

AMERICAN MEDICAL ASSOCIATION RESIDENT AND FELLOW SECTION

Resolution: _____
(A-22)

Introduced by: Amar H. Kelkar, MD, FACP; Pratiksha Yalakkishettar, MD; Patrick P. Lowe, MD; Sila Bal, MD, MPH; Vamsi Aribindi, MD; Mark Kashtan, MD, MPH; Steven Young, MD; Adrian M. Jaramillo, MD; Jade A. Anderson, MD; Benjamin Meyer, MD; Anna Yap, MD; Gunjan Malhotra, MD; Rohan Khazanchi, MD, MPH; Elisa Giusto DO; Christopher Libby, MD, MPH; Megan L. Srinivas, MD, MPH; Karen Dionesotes, MD, MPH; Baillie A. Bronner, MD; Faith Danielle, MD, MPH; Ariel Carpenter, MD; Tisha Van Pelt, MD; Hari Iyer, MD; Pauline Huynh, MD; Rachel Landin, DO; Sophia Yang, MD; David Savage, MD, PhD; Asha McClurg, MD, MSCR; Katie Marsh, MD, MPH; Luis Seija, MD; Rachel Ekaireb, MD; Kelly C. Landeen, MD; Christopher Clifford, MD; Massachusetts Medical Society Resident and Fellow Section

Subject: Preserving Access to Reproductive Health Services

Referred to: Reference Committee

Whereas, Maternal health and safety is a significant public health concern in the United States (U.S.), with a steadily increasing mortality rate of 23.8 deaths per 100,000 live births in 2020 compared with a death rate of 20.1 in 2019 and 17.4 in 2018 (which was more than twice the rate of most other high-income countries), and when it concerns non-Hispanic Black women, the rate was 55.3 deaths for every 100,000 live births in 2018;^{1,2} and

Whereas, *Respect for autonomy* is a core tenet of medical ethics that has a major influence in medical decision-making, ranging from refusal of blood products to end-of-life decisions to abortions; and

Whereas, Abortion is considered a safe and effective medical procedure with many indications, including rape, incest, intimate partner violence, fetal anomalies, illness during pregnancy, exposure to teratogenic medications, and contraceptive failure;³⁻⁵ and

Whereas, Abortion is medically critical for pregnancy complications, such as ectopic pregnancy, placental abruption, bleeding from placenta previa, preeclampsia or eclampsia, and cardiac or renal conditions which may be so severe that abortion is the only measure to preserve a pregnant person's health or save their life;³⁻⁵ and

Whereas, One in four women in the U.S. will obtain an abortion by age 45, with nearly 860,000 women seeking an abortion annually;^{6,7} and

Whereas, Medication-induced abortion (non-procedural), which is 14 times safer than childbirth, comprises 54% of all abortions in the U.S. as of 2020;^{8,9} and

Whereas, In 1973, the U.S. Supreme Court decision in *Roe v. Wade* created the federal legal precedent that the 14th Amendment of the U.S. Constitution protects a pregnant person's liberty to choose to have an abortion without excessive government restriction;¹⁰ and

Whereas, Subsequent U.S. Supreme Court decisions in *Planned Parenthood v. Casey* (1992) and *Whole Woman's Health v. Hellerstedt* (2016) have upheld the right to abortion and limited the government's ability to place restrictions on access that present an "undue burden" to patients;^{11,12} and

Whereas, If *Roe* is overturned, "trigger laws" in thirteen states would make abortion immediately illegal and nine states would revert to pre-*Roe* statutes that ban all abortions;¹³ and

Whereas, If *Roe* is overturned, several states are developing, or have passed laws, that would limit, ban, or criminalize physicians practicing within their scope of practice or would compel physicians to report on their patients, with penalties as severe as "the death penalty or life without the possibility of parole;"¹⁴ and

Whereas, If *Roe* is overturned, forty-one percent of women of reproductive age would see the nearest abortion clinic close and the average distance they would be required to travel to obtain an abortion would increase from 35 miles to 279 miles;¹⁵ and

Whereas, Despite laws prohibiting the criminalization of pregnant persons, there have been criminal charges and convictions against pregnant individuals suffering miscarriages or self-managed abortions, and new legislation currently being forwarded to charge pregnant people with homicide for terminating a pregnancy;¹⁶⁻²⁰ and

Whereas, Several laws nationwide have criminalized or severely curtailed parts of routine reproductive healthcare, including the appropriate management of life-threatening and non-viable ectopic pregnancies, as was the case in recent legislation (HOUSE BILL NO. 2810) that passed in the Missouri House of Representatives;²¹ and

Whereas, The Hyde Amendment, which has been in effect since 1980, has restricted access to abortion coverage paid for with federal funds for those enrolled in: Medicaid, disproportionately impacting over four million people of color; Medicare, impacting nearly one million females of reproductive age with a disability; the Federal Employee Health Benefits Program, which includes more than 20 million federal employees and their dependents; TRICARE beneficiaries, which includes nearly 1.4 million servicewomen and dependents of reproductive age; the Indian Health Service and tribally operated facilities, which provide coverage to 2.2 million American Indians and Alaska Natives; the Peace Corps Volunteers; and the federal prison system;²² and

Whereas, Twenty-six states prohibit the inclusion of abortion coverage in insurance plans sold on the state marketplace and 11 states prohibit the inclusion of abortion coverage in private insurance plans sold within the state;²³ and

Whereas, While the Accreditation Council for Graduate Medical Education (ACGME) requires access to abortion training for all obstetrics and gynecology residencies, 44.8% of accredited programs are located in states certain or likely to ban abortion if *Roe* is overturned;²⁴ and

Whereas, Publicly-funded family planning health centers (FPHCs) have been critical in narrowing rural health inequities and are an essential source of care for underserved and low-income individuals throughout the US and are frequently the only available source of care for vulnerable populations in rural areas;²⁵ and

Whereas, With restrictive abortion laws and states with restrictions on Medicaid and/or Title X coverage of abortion care, there have been closures of many family planning clinics which were used by 60% of participating woman attending as their primary source of care, and these restrictions have coincided with higher total maternal mortality rates;^{25,26} and

Whereas, Restrictive abortion laws and policies, such as Medicaid funding restrictions, mandatory parental involvement, mandatory counseling, mandatory waiting period, and two-visit laws have resulted in higher infant mortality rates, higher incidence of pre-term and low birth weight births, decreased utilization of women's preventative health screenings (including mammograms and pap smears), increased rates of sexually-transmitted infections (specifically gonorrhea and chlamydia), and, most notably, overall increased rates of abortions;²⁷⁻³⁰ and

Whereas, Currently, 49% of patients that get an abortion are under the poverty line and another quarter are very close to the poverty line;³¹ and

Whereas, Access to affordable abortion has the potential to determine the trajectory of an individual's life, with a study on socioeconomic outcomes of pregnant individuals seeking abortions demonstrating that 72% of the women who did not receive an abortion were subsequently living in poverty, compared to 55% of those who received an abortion;^{32,33} and

Whereas, People in underserved populations (such as racialized minorities, sexual and gender minorities, and those with low socioeconomic status) already face disparities with regards to accessing reproductive health services, including lower rates of insurance, higher pregnancy mortality rates, limited geographic access to care, and lower exposure to comprehensive sexual education, and these groups will be disproportionately affected by restrictive abortion and reproductive health laws;³⁴⁻³⁶ and

Whereas, The AMA has taken decisive steps to forwards its mission of health equity, including the creation of the AMA Health Equity Center, underscoring a commitment to reducing barriers to accessing health services that disproportionately harm underserved populations; and

Whereas, Legal restrictions on medically-managed abortions do not reduce the incidence of abortions;³⁷⁻⁴⁰ and

Whereas, Mortality and morbidity from self-managed abortions without expert medical care are preventable, can be severe, and can affect future reproduction;³⁷⁻⁴⁰ and

Whereas, Numerous state laws have established exceptions to abortion bans for the health and welfare of the pregnant person;^{41,42} and

Whereas, In response to the COVID-19 pandemic, in December 2021, the FDA amended the mifepristone Risk Evaluation and Mitigation Strategy (REMS) program by removing the in-person dispensing requirement, adding a requirement that pharmacies which dispense

mifepristone must be certified, and maintaining the prescriber certification and Patient Agreement Form requirement;^{43,44} and

Whereas, When mifepristone was made more accessible, adverse events, complications, and rates of abortion remained unchanged, while rates of second trimester induced abortions actually decreased;^{45,46} and

Whereas, In recent years, despite protections outlined by *Roe* and subsequent cases, several states have passed laws imposing limitations on abortion access, culminating in *Dobbs v. Jackson Women's Health Organization*, which heard oral arguments in the U.S. Supreme Court starting December 1, 2021 and represents the most significant challenge to reproductive rights to date;^{47,48} and

Whereas, On May 2, 2022, a leaked draft opinion from the U.S. Supreme Court revealed a plan to broadly reverse the constitutional right to abortion originally defined by *Roe* that, if finalized, would have wide-ranging implications for access to reproductive health care;⁴⁹ and

Whereas, The AMA has come out strongly to defend reproductive rights through amicus briefs, viewpoints, and statements on several recent challenges to reproductive rights and related medical practice, including *United States v. Texas* and *Dobbs v. Jackson Women's Health Organization*, including stating that, "access to abortion remains vital for pregnant patients' overall health and well-being," and, "abortion is a safe, common, and essential component of health care;"⁵⁰⁻⁵⁴ and

Whereas, On May 5, 2022, in response to the leaked draft opinion for the *Dobbs vs. Jackson Women's Health Organization* case, the President of the AMA released a statement condemning the severe intrusion into the physician-patient relationship, and stated that "we strongly urge the Court to reject the premise of the draft opinion and affirm precedent that allows patients to receive the critical reproductive health care that they need;"⁵⁴ and

Whereas, The AMA Code of Ethics section 4.2.7 states, "The Principles of Medical Ethics of the AMA do not prohibit a physician from performing an abortion in accordance with good medical practice and under circumstances that do not violate the law;" and

Whereas, Current AMA policy defends the physician-patient family relationship, opposes state and/or federal efforts to interfere with physician-patient communications in clinical care delivery, opposes government or third-party interference in medical decision-making, and supports litigation to block the implementation of laws restricting the privacy of physician-patient-family relationships, or both; and

Whereas, Current AMA policy supports reproductive rights and the ability for physicians to practice and be appropriately reimbursed in this field without state interference, but contains inconsistencies requiring clarification and revision; and

Whereas, "Reproductive health services" were defined in the U.S. Code through the *Freedom of Access to Clinic Entrances Act of 1994* to be, "reproductive health services provided in a hospital, clinic, physician's office, or other facility, and includes medical, surgical, counselling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy," which include, but are not limited to, prenatal care, childbirth, postpartum care, contraception, emergency contraception, sterilization, abortion care, miscarriage management, adoption, and infertility care;^{55,56} therefore be it

RESOLVED, that our AMA:

- (1) Recognizes that healthcare, including reproductive health services like contraception and abortion, is a human right;
- (2) Opposes limitations on access to evidence-based reproductive health services, including contraception and abortion;
- (3) Will work with interested state medical societies and medical specialty societies to vigorously advocate for broad, equitable access to reproductive health services, including contraception and abortion;
- (4) Supports shared decision-making between patients and their physicians regarding reproductive healthcare;
- (5) Opposes any effort to undermine the basic medical principle that clinical assessments, such as viability of the pregnancy and safety of the pregnant person, are determinations to be made only by healthcare professionals with their patients;
- (6) Opposes the imposition of criminal and civil penalties or other retaliatory efforts against patients, patient advocates, physicians, other healthcare workers, and health systems for receiving, assisting in, referring patients to, or providing reproductive health services;
- (7) Will advocate for legal protections for patients who cross state lines to receive reproductive health services, including contraception and abortion, or who receive medications for contraception and abortion from across state lines, and legal protections for those that provide, support, or refer patients to these services;
- (8) Will review the AMA policy compendium and recommend policies which should be amended or rescinded to reflect these core values, with report back at I-22; and be it further

RESOLVED, That this resolution be immediately forwarded to the AMA House of Delegates at A-22.

Fiscal Note: [Provide Estimate or Leave Blank]

Received: XX/XX/XX

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Relevant RFS Position Statements:

140.009R Healthcare Coverage and Access Proposals 2019

That our AMA-RFS: (1) supports proposals that increase access to healthcare coverage across all ages and income levels, do not discriminate or limit coverage based on pre-existing conditions, and encompass comprehensive coverage of routine healthcare needs of patients including women’s health and reproductive services. (2) supports proposals that cap premiums and limit cost sharing to a reasonable level; and (3) supports proposals that include adequate networks of providers and physician-led healthcare teams.

390.001R Teenage Pregnancy Prevention

That our AMA provide testimony to Congress and actively support funding that provides reproductive preventative screenings and family planning services which are an essential part of women's health services and vital for unintended pregnancy prevention.

390.005R Maternal/Fetal Conflict

That our AMA-RFS support the following statements:

- (1) Judicial intervention is inappropriate when a woman has made an informed refusal of a medical treatment designed to benefit her fetus. If an exceptional circumstance could be found in which a medical treatment poses an insignificant or no health risk to the woman, entails a minimal invasion of her bodily integrity, and would clearly prevent substantial and irreversible harm to her fetus, it might be appropriate for a physician to seek judicial intervention. However, the fundamental principle against compelled medical procedures should control in all cases which do not present such exceptional circumstances.
- (2) The physician's duty is to ensure that the pregnant woman makes an informed and thoughtful decision, not to dictate the woman's decision.
- (3) A physician should not be liable for honoring a pregnant woman's informed refusal of medical treatment designed to benefit the fetus.
- (4) Criminal sanctions or civil liability for harmful behavior by the pregnant woman toward her fetus are inappropriate.
- (5) Pregnant substance abusers should be provided with rehabilitative treatment appropriate to their specific physiological and psychological needs.

390.006R Opposition to Criminalization of Reproductive Decision Making

That our AMA:

- (1) oppose any legislation or ballot measures that could criminalize in-vitro fertilization, contraception, or the management of ectopic and molar pregnancies; and
- (2) report back on the issue at I-13.

390.008R Fair Access to Evidence-Based Family Planning Methods

That our AMA-RFS:

- (1) recognize that choices regarding family planning and medical or surgical termination of pregnancy are personal and autonomous and are to be made by a patient in concert with their health care provider; and
- (2) support changes to public and private payment mechanisms that would make evidence-based family planning methods and medical or surgical termination of pregnancy accessible to all patients, regardless of socioeconomic background.

390.009R Protection of Access and Coverage of Women's Preventative and Maternity Care

That our AMA-RFS support legislation and regulations that ensures women have comprehensive coverage and access to preventative care, contraception, and maternity care with no cost sharing.

390.010R Removal of the Food and Drug Administration Risk Evaluation and Mitigation Strategy for Mifepristone Use in Early Pregnancy Failure

That our AMA-RFS support the removal of the FDA Risk Evaluation and Mitigation Strategy for mifepristone in early pregnancy failure; and That our AMA-RFS support education and training of practitioners who diagnose and are allowed to treat early pregnancy failure with mifepristone.

Relevant AMA Policy:

H-5.980 Oppose the Criminalization of Self-Induced Abortion

Our AMA: (1) opposes the criminalization of self-induced abortion as it increases patients' medical risks and deters patients from seeking medically necessary services; and (2) will advocate against any legislative efforts to criminalize self-induced abortion.

H-5.982 Late-Term Pregnancy Termination Techniques

- (1) The term 'partial birth abortion' is not a medical term. The AMA will use the term "intact dilatation and extraction"(or intact D&X) to refer to a specific procedure comprised of the following elements: deliberate dilatation of the cervix, usually over a sequence of days; instrumental or manual conversion of the fetus to a footling breech; breech extraction of the body excepting the head; and partial evacuation of the

intracranial contents of the fetus to effect vaginal delivery of a dead but otherwise intact fetus. This procedure is distinct from dilatation and evacuation (D&E) procedures more commonly used to induce abortion after the first trimester. Because 'partial birth abortion' is not a medical term it will not be used by the AMA.

(2) According to the scientific literature, there does not appear to be any identified situation in which intact D&X is the only appropriate procedure to induce abortion, and ethical concerns have been raised about intact D&X. The AMA recommends that the procedure not be used unless alternative procedures pose materially greater risk to the woman. The physician must, however, retain the discretion to make that judgment, acting within standards of good medical practice and in the best interest of the patient.

(3) The viability of the fetus and the time when viability is achieved may vary with each pregnancy. In the second-trimester when viability may be in question, it is the physician who should determine the viability of a specific fetus, using the latest available diagnostic technology.

(4) In recognition of the constitutional principles regarding the right to an abortion articulated by the Supreme Court in *Roe v. Wade*, and in keeping with the science and values of medicine, the AMA recommends that abortions not be performed in the third trimester except in cases of serious fetal anomalies incompatible with life. Although third-trimester abortions can be performed to preserve the life or health of the mother, they are, in fact, generally not necessary for those purposes. Except in extraordinary circumstances, maternal health factors which demand termination of the pregnancy can be accommodated without sacrifice of the fetus, and the near certainty of the independent viability of the fetus argues for ending the pregnancy by appropriate delivery.

H-5.983 Pregnancy Termination

The AMA adopted the position that pregnancy termination be performed only by appropriately trained physicians (MD or DO).

H-5.985 Fetal Tissue Research

The AMA supports the use of fetal tissue obtained from induced abortion for scientific research.

H-5.988 Accurate Reporting on AMA Abortion Policy

Our AMA HOD cautions members of the Board of Trustees, Councils, employees and members of the House of Delegates to precisely state current AMA policy on abortion and related issues in an effort to minimize public misperception of AMA policy and urges that our AMA continue efforts to refute misstatements and misquotes by the media with reference to AMA abortion policy.

H-5.989 Freedom of Communication Between Physicians and Patients

It is the policy of the AMA: (1) to strongly condemn any interference by the government or other third parties that causes a physician to compromise his or her medical judgment as to what information or treatment is in the best interest of the patient;

(2) working with other organizations as appropriate, to vigorously pursue legislative relief from regulations or statutes that prevent physicians from freely discussing with or providing information to patients about medical care and procedures or which interfere with the physician-patient relationship;

(3) to communicate to HHS its continued opposition to any regulation that proposes restrictions on physician-patient communications; and

(4) to inform the American public as to the dangers inherent in regulations or statutes restricting communication between physicians and their patients.

H-5.990 Policy on Abortion

The issue of support of or opposition to abortion is a matter for members of the AMA to decide individually, based on personal values or beliefs. The AMA will take no action which may be construed as an attempt to alter or influence the personal views of individual physicians regarding abortion procedures.

H-5.993 Right to Privacy in Termination of Pregnancy

The AMA reaffirms existing policy that (1) abortion is a medical procedure and should be performed only by a duly licensed physician in conformance with standards of good medical practice and the laws of the state; and (2) no physician or other professional personnel shall be required to perform an act violative of good medical judgment or personally held moral principles. In these circumstances good medical practice requires only that the physician or other professional withdraw from the case so long as the withdrawal is consistent with good medical practice. The AMA further supports the position that the early termination of

pregnancy is a medical matter between the patient and the physician, subject to the physician's clinical judgment, the patient's informed consent, and the availability of appropriate facilities.

H-5.995 Abortion

Our AMA reaffirms that: (1) abortion is a medical procedure and should be performed only by a duly licensed physician and surgeon in conformance with standards of good medical practice and the Medical Practice Act of his state; and (2) no physician or other professional personnel shall be required to perform an act violative of good medical judgment. Neither physician, hospital, nor hospital personnel shall be required to perform any act violative of personally held moral principles. In these circumstances, good medical practice requires only that the physician or other professional withdraw from the case, so long as the withdrawal is consistent with good medical practice.

H-5.997 Violence Against Medical Facilities and Health Care Practitioners and Their Families

The AMA supports the right of access to medical care and opposes (1) violence and all acts of intimidation directed against physicians and other health care providers and their families and (2) violence directed against medical facilities, including abortion clinics and family planning centers, as an infringement of the individual's right of access to the services of such centers.

H-5.998 Public Funding of Abortion Services

The AMA reaffirms its opposition to legislative proposals that utilize federal or state health care funding mechanisms to deny established and accepted medical care to any segment of the population.

H-65.960 Health, In All Its Dimensions, Is a Basic Right

Our AMA acknowledges: (1) that enjoyment of the highest attainable standard of health, in all its dimensions, including health care is a basic human right; and (2) that the provision of health care services as well as optimizing the social determinants of health is an ethical obligation of a civil society.

H-75.987 Reducing Unintended Pregnancy

Our AMA: (1) urges health care professionals to provide care for women of reproductive age, to assist them in planning for pregnancy and support age-appropriate education in esteem building, decision-making and family life in an effort to introduce the concept of planning for childbearing in the educational process; (2) supports reducing unintended pregnancies as a national goal; and (3) supports the training of all primary care physicians and relevant allied health professionals in the area of preconception counseling, including the recognition of long-acting reversible contraceptives as efficacious and economical forms of contraception.

D-75.997 Access to Emergency Contraception

1. Our AMA will: (a) intensify efforts to improve awareness and understanding about the availability of emergency contraception in the general public; and (b) support and monitor the application process of manufacturers filing for over-the-counter approval of emergency contraception pills with the Food and Drug Administration (FDA).
2. Our AMA: (a) will work in collaboration with other stakeholders (such as American College of Obstetricians and Gynecologists, American Academy of Pediatrics, and American College of Preventive Medicine) to communicate with the National Association of Chain Drug Stores and the National Community Pharmacists Association, and request that pharmacies utilize their web site or other means to signify whether they stock and dispense emergency contraception, and if not, where it can be obtained in their region, either with or without a prescription; and (b) urges that established emergency contraception regimens be approved for over-the-counter access to women of reproductive age, as recommended by the relevant medical specialty societies and the US Food and Drug Administration's own expert panel.

H-100.948 Ending the Risk Evaluation and Mitigation Strategy (REMS) Policy on Mifepristone (Mifeprex)

Our AMA will support efforts urging the Food and Drug Administration to lift the Risk Evaluation and Mitigation Strategy on mifepristone.

H-185.937 Reproductive Parity

Our AMA supports legislation and policies that require any health insurance products offering maternity services to include all choices in the management of reproductive medical care.

H-295.923 Medical Training and Termination of Pregnancy

1. Our AMA supports the education of medical students, residents and young physicians about the need for physicians who provide termination of pregnancy services, the medical and public health importance of access to safe termination of pregnancy, and the medical, ethical, legal and psychological principles associated with termination of pregnancy.
2. Our AMA supports the availability of abortion education and exposure to procedures for termination of pregnancy, including medication abortions, for medical students and resident/fellow physicians and opposes efforts to interfere with or restrict the availability of this education and training.
3. Our AMA encourages the Accreditation Council for Graduate Medical Education to consistently enforce compliance with the standardization of abortion training opportunities as per the requirements set forth by the Review Committee for Obstetrics and Gynecology and the American College of Obstetricians and Gynecologists' recommendations.

D-310.954 Training in Reproductive Health Topics as a Requirement for Accreditation of Family Residencies

Our AMA: (1) will work with the Accreditation Council for Graduate Medical Education to protect patient access to important reproductive health services by advocating for all family medicine residencies to provide comprehensive women's health including training in contraceptive counseling, family planning, and counseling for unintended pregnancy; and (2) encourages the ACGME to ensure greater clarity when making revisions to the educational requirements and expectations of family medicine residents in comprehensive women's health topics.

H-425.969 Support for Access to Preventive and Reproductive Health Services

Our AMA supports access to preventive and reproductive health services for all patients and opposes legislative and regulatory actions that utilize federal or state health care funding mechanisms to deny established and accepted medical care to any segment of the population.