



CHANGES AHEAD

ABORTION POLICY
PROPOSALS AFFECTING
REPRODUCTIVE MEDICINE



asrm
Center for Policy
and Leadership

March 2023

Report 3 in Series

Changes Ahead:

Abortion Policy Proposals Affecting Reproductive Medicine

Last Update: March 17, 2023

In January 2023, lawmakers across the country reconvened under state capitol domes to kick off the first new legislative sessions since the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* (No. 19-1392, 597 U.S. ___) delivered a devastating blow to Americans' access to reproductive health care.

Given the dynamic and unique makeup and processes of the 50 states' legislatures, it can be difficult to capture a static, one-size fits all summary of the state of play as it relates to legislating on abortion care. The landscape remains fluid, with impactful decisions resting in the hands of individual lawmakers, non-elected jurists, and state officials, including Attorneys General and Governors.

As lawmakers and officials across the nation develop a laser focus on curtailing access to abortion care, and other forms of reproductive medicine, including in vitro fertilization (IVF) come into increasingly sharp focus, this report is intended to highlight policy measures organizations including the American Society for Reproductive Medicine (ASRM) and others are closely monitoring and responding to in this busy legislative cycle.

At the crux of the issue: many of the proposals to ban or otherwise limit access to abortion care fail to protect the use of assisted reproductive technologies, including IVF, and so-called "personhood" measures (defining life as beginning at conception or fertilization) are multiplying across the nation, causing alarm bells to sound for medical practitioners and infertility patients alike. Such proposals could, intentionally or not, limit and even ban the use of IVF and routine, safe, and medically proven procedures, such as the removal of an embryo that fails to implant in a uterus, or the disposal of unused embryos.

Health care providers and other advocates across the nation recognize the critical and timely importance of educating policymakers on intended and unintended consequences of policy proposals on the field of and patients in need of reproductive medicine. Members of the profession have shown up in record numbers to deliver compelling testimony, first-hand accounts, and expertise to inform state policies and demonstrate the vital importance of equitable access to abortion care.

This report spotlights recent efforts to restrict and to protect abortion care and, more broadly, the practice of reproductive medicine. Importantly, this overview of state activities is not exhaustive, as hundreds of pieces of legislation, ballot measures, executive actions, and court cases continue to crop up to shape and redefine access to abortion care and its potential

implications for ART and other forms of reproductive medicine. In this time of flux, it is imperative to routinely check for updates that may impact the practice of medicine and patient care within your state.

Complete State Abortion Bans

To date, thirteen states have enacted bans on in-state abortion care. These are: Alabama, Arkansas, Idaho, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, South Dakota, Tennessee, Texas, and West Virginia.¹

As discussed in earlier CPL publications², the import of these bans for the practice of reproductive medicine and, specifically, the use of Assisted Reproductive Technology (ART) to build families, varies on a state-by-state level. While the majority of states' abortion ban statutes are applicable in the context of a pregnancy, many state laws also include definitions stating that "personhood" begins at fertilization or even conception. Such definitions -- whether intentionally or not -- have the potential to implicate and even ban the use of ART, including in vitro fertilization (IVF), though some states have taken steps to carve this out as allowable.

In a growing number of states, statutory restrictions severely limit access to abortion care and implicitly threaten the unhindered practice of reproductive medicine.

Legislating Restrictions and Protections Related to Abortion Care

In the wake of *Dobbs*, patients living in states where abortion is banned and severely restricted have had no choice but to seek out-of-state medical care when feasible. This has not escaped the attention of anti-abortion advocates and lawmakers who have responded with targeted measures to further restrict access to care and penalize efforts to obtain and facilitate care both within and across state lines.

Proposals restricting access to reproductive care

In 2022, **Arkansas'** then-Attorney General certified a 2019 state law banning all abortions except those done to save the life of the pregnant person (the law says "mother") in a medical emergency. For some, that did not go far enough. In 2023, policymakers in Arkansas are actively weighing measures to put abortion care even further out of reach for the state's citizens, who are already forced to travel out of state for care.

Among those measures is a proposal requiring any, as defined³, in-state employer who covers "abortions or travel expenses related to abortions." Notably, only full-time employees who have

¹ Wyoming is poised to join this group, as discussed later in this paper. On March 16, 2023, the Governor indicated he plans to let an abortion ban go into effect without his signature.

² See: <https://www.asrm.org/about-us/initiatives/center-for-policy-and-leadership/>

³ Defined as "any person engaging in commerce or in any industry or activity affecting commerce" who employees at least 50 employees for each working day during each of the 20 more more calendar work

worked with the employer for at least one calendar year would be eligible for paid maternity leave under the proposal, which caps the benefit at 100% of the eligible employee's salary or the 12-week average weekly pay.

Arkansas legislators recently approved a measure, which the Governor has signaled intent to sign⁴, repealing the state law under which an abortion clinic can be licensed by the state Department of Health. Notably, this measure would not repeal existing reporting or inspection requirements for in-state abortion facilities. By far more concerning to many is Arkansas HB 1174, a personhood measure that would allow state prosecutors to pursue murder charges against women who have abortions. Moreover, lawmakers expressly removed a carve out that provided a defense to charges in cases involving IVF – meaning that practitioners would be liable, if this passed as-is, for performing procedures that fall under the broad definition of abortion.

On March 16, **Utah's** governor signed into law a measure banning abortion clinics in the state. The bill passed the legislature after a vote on party lines. Pursuant to the new law, in-state abortion clinics must cease operations on December 31, 2023 or whenever their individual state license expires, whichever comes first. In addition, the Utah Department of Health and Human Services may no longer grant or renew an abortion clinic license.

In **Florida**, on the first day of its legislative session in March 2023, Republicans introduced companion bills in the House and Senate to further restrict access to abortion.⁵ The proposals would amend the state's current 15-week abortion ban law to make it a six-week ban. The state's Republican governor has indicated he will sign such measures if they reach his desk.

As another example of states ramping up restrictions on access to reproductive health care, consider **Idaho**, where, post-*Dobbs*, abortion was legally banned with exceptions for rape, incest, or risk to the life of the pregnant person. Notably, Idaho and a handful of other states (e.g., MS, UT) only permits the rape and incest exceptions to take effect if the alleged crime has been reported to law enforcement, a requirement that fails to respect longstanding best practices and data regarding victimology and the need to respect a victim's decision as to whether to report so as not to chill their willingness to do so. The reporting requirement also adds critical time to the ability to access abortion or miscarriage management care; this additional may make abortion unavailable even in these cases if the state has enacted a gestational ban.

Even with this existing ban in place, Idaho's Republican lawmakers are taking additional, out-of-the-box steps to ensure abortion care is out of the reach of their constituents. One proposal under consideration expands the definition of "human trafficking" to include helping a minor

weeks in the current or preceding calendar year, as well as any public agency, person "acting directly or indirectly in the interest of a covered employer to any of the employees of that employer" and successor "in interest of a covered employer."

⁴ See, <https://www.arkansasonline.com/news/2023/mar/05/utah-governor-backs-abortion-measure/>

⁵ Florida **HB 7** and **SB 300**, the "Pregnancy and Parenting Support" Acts.

obtain abortion care.⁶ The bill would prohibit “recruiting, harboring, or transporting” a person under the age of 18 to get an abortion or medication abortion, both within and outside of the state’s borders. Moreover, if the prosecuting attorney in a specific county refuses to do so, the legislation would authorize the state attorney general to prosecute an alleged violation of the law. Absent a legal defense (which includes parental consent), anyone who is found to have helped a minor access abortion care can be charged, under the proposed law, with human trafficking and could face between two-five years in prison. The proposal is vague on key points (for example, whether both parents must consent to trigger the exception to criminal penalties) and contains no exceptions. Despite this, the legislation advanced from the House to the Senate in early March and continues to work its way through the state house at time of publication.

In **Kansas**, post-*Dobbs*, a trigger law effectively abolished abortion care within the state. In what would prove to be a promising sign of trends to come across the nation, a few months later, more than half (60%) of Kansans voted in support of a referendum to keep the right to an abortion in the state’s Constitution. Despite this, Republican lawmakers, in 2023, have signaled a continued desire and willingness to overturn the will of the people and introduced legislation to allow cities and counties to enact abortion restrictions. As in other Republican-led states where voters rejected post-*Dobbs* anti-abortion proposals at the polls, anti-abortion policymakers are also choosing to await pending court decisions with import for abortion access, and pivoting to advance alternative measures, including funding for crisis pregnancy centers and legislative proposals that include exceptions for things including protecting the life of a mother and rape or incest.⁷

In yet another example, under the auspices of providing clarification on the status of abortion care in the state, **Oklahoma**’s legislators are considering legislation that would codify exceptions to the state’s absolute abortion ban in cases involving rape or sexual assault, as long as the crime was reported to law enforcement (a non-starter, as earlier noted, for many victims of crime), incest if reported to law enforcement, the prescription and use of contraception prior to a medical test confirming a pregnancy, procedures after a miscarriage, removal of an ectopic pregnancy, and in the event that the pregnant person faces death or “serious risk of substantial and irreversible physical impairment of a major bodily function.”

The Supreme Court’s *Dobbs* decision triggered a legal ban criminalizing abortion in Oklahoma. Prior to this, Oklahoma enacted a series of limitations and hurdles to abortion care, creating a confusing and contradictory legal landscape within the state. In August of 2022, the state enacted a law that carried harsh criminal penalties for doctors and others who perform or help to perform abortions.

Current **Nebraska** law bans abortion at 20 weeks unless there is a danger to the pregnant person’s life. Republican lawmakers there are pushing to further restrict access to the

⁶ Idaho [HB 242](#), which a House committee voted to advance to the Senate on March 7, 2023.

⁷ See, https://omaha.com/news/national/govt-and-politics/anti-abortion-allies-change-tactics-after-post-roe-defeats/article_5827e8c5-0d62-5eb9-b2af-6a9c1be8b4fd.html

procedure.⁸ At the time of this publication, lawmakers in Nebraska’s Republican-controlled legislature had advanced legislation, the *Nebraska Heartbeat Act*, for consideration by the full body. This legislation would effectively ban abortion procedures after six weeks if a physician can detect a fetal heartbeat.⁹

Wyoming legislators, in February 2023, approved a slate of anti-abortion bills.¹⁰ Among other things, the state approved a ban on medication abortion (discussed in the next section of this paper) and, in a bold move decried by physicians and patient advocates, authorized criminal charges against doctors and nurses who perform abortions or prescribe medication for abortions, which can result in up to five years imprisonment. For those who practice reproductive medicine, this measure and others like it may have a profound effect on care for miscarriage mismanagement.¹¹

Measures to protect reproductive care

While an unprecedented number of abortion bans and restriction measures have been introduced in this legislative cycle, there have also been efforts and proposals to protect access and the providers who seek to support access to abortion care.

In **Arkansas**, where, as previously discussed, abortion has been banned post-*Dobbs* and where conservative lawmakers seek to further restrict access to abortion care, Democrats have nonetheless introduced measures to protect abortion access. While, given the state’s political composition, these are expected to fail, they bear mention. Included is a proposed amendment to the Arkansas state Constitution providing that an “individual’s right to reproductive freedom shall not be denied, burdened, or infringed upon unless justified by a compelling state interest achieved by the least restrictive means.” The proposal goes on to provide that the state may still regulate the provision of abortion care after fetal viability, provided that in no circumstance the state prohibits an abortion that is medically determined to protect the “life or physical or mental health” of a pregnant individual.

In **Tennessee**, at-times contentious debates have ensued this legislative session regarding a proposal to legalize abortions in medical emergencies and other limited circumstances. Specifically, the measure would allow abortions to “remove a medically futile pregnancy; remove an ectopic or molar pregnancy, dispose of an un-implanted fertilized egg, address a lethal fetal anomaly; or prevent or treat a medical emergency.”¹²

Currently, all abortions, even those to save the life of a pregnant patient, are illegal in the state pursuant to a 2019 statute. Medical professionals have decried this law, citing its chilling effect

⁸ <https://nebraskalegislature.gov/laws/statutes.php?statute=28-3,102>

⁹ [NB LB 626](#)

¹⁰ See, <https://www.msn.com/en-us/news/us/wyoming-legislature-passes-strict-new-anti-abortion-measures/ar-AA18cdLp> (accessed February 2023).

¹¹ <https://www.boisestatepublicradio.org/2023-03-01/abortion-ban-could-worsen-wyoming-doctor-shortage>

¹² [TN HB 833](#)

on necessary reproductive health care. While that law does, as its proponents point out, carve out an “affirmative defense” that allows a physician to defend their medical decisions in a criminal case, a physician who performs an abortion in the state is still considered to have committed a felony under state law.

Notably, this proposal is not the only of its kind introduced within the state this session, though it is the one that has, as of press time, advanced to have a hearing. This is not surprising given that “exception” measures have included what critics call poison pill clauses, including a proposal to impose stiff criminal penalties for “false” reports of sexual assault to obtain abortion. Given that both Tennessee Governor Bill Lee and Lt. Governor Randy McNally indicated they see no need to change the existing state ban, the future of this legislation is questionable.

Hawaii is another state where protections for both the medical professionals who perform and the patients who seek and obtain abortion care are being considered by lawmakers. Proposals there include legislation that authorizes physician assistants to perform abortions (this measure was approved by the Senate and sent to the House on March 7, 2023)¹³, as well as a so-called “abortion shield law” that would shield medical providers and patients against out-of-state subpoenas related to reproductive health care. That proposal would also seek to protect physicians who perform abortions from losing their medical licenses as a result, a protection that **Illinois** lawmakers have already codified, **Colorado**¹⁴, and **Vermont** lawmakers are currently considering.

In **New Hampshire**, lawmakers introduced a fresh batch of anti-abortion legislation that includes a “heartbeat bill” (banning abortion upon detection of cardiac activity usually at approximately six weeks gestation).¹⁵ Another proposed measure would require health care providers to give patients written instructions and warnings about abortion medication and mandate the right (upon request) to view ultrasound images. Under current state law, abortion is legal until 24 weeks, with the penalty for violation of the law being up to seven years in prison and a \$100,000 fine.¹⁶ At least one policymaker wants to abolish these penalties which, many point out, are arbitrary and do not apply in instances of other comparable medical procedures.

A number of states have acted to enshrine abortion access rights in the wake of challenge. Early this year, lawmakers in **Minnesota** - where the courts have upheld abortion as a constitutional right - statutorily codified that right.¹⁷ In **South Carolina**, the state’s supreme court struck down a six-week abortion ban.¹⁸ This decision served as a further rallying call to anti-abortion advocates who are expected to continue to press their views and seek reforms from the state’s Republican-controlled legislature.

¹³ [HI SBI SDI](#)

¹⁴ [CO SB 23-188](#)

¹⁵ [NH HB 591](#)

¹⁶ New Hampshire Statutes, [Title X, section 132:23, et seq.](#)

¹⁷ Governor Walz signed the PRO Act <https://www.startribune.com/gov-tim-walz-to-sign-law-to-strengthen-abortion-rights-in-minnesota/600247932/> on January 31, 2023.

¹⁸ <https://www.forbes.com/sites/alisondurkee/2023/01/05/south-carolina-supreme-court-declares-six-week-abortion-ban-unconstitutional/?sh=6c8e1d034761>

And on March 16, **North Dakota's** Supreme Court upheld a lower court's decision to block the state's abortion ban, saying the state Constitution protects abortion rights in specific circumstances.¹⁹ The majority opinion in the case, which is expected to be appealed, states that the state Constitution protects "the right to enjoy and defend life and a right to pursue and obtain safety." This, in the view of the court, includes the right of pregnant persons to "obtain an abortion to preserve her life or health." Notably, the court acknowledged the right of the state legislature to regulate abortion, but that they were nonetheless convinced that opponents of the ban convincingly argued that "there is a fundamental right to an abortion in the limited instances of lifesaving and health-preserving circumstances, and the statute is not narrowly tailored to satisfy strict scrutiny," the legal standard that applies in this case. Abortion opponents in the legislature, anticipating this stance from the court, have already introduced legislation that would allow exceptions in cases of rape or incest up until six weeks of pregnancy.²⁰ Abortion rights advocates point out that most people are not aware they are pregnant by six weeks. At time of publication of this report, the legislation is awaiting full House consideration.

Taxes, religious freedom, and additional out-of-the-box proposals

Both proponents and opponents of abortion have invoked creative approaches to advance their positions. For example, abortion choice proponents in **Florida, Indiana, Kentucky, Missouri, Utah** and **Wyoming** have challenged the states' laws on grounds that they violate individuals' religious freedom. Anti-abortion advocates, in response, also hold up religious freedom as a plausible defense to being required to perform or otherwise facilitate the procedure. The rulings in these cases, all of which remain outstanding at time of publication, will set important precedent. In other states, legislative proposals tied to the concept of religious freedom are being actively debated. In late February 2023, for example, legislation passed the **West Virginia** House Judiciary Committee that would require a government entity to demonstrate a compelling reason to burden an individual's constitutional right to freedom of religion and show that it has done so in the least restrictive manner available.²¹

States' tax codes are also positioned for potential makeovers as the debate on abortion access rages. For instance, in states including **Nebraska**, lawmakers are advocating offering new tax credits to incentivize private donations to private pregnancy centers, which, by definition, do not offer abortion care and, some maintain, mislead patients. This is not a new approach. Missouri has long had a similar measure on its books. The Nebraska measure²² is moving, at time of publication, on to consideration by the full House. Under it, donors could cut their state tax bills by up to half, depending upon the size of their donation to qualifying organizations (with an annual cap of \$10 million). Other states, including **Arkansas** and **Oklahoma**, are also considering similar measures.

¹⁹ Decision [here](#).

²⁰ Utah [SB 2150](#)

²¹ See, <https://apnews.com/article/politics-reproductive-rights-united-states-government-west-virginia-religion-62cc37fa2f5a8d51c68b080102122bf2>

²² Nebraska [LB 606](#)

State coffers come into consideration here in additional ways. Consider: **Oregon** policymakers approved, last year, a \$15 million abortion-access fund, with \$1 million earmarked for a nonprofit to cover the costs of patients' travel and medical treatment.²³ Several other states, including **California, Connecticut, New Jersey, New York,** and **Washington,** are also already leaning toward the offering of similar public funding to support abortion access and care.

In **Illinois,** where several protections for abortion access already exist, a proposal is pending to establish a \$500 income tax credit for any healthcare provider who permanently relocates to the state in the given tax year for the purpose of providing reproductive or gender-affirming care in the state. The individual must certify they are relocating from a state with more restrictive laws. This credit would also be available to any person who permanently relocates to the state from a state with more restrictive abortion or gender-affirming care laws and who is a patient or the parent or guardian of a patient seeking such care.²⁴

Banning Medication Abortion

More than two decades ago, the FDA approved mifepristone as a method of abortion. Taken together with misoprostol, the two-pill combination is referred to as medication abortion. Medication abortion now accounts for most U.S. abortions.²⁵

Conservatives have taken notice and related actions to block medication abortion. Medication abortion is already banned in states with abortion bans. On March 17, 2023, **Wyoming's** governor signed legislation banning medication abortion, making it the first state to do so in a standalone bill.²⁶ This move is in line with a concerted effort to ensure abortion remains out of reach for Wyoming's citizens.²⁷

This is a national campaign. In early 2023, attorneys representing nearly two dozen states submitted a court brief submitted by Mississippi's Attorney General seeking to remove medication abortion from America's drugstore shelves after more than two decades of availability. The FDA has stated that pharmacies that become certified to dispense mifepristone,

²³ See <https://oregoncapitalchronicle.com/briefs/15-million-for-expanded-abortion-care-in-oregon-will-take-months-to-distribute/>

²⁴ [IL HB3368 \(ilga.gov\)](https://www.ilga.gov/legislation/bills/2023/03/03HB03368.htm)

²⁵ [Medication Abortion Now Accounts for More Than Half of All US Abortions | Guttmacher Institute](https://www.guttmacher.org/press-releases/2023/03/17/medication-abortion-now-accounts-for-more-than-half-of-all-us-abortions)

²⁶ <https://www.nytimes.com/2023/03/17/us/wyoming-abortion-pills-ban.html>. While signing the abortion pill ban into law, Wyoming's governor signaled that he will also allow a separate measure that bans nearly all abortions and establishes felony-level penalties for violations, to become law without his signature.

²⁷ Id. In pertinent part: "Mr. Gordon said in the letter that he withheld his signature from the broader abortion ban because he feared it would complicate matters in an ongoing legal battle over an earlier abortion ban passed by Wyoming legislators. The broader ban outlaws medication abortion as well, and the measure that bans abortion pills would mostly have the effect of adding additional penalties for medication abortion providers."

a medication abortion drug, can do so if an individual presents a prescription from a certified prescriber.²⁸

A single federal judge for the Amarillo division of the Northern District of Texas may beat them to the punch. At the time of this publication, a decision looms on a federal lawsuit²⁹ seeking to revoke the FDA's approval of mifepristone, a proven, safe abortion medication. In a single ruling (pending its expected review), a non-elected, Trump-appointed judge who many view as hand-selected for this role through venue shopping, has the potential to halt otherwise legal abortions across the country, even in states that have acted to protect abortion rights and prioritize patient and physician autonomy. The Biden administration plans to appeal the decision if he rules to ban the medication, leaving the short- and long-term landscape murky for patients and providers alike. On March 15, at a hearing on the case, the judge reportedly seemed open to arguments by abortion advocates that mifepristone was not properly vetted by the FDA. The agency has strongly contested this assertion and Vice President Kamala Harris cautioned, in remarks on the same day, the implications a ruling based on such an argument could have serious implications for the approval and availability of a wide range of medications.³⁰

States, too, are considering measures to both protect and prohibit access to medication abortion. For instance, in **Iowa**, where abortion remains legal until 22 weeks after a woman's last menstrual period, some policymakers sought this session to make it a felony for anyone, including physicians, to distribute abortion pills. Specifically, proposed legislation would make it a felony with punishment of up to a decade in jail for distributing abortion pills (with a carve out protecting patients who take the pills). This and other abortion-related measures failed in this year's session, where GOP leaders announced a plan to wait for the outcome of a case before the Iowa Supreme Court that could clear the way for a six-week abortion ban in the state.

In other states, decisionmakers remain intent on keeping mifepristone off its shelves. In November of last year, a **Kansas** district court blocked the state's statutory ban on physicians prescribing abortion-inducing medication via telemedicine.³¹ Despite this ruling, the state's Attorney General issued a stern warning to Walgreen's advising he would consider any such provision of abortion medication by mail within the state to be an enforceable violation of law (the very law that is on pause under a preliminary injunction).³²

Republican attorneys general from 20 states warned both CVS and Walgreen's pharmacies not to provide abortion pills through mail-order service.³³ In response, Walgreen's announced that it

²⁸ <https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/questions-and-answers-mifepristone-medical-termination-pregnancy-through-ten-weeks-gestation>

²⁹ *Alliance for Hippocratic Medicine v. U.S. Food and Drug Administration*, 2:22-cv-00223, US District Court, Northern District of Texas (Amarillo).

³⁰ <https://www.nytimes.com/2023/03/16/us/politics/iowa-kamala-harris-abortion.html>

³¹ See <https://www.kcur.org/2022-11-28/kansas-judge-blocks-law-banned-prescribing-abortion-pills-telemedicine>

³² The letter Attorney General Kobach sent can be viewed here: [abortion-pill-letter.pdf \(ks.gov\)](#) (accessed February 2023).

³³ For the full text of these letters and additional context, see: [Attorney General Bailey Directs Letter to CVS and Walgreens Over Distribution of Abortion Pills \(mo.gov\)](#) (accessed February 2023).

will cease distribution of the abortion medication mifepristone in 20 Republican-led states where newly enacted laws and pending lawsuits threaten the legality of its distribution. In a statement, Walgreens signaled its intent “to be a certified pharmacy” and to “distribute mifepristone only in those jurisdictions where it is legal and operationally feasible.”³⁴

In response, **California’s** governor announced that the state is evaluating its ties to Walgreens with the intention of ceasing its relationship considering its decision on mifepristone. In a Tweet, CA Governor Newsom, a Democrat, said, “California won’t be doing business with @walgreens – or any other company that cowers to the extremists and puts women’s lives at risk. We’re done.”³⁵ How this plays out remains to be seen, but additional national pharmacy chains, including Rite Aid, have signaled they are closely monitoring developments.

Conclusion

In America today, particularly for those who deliver and receive infertility care and treatment, certainty is elusive. In a post-*Dobbs* world, the practice and promise of reproductive medicine is under an unprecedented existential threat from politicians and jurists.

In response to this unparalleled scrutiny and threat, leaders in the field of reproductive medicine are working tirelessly to share expertise, experiences, and empirical data to inform policy making. Physicians, nurses, and others, including patients, have delivered a sea of evidence-driven testimony on the topic of abortion care and its implications for medical procedures including IVF.

In a statement following the issuance of the Supreme Court’s *Dobbs* decision, then-president of the American Society for Reproductive Medicine Marcelle Cedars, M.D., stated, “The idea that patients’ decisions about their own reproductive health -- whether, when, with whom or if, to have a child, are subject to the whims of politicians, and a vocal minority, is unacceptable. Likewise, the ability of physicians to treat their patients using the latest and best, evidence-guided practices and techniques should not be curtailed by elected officials, or un-elected judges.”

As uncertain and fluid as the legal landscape remains and is apt, for some time, to remain for reproductive medicine, there is one thing on which we can rely: Patients, including those seeking to build families in the wake of an infertility diagnosis, will continue to seek out and need access to reproductive medicine. Continued vigilance, education, and advocacy are, for many, imperative.

³⁴ See letter from Walgreens Boots Alliance Executive Director Danielle Gray to OH Attorney General Dave Yost, February 21, 2023:

<https://acrobat.adobe.com/link/track?uri=urn%3Aaid%3Aascds%3AUS%3Ad9a846ec-9eed-4c2c-a8f2-057201025942&viewer%21megaVerb=group-discover> (accessed February 2023).

³⁵ <https://twitter.com/GavinNewsom/status/1632811406344192000?s=20> (March 6, 2023)

Even as this report is being published, lawmakers across the country are debating these and new proposals with implications for reproductive health care. The information in this report is current as of the date of publication. Routine updates will be published to the CPL's web page and readers are cautioned to routinely check for updates as the legal landscape continues to change.

About the ASRM Center for Policy and Leadership

The ASRM Center for Policy and Leadership (CPL), established in 2020, builds on ASRM's longstanding role as a leading policy voice on Capitol Hill and in state capitals. The CPL is a non-partisan think-tank with a goal to advance reproductive medicine through thoughtful investigation of policy challenges facing our field.

Questions regarding this report and the ASRM CPL may be directed to its director, Rebecca O'Connor, J.D, who extends thanks to ASRM Policy Manager Jessie Losch, for her contributions to this report. Contact the CPL at: cpl@asrm.org.

