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3 **Title:** Shield Laws - Protecting Access to Care
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5 **Introduced by:** Halley Crissman, MD, for the Michigan Section of the American College of
6 Obstetricians and Gynecologists
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10 **Referred To:** Reference Committee A
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12 **House Action:** **APPROVED**
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15 Whereas, legislators outside of Michigan have passed laws that attempt to criminalize out-
16 of-state travel for abortion and gender-affirming care, and laws that try to criminalize the conduct
17 of healthcare providers who care for patients from the state attempting restriction, and
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19 Whereas, extraterritorial actions from restrictive states create uncertainty, chill the provision
20 of essential health care services in states where care is legal, and discourage citizens of restrictive
21 states from traveling to states where abortion and gender-affirming care are legal to seek needed
22 health care, and
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24 Whereas, states where abortion and gender-affirming care are legal have begun to draft
25 and pass "shield laws" which at their core, seek to protect healthcare providers, helpers, and
26 patients seeking care in states where abortion and gender-affirming care remain legal from legal
27 attacks taken by restrictive states; therefore be it
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29 **RESOLVED:** That MSMS opposes criminal and civil penalties or other retaliatory efforts,
30 including adverse medical licensing actions, the termination of medical liability coverage or clinical
31 privileges, against patients, patient advocates, patients' families, physicians, other healthcare
32 workers, and health systems for receiving, assisting in, referring patients to, or providing
33 reproductive health services (including abortion care) and gender-affirming care; and be it further
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35 **RESOLVED:** That MSMS opposes extradition of patients and healthcare providers based
36 upon accusations of providing or receiving health care (including care related to self-managed
37 abortion, other abortion care, and gender-affirming care) that is legal in Michigan; and be it further
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39 **RESOLVED:** That MSMS will advocate for legal protections for patients who cross state lines
40 to receive health care (including care related to self-managed abortion, other abortion care, or
41 gender-affirming care), or who receive medications for abortion or gender-affirming care from
42 across state lines, and will advocate for legal protections for those that provide, support, or refer
43 patients to these services; and be it further
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45 **RESOLVED:** That MSMS will advocate for legal protections for medical trainees and
46 physicians who cross state lines to receive education in, or deliver, reproductive health care
47 (including abortion care) and gender-affirming care.
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Relevant MSMS Policy

Oppose Criminalization of Physicians and Patients for Evidence Based Standard of Medical Care

MSMS opposes the criminalization of a procedure and prosecution of physicians for delivering evidence-based standard of medical care, as well as for refusing to engage in care that is neither safe nor evidence based.

Physician-Patient Relationship and Health Care Decisions

MSMS believes: 1) the physician-patient relationship is deeply personal and must be respected and protected at all costs; 2) physicians and their patients should be free to consider, discuss, and pursue medical procedures guided by a physician's best medical judgment and a patient's physical health and safety; and 3) as a Society, MSMS has always been and continues to be opposed to the potential criminalization of physicians and their patients in making health care decisions.

Protecting Access to Gender-Affirming Care

MSMS supports patient access to gender affirming care and opposes efforts to ban or restrict patient access to such care. MSMS also opposes punishing, imprisoning, or fining health care providers for providing gender-affirming care as recommended by established medical guidelines.

Relevant AMA Policy

Preserving Access to Reproductive Health Services D-5.999

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 fertility treatments, 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 fertility treatments, fertility preservation, 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, including adverse medical licensing actions and the termination of medical liability coverage or clinical privileges 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; and (8) will advocate for legal protections for medical students and physicians who cross state lines to receive education in or deliver reproductive health services, including contraception and abortion.

Establishing A Task Force to Preserve the Patient-Physician Relationship When Evidence-Based, Appropriate Care Is Banned or Restricted G-605.009

1. Our AMA will convene a task force of appropriate AMA councils and interested state and medical specialty societies, in conjunction with the AMA Center for Health Equity, and in consultation with relevant organizations, practices, government bodies, and impacted communities for the purpose of preserving the patient-physician relationship. 2. This task force, which will serve at the direction of our AMA Board of Trustees, will inform the Board to help guide organized medicine's response to bans and restrictions on abortion, prepare for widespread criminalization of other evidence-based care, implement relevant AMA policies, and identify and create implementation-focused practice and advocacy resources on issues including but not limited to: a. Health equity impact, including monitoring and evaluating the consequences of abortion bans and restrictions for public health and the physician workforce and including making actionable recommendations to mitigate harm, with a focus on the disproportionate impact on under-resourced, marginalized, and minoritized communities; b. Practice management, including developing recommendations and educational materials for addressing reimbursement, uncompensated care, interstate licensure, and provision of care, including telehealth and care provided across state lines; c. Training, including collaborating with interested medical schools, residency and fellowship programs, academic centers, and clinicians to mitigate radically diminished training opportunities; d. Privacy protections, including best practice support for maintaining medical records privacy and confidentiality, including under HIPAA, for strengthening physician, patient, and clinic security measures, and countering law enforcement reporting requirements; e. Patient triage and care coordination, including identifying and publicizing resources for physicians and patients to connect with referrals, practical support, and legal assistance; f. Coordinating implementation of pertinent AMA policies, including any actions to protect against civil, criminal, and professional liability and retaliation, including criminalizing and penalizing physicians for referring patients to the care they need; and g. Anticipation and preparation, including assessing information and resource gaps and creating a blueprint for preventing or mitigating bans on other appropriate health care, such as gender affirming care, contraceptive care, sterilization, infertility care, and management of ectopic pregnancy and spontaneous pregnancy loss and pregnancy complications.

Oppose the Criminalization of Self-Managed Abortion H-5.980

Our AMA: (1) opposes the criminalization of self-managed abortion and the criminalization of patients who access abortions 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-managed abortion and the criminalization of patients who access abortions; and (3) will oppose efforts to enforce criminal and civil penalties or other retaliatory efforts against these patients and requirements that physicians function as agents of law enforcement - gathering evidence for prosecution rather than as a provider of treatment.

Source:

1. Cohen, DS; Donley, G; Rebouche R. Abortion Shield Laws. NEJM 2023;2(4).
<https://evidence.nejm.org/doi/full/10.1056/EVIDra2200280#:~:text=Shield laws protect licenses from,legal in the shielding state.>