns stem primarily from the potential criminal penalties that could be imposed and the concerning precedent the legislation sets with respect to interference into the sanctity and confidentiality of the physician-patient relationship. These concerns are consistent with standing policy of both MSMS and the American Medical Association (AMA).

Regardless of the underlying intent, we object to efforts, legislative or otherwise, that might cause a physician to forego exercising his or her best professional medical judgment for fear of criminal prosecution. Although the legislation seeks to accommodate circumstances under which the life of the mother is at risk, these circumstances are often nebulous, and cultivating an environment of fear and uncertainty in this way could lead to increased complications and adverse patient outcomes.

While the policies of both the AMA and MSMS do not speak specifically to the dilation and evacuation method (D&E) discussed during the Senate Judiciary Committee hearing on April 25, it is, according to the American Congress of Obstetricians and Gynecologists, the “predominant approach to abortion after 13 weeks,” and it is “evidence-based and medically preferred because it results in the fewest complications for women compared to alternative procedures.” As we recognize that abortion is a medical procedure, we would oppose any legislative interference that would hinder physician discretion to act within the standards of good medical practice and in the best interest of the patient.

Thank you for the opportunity to share our feedback on Senate Bills 229 and 230. Should you have any further questions, please contact MSMS Director of State and Federal Government Relations Christin Nohner at cnohner@msms.org or 517-336-5737.

Sincerely,

Betty S. Chu, MD, MBA
President
Michigan State Medical Society
Most Michigan voters said they opposed a proposed ban on a common second-trimester abortion procedure that could become law by 2020.

In a poll of 600 likely voters commissioned by Glengariff Group and released to The Detroit News and WDIV-TV (Channel 4), 58% of voters said they opposed the new restriction that would charge doctors with a two-year criminal offense for performing the procedure while 31% supported the restriction.

The legislation would ban a procedure called dilation and evacuation when performed on living fetuses. The procedure involves dilation of a woman's cervix, vacuum aspiration and surgical removal of a fetus with instruments such as forceps. The procedure was used in 1,777 abortions in 2017, according to the Michigan Department of Health and Human Services.

**Ban abortion procedure?**

Most Michigan voters said they opposed a proposal to "ban a commonly used abortion procedure in Michigan during the second trimester and charge doctors who use the procedure with a two-year criminal sentence."

<table>
<thead>
<tr>
<th>Oppose</th>
<th>Support</th>
<th>Undecided</th>
</tr>
</thead>
<tbody>
<tr>
<td>58%</td>
<td>31%</td>
<td>12%</td>
</tr>
</tbody>
</table>

Note: Poll of 600 likely Michigan voters conducted May 28-30 with margin of error of plus-minus 4 percentage points. Numbers may not total 100% because of rounding.

Source: Glengariff Group

More: [Inside this poll: How Michigan's likely voters were chosen](https://www.detroitnews.com/story/news/politics/2019/06/05/inside-poll-how-michigans-likely-voters-were-chosen/1345533001/)
While the proposed ban is popular with pro-life residents, the poll results indicate the policy itself appears to be unpopular with most other voters, said Glengariff Group pollster Richard Czuba.

GOP majorities in the House and Senate passed separate but similar forms of the legislation restricting dilation and evacuation abortions earlier this year, but have yet to move either package through both chambers and on to Democratic Gov. Gretchen Whitmer, who has pledged to veto the bills.

More: Whitmer's approval rating climbs after no-fault reforms (/story/news/politics/2019/06/06/whitmers-approval-rating-climbs-no-fault-reforms/1331332001)

More: Biden, Sanders other Democrats lead Trump in Michigan poll (/story/news/politics/2019/06/05/biden-sanders-democrats-lead-trump-michigan-poll/1330277001)


More: Nearly 50% of voters say U.S. China policy 'bad' (/story/news/politics/2019/06/05/plurality-voters-say-trumps-china-trade-policies-bad-michigan/1339447001)

In anticipation of Whitmer's veto, Right to Life of Michigan has also filed a ballot petition to ban the abortion procedure. Once the ballot initiative's language is approved, the group plans to collect roughly 400,000 signatures in support of the ban and then ask the Legislature to adopt the measure instead of placing it on the November 2020 ballot.

"We've done this four times in the past," said Genevieve Mamon, legislative director for Right to Life of Michigan. "It's costly to have a ballot initiative, and we feel its no different than a regular piece of legislation, only this time there are 400,000 co-sponsors."

The ballot initiative is seen by some political experts as a way of energizing pro-life voters, who usually vote for Republican candidates, going into a presidential election. Liberal groups placed ballot measures on marijuana legalization and absentee ballot expansion on Michigan's November 2018 ballot that were credited with attracting more Democratic-friendly voters to the polls.

"Any benefit that Republicans get in energizing their base is countered by how poorly this will be received among women in counties like Oakland or Macomb, which they desperately need," Czuba said about the anti-abortion initiative.

Nearly 50% of those polled by Glengariff Group last week said they strongly opposed the proposed restrictions, while nearly 24% strongly supported banning the procedure.

Of the 600 people polled, 42% called themselves pro-choice and 33% considered themselves pro-life. Nearly a quarter of voters identified as "somewhere in between" on the issue.

Typically, a ballot initiative has to poll in the upper 50% range to stand a chance of passage as a traditional ballot measure, Czuba said.

But a ballot initiative with enough valid signatures goes straight to the Legislature, which has 40 days to approve it or let it go on the ballot to be decided by voters. If the Senate and House approve the initiative, it avoids a potential gubernatorial veto and becomes state law.

Those polled specifically were asked whether they supported proposed state legislation "that would ban a commonly used abortion procedure in Michigan during the second trimester and charge doctors who use the procedure with a two-year criminal sentence."

Right to Life's Mamon questioned the wording and estimated support for the ban would be higher when the procedure is described in detail, as is the case in the proposed legislation and petition language.

"The way the question is worded makes a huge difference as to whether or not people would actually support this," Mamon said.

Czuba said he avoided using the word "dismemberment" or even the procedure's medical name to avoid dipping into the "PR battle" surrounding the issue.

"The pro-life movement wants to use graphic words and describe things to scare people and horrify them, but when you present a straightforward neutral reading of this it is not popular at all," he said.
Instead of "sterilizing the language," the legislation and petition language use medically accurate wording that is reflective of the reality of the procedure, Mamon said.

"If you'd actually worded the question to describe what the bill actually bans you might be surprised with the results," she said.

Planned Parenthood Advocates of Michigan was unsurprised by the poll results, noting the majority of the state's voters in 2018 elected "pro-comprehensive, reproductive health women" to Michigan's highest elected positions — U.S. Senate, governor, attorney general and secretary of state.

"I think we already had an idea of what Michigan thought of progressive values and specifically about this issue," said Lori Carpentier, president and CEO for Planned Parenthood Advocates of Michigan.

Mamon said Right to Life of Michigan does not believe its ballot drive will have negative implications for Republicans in the 2020 elections. The group plans to educate people on the issue while collecting signatures and gain supporters in the process, she said.

By educating voters on dilation and evacuation abortions, the group hopes to expose "the reality of abortion, just like we did with the partial-birth abortion ban," Mamon said.

Carpentier said lawmakers supporting the banning of dilation and evacuation procedures are attempting to step "between patients and physicians" and to interfere "with physicians' good judgment."

"We know across the country bans are unpopular," she said. "I think its political folly, frankly."

eleblanc@detroitnews.com

(517) 371-3661

Read or Share this story: https://www.detroitnews.com/story/news/local/michigan/2019/06/06/poll-abortion-restriction-opposed-michigan-voters/1334853001/
Doctors' organization: calling abortion bans 'fetal heartbeat bills' is misleading

American College of Obstetricians and Gynecologists says term does not ‘reflect medical accuracy or clinical understanding’

Jessica Glenza in New York

Wed 5 Jun 2019 02.00 EDT

America’s largest professional organization for doctors specializing in women’s health has come out against the term “fetal heartbeat bill” to describe abortion bans recently enacted by US states.

The president of the American College of Obstetricians and Gynecologists called the bills “arbitrary” bans not reflective of fetal development or science.

“Arbitrary gestational age bans on abortion at six weeks that use the term ‘heartbeat’ to define the gestational development being targeted do not reflect medical accuracy or clinical
understanding,” said Dr Ted Anderson, president of ACOG. The organization represents 58,000 physicians across the US.

“Pregnancy and fetal development are a continuum. What is interpreted as a heartbeat in these bills is actually electrically induced flickering of a portion of the fetal tissue that will become the heart as the embryo develops,” Anderson said.

“Thus, ACOG does not use the term ‘heartbeat’ to describe these legislative bans on abortion because it is misleading language, out of step with the anatomical and clinical realities of that stage of pregnancy,” Anderson said. The ACOG president called on politicians to base policy on “science and evidence”.

In addition, the Guardian has updated its style guide more accurately to reflect abortion bans spreading across the United States.

Instead of using “fetal heartbeat bills”, as the laws are often called by anti-abortion campaigners, the Guardian will make “six-week abortion ban” the preferred term for the laws, unless quoting someone, in order to better reflect the practical effect of the laws.

State abortion bans have been enacted from Ohio to Kentucky, in a new and severe strategy from rightwing groups pushing to make abortion illegal. The bans, dubbed “heartbeat” bills by supporters, have the practical effect of banning abortion before most women know they are pregnant.

Abortion is legal in all 50 states despite the bans. Anti-abortion campaigners hope the court battles will prompt the US supreme court to reconsider the 1973 landmark decision Roe v Wade, which legalized abortion. The laws are all expected to be challenged in court, and are highly unlikely ever to go into effect.

While states have long sought to heavily regulate abortion, outright bans on the procedure were once rare. Nevertheless, abortion care has not always remained accessible. Highly restrictive state regulations have driven many clinics out of business. There are six states that each have only one abortion clinic. In Missouri, the state’s last remaining abortion clinic is fighting the state health authorities in order to stay open.

Obstetrician and gynecologist Dr Sarah Horvath said that accurately describing the bans is important, to avoid confusion among patients and providers alike.

“I don’t think the coverage tends to line up with medical reality,” said Horvath. “No one seems to know what is allowed - and what isn’t - even when it’s medically appropriate,” she said.

Several state bans allow for criminal penalties for doctors performing abortions, including a 99-year penalty in Alabama. Physicians said the bans, if they ever went into effect, will have life-threatening consequences for women.

“There’s this noble ideal you all have,” she said about reporters, but added, “But one is a viewpoint, and one is science and medicine.”

**With women’s rights...**

... under attack, The Guardian is committed to reporting on this issue with rigour and will continue to dispel the myths that distort the abortion debate. We see the right-to-choose as
fundamental to women’s health and human rights - one that is under serious threat in America for the first time in generations. We are determined to deliver the facts and explore the bigger picture surrounding women’s ability to make decisions about their own lives.

More people are reading and supporting The Guardian’s independent, investigative reporting than ever before. And unlike many news organisations, we have chosen an approach that allows us to keep our journalism accessible to all, regardless of where they live or what they can afford.

The Guardian is editorially independent, meaning we set our own agenda. Our journalism is free from commercial bias and not influenced by billionaire owners, politicians or shareholders. No one edits our editor. No one steers our opinion. This is important as it enables us to give a voice to those less heard, challenge the powerful and hold them to account. It’s what makes us different to so many others in the media, at a time when factual, honest reporting is critical.

Support journalism that supports equal rights. Every contribution we receive from readers like you, big or small, goes directly into funding our reporting. Support The Guardian from as little as $1 - and it only takes a minute. Thank you.

Support The Guardian

Topics
- Abortion
- Health
- news
Please accept these comments on the summary of the purpose of the initiatives proposed by the Michigan Heartbeat Coalition and Michigan Values Life ballot committees.

The ballot language summary as submitted by the Michigan Values Life ballot committee does not adhere to the requirements established in Public Act 608, particularly the requirement that the summary must consist of true and impartial language that does not create prejudice for or against the proposal.

The proposed summary includes inflammatory, incendiary terms for a medical procedure. Those terms do not align with the true language used by physicians and medical professionals, nor are these terms found in any medical literature.

The American College of Obstetricians and Gynecologists (ACOG) regularly weigh in on bans such as the one being proposed by this ballot committee, and in none of their communications do they ever include the language used by Michigan Values Life.

For example:

“The predominant approach to abortion after 13 weeks, commonly referred to as ‘dilation and evacuation,’ is evidence-based and medically preferred because it results in the fewest complications for women compared to alternative procedures.”


Statements made by Michigan Values Life officials indicate they know how important that incendiary language is to building support for their proposal.

We would simply ask that the Board of Canvassers hold the committee to the standards of PA 608 and ensure the summaries consist of true and impartial statements that do not create prejudice for or against the proposal.

Similarly, as the Board drafts language for the summary of the initiative proposed by the Michigan Heartbeat Coalition, we would again reiterate that the term “heartbeat” is inconsistent with the medical and scientific reality of a pregnancy at six weeks gestation.

Again, ACOG has weighed in:

“Arbitrary gestational age bans on abortion at six weeks that use the term ‘heartbeat’ to define the gestational development being targeted do not reflect medical accuracy or clinical understanding.”
said Dr Ted Anderson, president of ACOG.

And major news organizations have committed to using only medically-accurate, unbiased terminology when discussing legislation similar to the initiative proposed by the Michigan Heartbeat Coalition:

In addition, the Guardian has updated its style guide more accurately to reflect abortion bans spreading across the United States.

Instead of using “fetal heartbeat bills”, as the laws are often called by anti-abortion campaigners, the Guardian will make “six-week abortion ban” the preferred term for the laws, unless quoting someone, in order to better reflect the practical effect of the laws.

https://www.theguardian.com/world/2019/jun/05/abortion-doctors-fetal-heartbeat-bills-language-misleading

It is our goal to ensure that the Michigan voters receive the most accurate, unbiased information in order to make the decision that best reflects their values.

Thank you for considering our comments.
Dear Chair Lucido, Minority Vice-Chair Chang, and members of Judiciary & Public Safety Committee:

Northland Family Planning Centers urge you to reject Senate Bill 229 and Senate Bill 230, which contain unconstitutional provisions and will unduly burden patients seeking abortion care.

Northland Family Planning Centers have been leaders in abortion care since our founding in 1976. We have three locations in the metro-Detroit area that specialize in abortion care, family planning care, gynecology and adoption.

We are mothers, daughters, aunts, sisters, friends. We are husbands, fathers, uncles, brothers, friends. We are united and share in this common goal: to provide exceptional pregnant people’s reproductive health care in an environment that is safe, clean and filled with compassion and support.

Our highly-skilled doctors are board-certified and specially-trained experts in abortion care who have chosen to provide this service to pregnant people because they believe that pregnant people, not the government or religious organizations, should be able to choose whether or not to bring a new life into this world. They want to ensure that a woman who chooses to terminate her pregnancy can do so in a safe, supportive environment.

Senate Bill 229 would ban our doctors from providing the standard dilation and extraction (D&E) abortion procedure with extremely limited exceptions. D&E is a safe, medically proven method of abortion care, accounting for approximately 95% of all second trimester procedures nationally. In order to obtain care if this provision takes effect, pregnant people would be forced to undergo an additional, invasive, and unnecessary medical procedure—even against the medical judgment of their physician. The bill’s health exception is extremely limited and only applies when the woman’s life is “endangered.”

---

1 Karen Pazol et al, CENTERS FOR DISEASE CONTROL AND PREVENTION, ABORTION SURVEILLANCE - UNITED STATES, 2009, 61(SS08); 1-44 (November 23, 2012), https://www.cdc.gov/mmwr/preview/mmwrhtml/ss6108al.htm.
There are no exceptions for rape or incest. Senate Bill 230 creates sentencing guidelines for violating the method ban. Both bills will collectively be referred to in this testimony as the “D&E method ban.”

This D&E method ban is an unconstitutional attempt by politicians to intervene in doctor-patient relationships. This letter sets forth the constitutional violations and health policy concerns inherent in SB 229 and SB 230. We urge you to reject these measures.

I. The D&E Method Ban Is Unconstitutional.

Under Supreme Court precedent, the D&E method ban is plainly unconstitutional because it imposes an undue burden on the right to abortion.2 The U.S. Supreme Court has repeatedly declared that a ban on the most common method of abortion is unconstitutional.3 In Stenberg v. Carhart, the Court held specifically that a D&E method ban, similar to one contemplated by SB 229, was unconstitutional.4 Moreover, in Gonzales v. Carhart, the Court ruled that a ban on another second-trimester procedure, D&X, was constitutional in reliance on the continued availability of D&E, the most commonly used method of second trimester abortion.5 Accordingly, courts have blocked D&E bans each time they have been challenged, specifically in Alabama, Arkansas, Kansas, Kentucky, Louisiana, Ohio, Oklahoma, and Texas.

Additionally, the Supreme Court’s recent decision in Whole Woman’s Health v. Hellerstedt reaffirmed several Supreme Court decisions affording strong constitutional protection to pregnant people’s right to terminate a pregnancy.6 That decision makes clear that the undue burden standard requires courts to meaningfully scrutinize pre-viability abortion restrictions.7

Senate Bills 229 and 230 are divorced from any health-related state interest, with no evidence to support that the use of additional, medically unnecessary procedures increases the safety of the standard D&E procedure. In contrast, these bills impose significant burdens on patients by forcing them to accept unnecessary, and in some instances, untested, medical procedures in order to obtain an otherwise common and safe procedure. Such extreme burdens on pregnant people, violating both their physical and decisional autonomy, unquestionably impose an unconstitutional burden on access to abortion.

2 “A finding of an undue burden is a shorthand for the conclusion that a state regulation has the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus... [and]...a statute which, while furthering the interest in potential life or some other valid state interest, has the effect of placing a substantial obstacle in the path of a woman’s choice cannot be considered a permissible means of serving its legitimate ends.” Planned Parenthood of Se. Pa. v. Casey, 505 U.S. 833, 877 (1992); accord Whole Woman’s Health v. Hellerstedt, 136 S.Ct. 2292, 2309-10 (2016).
4 See Stenberg, 530 U.S. at 945-46.
6 Whole Woman’s Health, 136 S.Ct. at 2309-10.
7 Id. at 2310 (“[W]hen determining the constitutionality of laws regulating abortion procedures,” courts must place “considerable weight upon evidence ... presented[.]”); id. (courts cannot give “uncritical deference” to the facts supporting the government’s position).
II. The D&E Method Ban Presents an Unwarranted Intrusion in the Doctor-Patient Relationship.

A ban on D&E abortions not only robs pregnant people of access to a common method of second trimester abortion, it also interferes with physicians’ ability to care for their patients. Senate Bills 229 and 230 insert politicians into the examination room, potentially forcing physicians to perform experimental procedures in order to care for their patients. Unsurprisingly, medical experts do not support this legislation. The American Congress of Obstetricians and Gynecologists (ACOG) oppose method bans, stating that “efforts to ban specific types of procedures will limit the ability of physicians to provide pregnant people with the medically appropriate care they need and will likely result in worsened outcomes and increased complications.” ACOG further states that, “[m]edical decisions about reproductive health—especially given the complex circumstances that often accompany second-trimester abortions—should be made by each individual woman in consultation with those she trusts most, including her ob-gyn—not politicians.” Politicians in Michigan should heed the advice of medical experts and reject these harmful measures.

III. Conclusion

House Bills 229 and 230 are unconstitutional, medically unsound, and create unwarranted interference into private medical decisions. We urge you to reject the D&E method ban and stand up for pregnant people and families in our state.

Sincerely,

Lara Chelian, JD
Director of Advocacy & Development
Northland Family Planning Centers, Michigan
LaraChelian@northlandfamilyplanning.com


9 Id.
Reviewing NPR's Language For Covering Abortion

May 29, 2019 · 5:56 PM ET

Protesters demonstrate in front of the US Supreme Court during the March For Life in Washington, DC, January 27, 2017.

Jim Watson/AFP/Getty Images
The debate over abortion rights is emotionally charged. The language NPR uses to discuss the issue should not add to the drama.

This principle applies, of course, to any number of topics in the news that NPR covers. But the legal battle over the right to an abortion is particularly fraught, and the language used to discuss it has become a key tactical weapon used by both sides as they seek to tap into those emotions.

For months we have heard concerns from NPR listeners and readers on both sides of the issue, and they continue to come in as the legislative and legal challenges to abortion are in the news. The complaints are flip sides of a coin. We get complaints that NPR is using the language of "the other side" (whatever the other side is, depending on the affiliation of the letter writer) and thus giving the other side an advantage. An example: a recent letter from a New Hampshire listener noted that NPR had referred to pregnant women as mothers. He called that "a politically loaded term, since a pregnant woman is not a mother until she gives birth."

Conversely, we get complaints that NPR is not using the emotionally charged language that proponents of one side or the other prefer. The main example: We regularly hear from those who say they are "pro-life" and wonder why NPR won't give them the respect of calling them by their preferred label (NPR's policy is not to use "pro-life" or "pro-choice;" more on that below). Some on this side argue that it's not just a matter of respect; that by taking the emotion out of the debate it's also taking the side of those who favor legalized abortion.

What follows is an explanation of what NPR's policy is and the thinking behind it, along with a few thoughts from listeners and readers on how they hear the language. (As a reminder, the Public Editor's office serves as a liaison between listeners and readers and the newsroom. We don't set NPR policy; that's up to the newsroom, including standards and practices editor Mark Memmott.)

There are a number of principles that newsrooms, NPR's included, consider when crafting guidelines for the language used to discuss issues.
One (and in my mind this is the most important) is to be factual, which means describing the situation as accurately as possible given the facts available at the time. Clarity is a related goal; among other things, this means not muddying the waters with vague language and euphemisms. There's also a desire to avoid language that has been politicized, and a need to respect those whose views the newsroom is reporting.

And Memmott, in particular, emphasizes that the newsroom's journalists should seek to avoid labeling people and instead use what he calls "action language" that describes them more fairly and accurately (so a person is "in the country illegally," not an "illegal alien"). I've written before about these issues, including here and here.

Sometimes these goals end up being in conflict. Abortion is one case where it may not be possible to reconcile all of them to everyone's satisfaction.

Let's start with NPR's policy, which, while regularly looked at, hasn't changed since 2010, when NPR adopted new language (the same as used by the vast majority of other major news organizations).

The policy states:

On the air, we should use "abortion rights supporter(s)/advocate(s)" and "abortion rights opponent(s)" or derivations thereof (for example: "advocates of abortion rights"). It is acceptable to use the phrase "anti-abortion", but do not use the term "pro-abortion rights".

How do the principles apply here? For one, the vast majority of stories are about "abortion rights," i.e., the right to choose an abortion (legalized, with some restrictions, in the 1973 Supreme Court decision Roe v. Wade). One supports this right or one opposes it. That is both factual and clear, and emphasizes an action. The terms used by NPR are also largely apolitical, since neither side regularly uses those phrases, and thus NPR cannot be accused of adopting one side's terminology over the other.

A second part of the policy states:

Do not use "pro-life" and "pro-choice" in copy except when used in the name of a group.
This applies, of course, only to NPR's reporters and hosts who are covering the issue. When someone who is being interviewed uses one of those phrases, it is not cut out.

So to be clear, the phrases "pro-life" and "pro-choice" are heard abundantly on NPR.

Why are NPR journalists themselves told not to use them? In the case of "pro-choice," the language is accurate. Those on that side want women to have the option to choose whether to have an abortion. People who oppose abortion rights don't see it as a choice between two morally equivalent positions, but, opinions aside, that language does go back to the central focus of the legal and political controversy: it is a choice that the Supreme Court so far has ruled lies with the pregnant woman.

"Pro-life" is a bit murkier. The very strong implication is that those on the other side do not value life at all. Some people, of course, support the legal right to choose an abortion while at the same time would not choose that option for themselves, because they, too, value life. Others support abortion rights, but oppose the death penalty.

Memmott told me: "One of the issues with pro-choice versus pro-life has always been, if you use either, are you saying the others aren't anti-those things? Couldn't we instead use some action words to describe their positions? So 'pro-abortion rights,' 'anti-abortion rights' are slightly more action. They're still labels, but they're more of a sense of the action, the thinking, without necessarily saying one side is anti something."

In addition, "pro-choice" and "pro-life" are the shorthand phrases adopted by each side, and thus they have become politicized language.

But what about the principle of respect, as many have argued to the Public Editor's office?

One listener wrote that while NPR often tries to respect its subjects by using descriptions that they themselves use, "when a Pro-Life individual identifies herself as Pro-Life, NPR refuses to extend this courtesy and insists on calling her Anti-Abortion in a belittling and a derogatory way."
I agree that respect is an important part of the deliberation. But NPR should respect the strong feelings of all concerned, and "pro-life," for the reasons outlined, casts aspersions. Avoiding pro-life AND pro-choice is an attempt to make sure the debate remains civil. And once again, it should be noted, that guests on NPR's air often have the occasion to explain their thoughts in their own words; NPR does not tell guests what language they can and cannot use in cases like this, nor should it.

Another listener wrote:

I am bothered by your choice of language because it seems to try to marginalize an opinion that NPR seems to oppose and it does so in a way that makes my views come across as being antagonistic toward women. I strongly believe that an unborn child is a person [whose] right to live is more important than a woman's right to an abortion, but my opinion is not derived from an antagonism toward woman, but simply from a desire to protect a vulnerable human.

Along those same lines, we heard from one listener:

Your reporters describe the pro-life movement as "anti-abortion rights" activists, but they describe the pro-choice movement as such, or as being for abortion rights. So they describe one side in terms of what they are against, and the other side in terms of what they are for. This shows bias.

There's a reason for this difference in the language ("for" v. "anti"): The debate is about taking away a right that is currently constitutionally protected. But these listeners make what seems to me as a reasonable point about the use of the word "anti." What if they were described as "opposing" abortion rights? Or as wanting to change the right? Both are accurate and less charged than "anti."

Memmott recently reissued NPR's guidance on the topic and included another point dealing with current legislation. We've received strong criticism of it from those who are opposed to abortion rights (much of it generated by people who are reacting to numerous columns about the guidance that have been published on conservative web sites).

In particular, the guidelines say that:
Proponents refer to it as a "fetal heartbeat" law. That is their term. It needs to be attributed to them if used and put in quotation marks if printed. We should not simply say the laws are about when a "fetal heartbeat" is detected. As we've reported, heartbeat activity can be detected "about six weeks into a pregnancy." That's at least a few weeks before an embryo is a fetus.

Critics also objected to NPR's longstanding guidance, dating from the presidency of George W. Bush, that:

The term "unborn" implies that there is a baby inside a pregnant woman, not a fetus. Babies are not babies until they are born. They're fetuses.

This is essentially the same as the guidance offered by the AP Stylebook, whose combined entry for "embryo, fetus, unborn baby, unborn child" reads:

While the terms are essentially interchangeable in many common uses, each has become politicized by the abortion debate even in uses not involving abortion. Anti-abortion advocates say fetus devalues a human life; abortion-rights supporters argue unborn child or baby equate termination of a pregnancy with murder by emphasizing the fetus's humanity.

Write clearly and sensitively, using any of the terms when appropriate:

Fetus, which refers to the stage in human development from the eighth week of pregnancy to birth, is preferred in many cases, including almost all scientific and medical uses: The virus can be disastrous to a fetus. The lawsuit alleges harm to a fetus that prosecutors claim was viable. The research was conducted on fetal tissue.

In scientific uses referring to the first seven weeks of human development after conception, use embryo.

The context or tone of a story can allow for unborn baby or child in cases where fetus could seem clinical or cold: Weiss said her love for her unborn baby was the strongest feeling she had ever felt. The expectant mother lost her baby in the seventh month of pregnancy.

Of course, as the many critics have pointed out, and AP acknowledges, the use of "fetus" is in direct contrast to the everyday language of society, where references to a
"baby" abound, even at the earliest stages of a pregnancy.

Memmott told me: "We fully understand that someone who is pregnant is thinking of that as a baby. We're not saying they aren't."

Is taking "baby" and "mother" and "life" out of the conversation profoundly biased in favor of those in favor of abortion rights? Science would say no. NPR has explored that, including in Tuesday's interview on Here & Now where the guest's conclusion was: Scientists have widely differing opinions on when life begins and often don't wrestle with the issue at all.

Where does this leave us?

At an impasse, I'm afraid. Journalism standards and ethics, aside from prohibitions on, say, plagiarism, are not always clear-cut. They represent a best effort to put in place policies that attempt to produce fairness and accuracy. Allowing each side to choose the language it wants does not produce, much less guarantee, that goal.

Despite what some people on both sides of the abortion debate seem to believe, NPR's intent is not to take a side in its language choices. (See Morning Edition's Steve Inskeep's thoughts here.) And as Memmott told me, "We're trying hard. And I know people disagree." He added, "We're trying hard not to adopt the language of any side."

Until someone comes up with even more neutral language for this discussion (and many have tried) NPR should stick to its policy.

Editorial researcher Juliette Rocheleau and intern Liana Van Nostrand contributed to this report.

language abortion

Sign Up For The Public Editor Newsletter
To whom it may concern,

Please accept the attached documents as comments from the Michigan Section of the American College of Obstetricians and Gynecologists on the Michigan Heartbeat Coalition/Michigan Values Life public comment on ballot proposals.

Sincerely,

The Michigan Section of ACOG

Halley Crissman, MD, MPH
Resident Physician, HOIV
Department of Obstetrics and Gynecology
University of Michigan
hcrissma@med.umich.edu
Pronouns (she/her/hers)

**********************************************************
Electronic Mail is not secure, may not be read every day, and should not be used for urgent or sensitive issues
June 10, 2019

To whom it may concern at the Bureau of Elections:

The American College of Obstetricians and Gynecologists (ACOG) is the largest non-profit, non-partisan professional organization of obstetricians and gynecologists in the United States, representing over 58,000 OBGYNs nationwide. ACOG sets evidence-based national standards for women's health care. As the Michigan Section of ACOG, we have several concerns with the “Michigan Heartbeat Coalition/Michigan Values Life” ballot proposal language.

1) The term "fetal heartbeat" is misleading and medically inaccurate. A pregnancy prior to 8 weeks' gestation is an embryo, not a fetus. Moreover, the cardiac activity visualized on ultrasound at this gestational age is representative of electric activity and not what laypersons, including the Michigan electorate relying on the government for factual information, would consider a heartbeat. Conflating the two, as in section 2 part d, is misleading and inaccurate.

2) The proposal does not provide readers a context for abortions that would be banned with this proposal. Signators may not be aware that the proposed legislation does NOT offer exceptions for lethal fetal diagnoses, incest, mental health concerns, or rape. We propose that the language include the following: "Banning abortion procedures as outlined in this proposal would result in a ban on almost all abortions in the state of Michigan. This ban does NOT provide exceptions for fetal or women's health indications for abortion aside from threats to women's lives. Almost all abortions would be banned for all pregnant people, including those who experience rape, incest, or receive severe or lethal fetal diagnoses."

We urge the Bureau of Elections to consider these comments and require changes to the “Michigan Heartbeat Coalition/Michigan Values Life” ballot proposal language to ensure Michigan voters receive fair, balanced, and accurate information when considering this proposal.

Sincerely,
The Michigan Section of the American College of Obstetrics and Gynecology
To whom it may concern at the Bureau of Elections:

The American College of Obstetricians and Gynecologists (ACOG) is the largest non-profit, non-partisan professional organization of obstetricians and gynecologists in the United States, representing over 58,000 OB/GYNs nationwide. ACOG sets evidence-based national standards for women’s health care. As the Michigan Section of ACOG, we have several concerns with the “Michigan Heartbeat Coalition/Michigan Values Life” ballot proposal language.

1) The term “dismemberment abortion” is not a medical term, nor is it the medical name for the procedure the proposal seeks to ban. We recommend that “dilation and evacuation procedure” be used in the ballot proposal language to allow signators and, potentially, voters to have clear information about the procedure, that the correct medical name, under consideration, “dilation and evacuation procedure” be used in the ballot proposal language.

2) The proposal language includes a graphic description of the dilation and evacuation procedure in terms of fetal removal, but does not acknowledge the maternal benefits of the procedure, or the risks of alternative options. We propose altering the description of the procedure as follows; “The dilation and evacuation is the safest available method of second trimester abortion, procedure for maternal well-being, and is associated with lower rates of complications than alternatives including medical induction.” If the proposal is to include a description of the procedure, we recommend the following as a medically accurate description of the procedure: “During the dilation and evacuation procedure, the cervix is dilated and the physician grasps and removes fetal and placental tissue from the uterus until the uterus is emptied.”

3) The proposal does not provide readers the context of the gestational ages of surgical abortions which would be banned with this proposal. Signators may not be aware that the proposed legislation does NOT offer exceptions for lethal fetal diagnoses, incest, mental health concerns, or rape. We propose that the language include the following: “Banning dilation and evacuation procedures would result in a ban on almost all surgical abortions after 14 weeks of pregnancy. This ban does NOT provide exceptions for fetal or maternal women’s health indications for abortion aside from threats to women’s lives. The dilation and evacuation method would be banned for all pregnancy people, including those who experience rape, incest, or receive severe or lethal fetal diagnoses. Severe and lethal fetal diagnoses often do not arise which are often not able to be diagnosed until the second trimester.”

The following language would be an alternative to entirety of the current proposal language: “An initiation of legislation to enact the Partial-Birth and Dismemberment Abortion Ban Act. The initiated law would ban the most common method of surgical abortion after the first trimester, fourteen (14) weeks after the start of the last menstrual period. Surgical abortion after the first trimester involves dilation of a woman’s cervix to remove the placenta and fetus with the least physical risk to the woman. The process may result in disarticulation of the fetus. This proposal would ban dilation and evacuation, in all circumstances except immediate threat to life. This would ban the procedure for...”
including cases of rape, incest, maternal women's health concerns, and severe fetal diagnoses. If not enacted by the Michigan State Legislature in accordance with the Michigan Constitution 011963, the proposed legislation is to be voted on at the General Election, November 3, 2020.

We urge the Bureau of Elections to consider these comments and require changes to the "Michigan Heartbeat Coalition/Michigan Values Life" ballot proposal language to ensure Michigan voters receive fair, balanced, and accurate information when considering this proposal.

Sincerely,
The Michigan Section of the American College of Obstetrics and Gynecology
Dear Melissa,

I was encouraged to reach out to you by the ACLU of Michigan. On Monday, June 10th at 4:59 pm, I submitted public comments regarding Michigan Value’s Life’s proposed petition language on behalf of Northland Family Planning Centers. Upon reviewing a summary of all submitted comments on the Board of State Canvassers website, we cannot find our submitted comments (attached). Can you please provide confirmation that you did receive my comments? See original email sent below.

Thank you,

Lara Chelian

---------- Forwarded message ----------
From: Lara Chelian <lara@northlandfamilyplanning.com>
Date: Mon, Jun 10, 2019 at 4:59 PM
Subject: Submitting comment re: summary of the purpose of proposed initiative petition
To: <elections@michigan.gov>

Dear Director of Elections,

Attached here is our comment on the proposed initiative petition purpose, as submitted by Michigan Values Life. Thank you for the opportunity to comment. Please contact me if you have any further questions.

Best,

--
Lara Chelian, JD
Director of Advocacy & Development
Northland Family Planning Centers, Michigan
Email: lara@northlandfamilyplanning.com
Mobile: 248-821-7903

www.northlandfamilyplanning.com

Did you know you can support our non-profit Reclaim with every Amazon purchase? SHOP NOW

CONFIDENTIALITY NOTICE: This email transmission from Northland Family Planning Centers and any documents, files or previous email messages attached to it may contain confidential information that is privileged. If you are not the intended recipient, you are hereby notified that any disclosure,
copying, distribution or use of any of the information contained in or attached to this transmission is strictly prohibited. If you have received this email in error, please immediately notify the sender and delete the message and its attachments.

--
Lara Chelian, JD
Director of Advocacy & Development
Northland Family Planning Centers, Michigan
Email: lara@northlandfamilyplanning.com
Mobile: 248-821-7903

www.northlandfamilyplanning.com

Did you know you can support our non-profit Reclaim with every Amazon purchase? SHOP NOW

CONFIDENTIALITY NOTICE: This email transmission from Northland Family Planning Centers and any documents, files or previous email messages attached to it may contain confidential information that is privileged. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is strictly prohibited. If you have received this email in error, please immediately notify the sender and delete the message and its attachments.
June 10, 2019

VIA ELECTRONIC MAIL

Sally Williams
Director of Elections
@ Bureau of Elections
Richard H. Austin Building
430 West Allegan Street, 1st Floor
Lansing, Michigan 48918

RE: Comment on Summary of the Purpose Proposal

Dear Director of Elections,

Thank you for the opportunity to comment on the “summary of the purpose of the proposed amendment or question” submitted by Michigan Values Life on May 30, 2019.

Northland Family Planning Centers have been leaders in abortion care since our founding in 1976. We have three locations in the metro-Detroit area that specialize in abortion care, family planning care, gynecology and adoption. We share a common goal: to provide exceptional pregnant people’s reproductive health care in an environment that is safe, clean and filled with compassion and support. Our highly-skilled doctors are board-certified and specially-trained experts in abortion care who have chosen to provide this service to pregnant people because they believe that pregnant people, not the government or religious organizations, should be able to choose whether or not to bring a new life into this world. They want to ensure that a woman who chooses to terminate her pregnancy can do so in a safe, supportive environment. We have the following comments on the proposed initiative and the proposed “summary of the proposal” statements.

I. Michigan Values Life’s Proposed Initiative is Unconstitutional and the Proposed Summary of the Purpose is Prejudicial.

The purpose of this initiative would be to ban doctors from providing the standard dilation and extraction (D&E) abortion procedure with extremely limited exceptions. D&E is a safe, medically proven method of abortion care, accounting for approximately 95% of all second trimester procedures nationally. In order to obtain care if this proposed initiative takes effect, pregnant people would be forced to undergo an additional, invasive, and unnecessary medical procedure—even against the medical judgment of their physician. The proposal’s health exception is extremely limited and only applies when the woman’s life is “endangered.” There are no exceptions for rape or incest. Below, we outline the primary constitutional objections to the initiative’s text.

1 Karen Pazol et al, CENTERS FOR DISEASE CONTROL AND PREVENTION, ABORTION SURVEILLANCE - UNITED STATES, 2009, 61(SS08); 1-44 (November 23, 2012), https://www.cdc.gov/mmwr/preview/mmwrhtml/ss6108a1.htm.
A. Banning the D&E procedure is unconstitutional.

Under Supreme Court precedent, a ban on the D&E method of abortion care is plainly unconstitutional because it imposes an undue burden on the right to abortion.\(^2\) The U.S. Supreme Court has repeatedly declared that a ban on the most common method of abortion is unconstitutional.\(^3\) In \textit{Stenberg v. Carhart}, the Court held specifically that a D&E method ban, similar to one contemplated by the proposed initiative, was unconstitutional.\(^4\) Moreover, in \textit{Gonzales v. Carhart}, the Court ruled that a ban on another second-trimester procedure, D&X, was constitutional in reliance on the continued availability of D&E, the most commonly used method of second trimester abortion.\(^5\) Accordingly, courts have blocked D&E bans each time they have been challenged, specifically in Alabama, Arkansas, Kansas, Kentucky, Louisiana, Ohio, Oklahoma, and Texas.

Additionally, the Supreme Court’s recent decision in \textit{Whole Woman’s Health v. Hellerstedt} reaffirmed several Supreme Court decisions affording strong constitutional protection to pregnant people’s right to terminate a pregnancy.\(^6\) That decision makes clear that the undue burden standard requires courts to meaningfully scrutinize pre-viability abortion restrictions.\(^7\)

Finally, a ban on D&E abortions not only robs pregnant people of access to a common method of second trimester abortion, it also interferes with physicians’ ability to care for their patients. The American Congress of Obstetricians and Gynecologists (ACOG) oppose method bans, stating that “efforts to ban specific types of procedures will limit the ability of physicians to provide pregnant people with the medically appropriate care they need and will likely result in worsened outcomes and increased complications.”\(^8\) ACOG further states that, “[m]edical decisions about reproductive health—especially given the complex circumstances that often accompany second-trimester abortions—should be made by each individual woman in consultation with those she trusts most, including her ob-gyn—not politicians.”\(^9\) Legislators and voters in Michigan should understand the consequences of their support of, or opposition to, the proposed initiative.

---

\(^2\)“A finding of an undue burden is a shorthand for the conclusion that a state regulation has the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus... [and]... a statute which, while furthering the interest in potential life or some other valid state interest, has the effect of placing a substantial obstacle in the path of a woman’s choice cannot be considered a permissible means of serving its legitimate ends.” Planned Parenthood of Se. Pa. v. Casey, 505 U.S. 833, 877 (1992); accord Whole Woman’s Health v. Hellerstedt, 136 S.Ct. 2292, 2309-10 (2016).


\(^4\)See \textit{Stenberg}, 530 U.S. at 945-46.


\(^6\)\textit{Whole Woman’s Health}, 136 S.Ct. at 2309-10.

\(^7\)\textit{Id} at 2310 (“[W]hen determining the constitutionality of laws regulating abortion procedures,” courts must place “considerable weight upon evidence... presented[.]”); \textit{id} (courts cannot give “uncritical deference” to the facts supporting the government’s position).


\(^9\)\textit{Id}.

\*\*\*
B. Proposed summary of the purpose is deliberately prejudicial.

The Michigan Values Life proposal for "summary of the purpose," found on the signature page is misleading, inaccurate, and not a "true and impartial statement in language that does not create prejudice" as required by law. Legislators and voters should be able to depend on the accuracy of every initiative’s summary of the purpose and comprehend the effect of their approval or disapproval of an initiative. The summary language found on the Michigan Values Life’s submission does not clearly state that the proposal would ban the most common form of abortion care during the second trimester with only a narrow exception. Nor does it clearly state that physicians in violation of this ban would be charged with felonies and sentenced to prison as well as facing civil penalties. Instead, this proposal uses prejudiced and non-medical language to describe a legal, ethical, and constitutional method of abortion care.

The use of emotional language in the proposed summary of the purpose, meant to prejudice legislators and voters, is clearly prohibited by Michigan law. Nowhere in medical literature or training can the terms “partial-birth” and “dismemberment abortion” be found. In fact, these terms were created out of whole cloth by political opponents of abortion rights in order to trigger prejudice and cloud any discussion of the constitutional right to abortion.

In addition, the details included in the proposed summary are meant to prejudice legislators and voters. For lay audiences, descriptions of almost any medical procedure could be made to appear distasteful in order to prejudice people against the procedure. Surgical procedures are, by definition, invasive and can be misconstrued to appear negative and unnecessary to non-medical audiences.

The proposed summary also does not convey the consequence of support for this proposal: either pregnant people will be forced to undergo unnecessary medical procedures prior to accessing abortion care or they may be unable to access abortion care prior to viability, which Supreme Court precedent requires. None of these outcomes are evident in the biased and prejudicial summary proposed by Michigan Values Life.

II. Conclusion

The proposed initiative is unconstitutional and would open the State up to litigation. This proposal disregards the fundamental right to determine when and whether to have children, poses a serious risk to women’s health, and creates harmful criminal liabilities for physicians. One in four women will have an abortion in her lifetime, and this bill would seriously harm them. Pregnant people in Michigan need to have all their medical options available when making the decision to end a pregnancy. For over forty years, the U.S. Supreme Court has recognized that the rights to liberty and privacy as protected by the United States Constitution extend to individuals’ right to choose when and whether to have children.

10 MICH. COMP. LAWS § 168.482b.

It is critical that the legislators and voters in Michigan accurately understand this proposal in order to decide whether to support it or not. Therefore, the summary of the purpose must describe the policy change the initiative would make clearly, accurately, comprehensively, and in plain language. Thank you for your consideration of our comment.

Sincerely,

Lara N. Chelian, JD
Director of Advocacy & Development
Northland Family Planning Centers, Michigan