

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 226
(A-24)

Introduced by: Missouri

Subject: Protecting Access to IVF Treatment

Referred to: Reference Committee B

1 Whereas, on Friday, 2/16/24, the Alabama Supreme Court ruled that “an embryo created
2 through in vitro fertilization (IVF) is a child protected by Alabama’s wrongful death act and the
3 Alabama Constitution;” and that “a human frozen embryo is a ‘child’ which is an unborn or
4 recently born children;” and that “the Constitution ... commands the judge to ... upholding the
5 sanctity of unborn life, including unborn life that exists outside the womb;” and that “the Court
6 would not create an exception in the statute for these IVF embryo children just because they
7 were located outside the womb; and

8
9 Whereas, historically, multiple states have already rejected attempts through legislation,
10 constitutional amendments or ballot measures to establish and expand the definition of
11 personhood and associated rights:

12 1. In 2008 and 2010, Colorado voters rejected ballot measures, to give constitutional
13 rights to individuals “at the beginning of biological development;” and

14 2. In 2011, Mississippi considered Proposition 26: "Should the term ‘person’ be defined
15 to include every human being from the moment of fertilization, cloning, or the equivalent
16 thereof?" which was voted down; and

17 3. In 2012, the Virginia House of Delegates passed House Bill 1 that was subsequently
18 tabled by the state Senate until 2013, which if passed would “construe the word ‘person’ under
19 Virginia Law ... to include unborn children” and enact that “the life of each human being begins
20 at conception;” and

21 4. Similar “Personhood” bills have also been passed by a single legislative chamber in
22 North Dakota, Oklahoma, and Mississippi; and

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24 Whereas, these “Personhood” bills and ballot measures define a person as being a legal
25 entity from the moment of conception, and thus define fertilized eggs and embryos, as persons
26 with constitutional rights; and

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28 Whereas, giving constitutional rights to a fertilized oocyte or embryo would interfere with the
29 physician-patient relationship in the provision of in vitro fertilization (IVF) services; and

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31 Whereas, in current IVF practice in the United States, over half of embryo transfers will *not*
32 result in live birth, as many embryos after transfer will either (a) not result in a pregnancy, (b)
33 result in a miscarriage, or (c) result in a non-viable ectopic or molar pregnancy; and

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35 Whereas, cryopreserved embryos also do *not* have a 100% thaw-survival rate, and a small
36 percentage of embryos will not survive freeze-thaw; and if embryos in the IVF lab have the
37 same legal status as children, then an embryology laboratory that fails to have a 100% thaw-
38 survival rate may also have some potential liability; and

1 Whereas, not all IVF patients can afford the long-term storage fees to cryopreserve embryos for
2 future use or to donate those embryos to others; and
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4 Whereas, defining all embryos as “children” promotes the dangerous notion that all embryos
5 should somehow be transferred in an IVF cycle (instead of cryopreserving extra embryos of
6 adequate quality), which could potentially increase the rate of dangerous higher-order multiple
7 gestation pregnancies (triplets, quadruplets, etc.); and
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9 Whereas, defining all embryos as “children” may promote the dangerous and misguided notion
10 that an ectopic pregnancy could somehow be safely implanted into the uterus (as is erroneously
11 reported on various “Personhood” websites); and
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13 Whereas, considering embryos to be “children” also raises potential legal complications, such
14 as how inheritance and probate laws would apply to embryos; and
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16 Whereas, defining all embryos as “children” may promote the dangerous and misguided notion
17 that a molar pregnancy can somehow be “rescued” instead of being a potential cancer; and
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19 Whereas, considering abandoned embryos to be “children” raises questions about whether
20 states would then be liable to provide support for cryopreserved embryos and long-term storage
21 costs, such as under Medicaid as if they were “wards” of the state; and
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23 Whereas, giving “rights” to embryos in the IVF lab will potentially complicate the practice of IVF
24 by inappropriately pressuring physicians to transfer abnormally-growing and arrested embryos;
25 and
26

27 Whereas, the American Society for Reproductive Medicine (ASRM) Position Statement on
28 Personhood Measures states that:

29 1. The ASRM is strongly opposed to measures granting constitutional rights or
30 protections and “personhood” status to fertilized reproductive tissues.

31 2. In a growing number of states, vaguely worded and often misleading measures are
32 appearing either in legislation or as proposed constitutional amendments, defining when life
33 begins and granting legal “personhood” status to embryos at varying stages of development. If
34 approved, these measures will have profound consequences for women and their families.

35 3. ..., these broadly worded measures will have significant effects on a number of
36 medical treatments available to women of reproductive age.

37 a. Personhood measures would make illegal some commonly used birth control
38 methods.

39 b. Personhood measures would make illegal a physician's ability to provide medically
40 appropriate care to women experiencing life-threatening complications due to a tubal
41 pregnancy.

42 c. Personhood measures would consign infertility patients to less effective, less safe
43 treatments for their disease.

44 d. Personhood measures would unduly restrict infertile patients' right to make decisions
45 about their own medical treatments, including determining the fate of any embryos created as
46 part of the IVF process.

47 4. ASRM will oppose any personhood measure that is unclear, confusing, ambiguous, or
48 not based on sound scientific or medical knowledge, and which threatens the safety and
49 effective treatment of patients; therefore be it
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51 RESOLVED, that our American Medical Association oppose any legislation that could
52 criminalize in-vitro fertilization (New HOD Policy); and be it further

1 RESOLVED, that our AMA work with other interested organizations to oppose Court rulings that
2 equate gametes (oocytes and sperm) or embryos with children. (Directive to Take Action)
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Fiscal Note: Modest - between \$1,000 - \$5,000

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