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Governor Laura Kelly
300 S.W. 10th St.
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Re: Urging the Veto of CCR SB 67, An Unlawful Abortion “Reversal” Bill.

Dear Governor Kelly:

Thank you for your continued vigilance in protecting the reproductive health rights of all Kansans. We write this letter to urge you to veto the Conference Committee Report for Senate Bill 67 (CCR SB 67)— a bill that would require doctors to inform patients that medication abortions are “reversible.” The bill demands that doctors mislead patients with scientific falsehoods, violates the legal and moral obligation to obtain informed consent, and unconstitutionally threatens the rights of Kansans to make their own reproductive health choices.

I. Abortion Reversal as Described in CCR SB 67 Has No Scientific Basis.

In 2012, an anti-abortion doctor single-handedly authored the concept of abortion reversal after conducting an informal study limited to six women. The study was conducted without the approval of an Institutional Review Board (IRB), and therefore did not satisfy federal regulatory requirements that ensure scientific validity and protect human subjects.¹ This is the only study to ever claim that abortion reversal is possible, and its results have been vigorously invalidated by the scientific community.² Indeed, major professional organizations including the American Medical Association and the American Congress of Obstetricians and Gynecologists have declared “there is no credible, medical evidence that proves that any treatment” can reverse the effects of a medical abortion.³ These findings were expressly adopted by Louisiana’s Office of Public Health in concluding that an abortion reversal bill similar to CCR SB 67 had “no scientific basis.”⁴

¹ Ivan Orsky, *Study claiming “abortion reversal” is safe and effective temporarily withdrawn for ethical issues*, RETRACTION WATCH (July 17, 2018), <https://retractionwatch.com/2018/07/17/study-claiming-abortion-reversal-is-safe-and-effective-temporarily-withdrawn-for-ethical-issues/>.

² Testimony on Kan. House Bill 2274 from Daniel Grossman, MD (Feb. 20, 2019), available at http://www.kslegislature.org/li/b2019_20/committees/ctte_h_hhs_1/documents/testimony/20190220_14.pdf.

³ Judith Gram, *‘Abortion reversal’ laws gain steam, despite scant scientific evidence*, STAT NEWS (Apr. 21, 2016), <https://www.statnews.com/2016/04/21/abortion-reversal-laws/>; AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, *Facts Are Important: Medication Abortion “Reversal” Is Not Supported by Science* (2017), available at <https://www.acog.org/-/media/Departments/Government-Relations-and-Outreach/FactsAreImportantMedicationAbortionReversal.pdf>.

⁴ Daphne Robinson and Amy Zapata, *Study Related to Whether the Effects of an Abortion Induced with Drugs or Chemicals Can Be Reversed*, LOUISIANA OFFICE OF PUBLIC HEALTH (2017), available at <http://ldh.la.gov/assets/docs/LegisReports/HCR87RS20161.pdf>.

II. CCR SB 67 Undermines the State’s Informed Consent Process and Misleads Women.

Doctors in Kansas have a legal obligation to seek informed consent from their patients before providing care.⁵ But CCR SB 67 would require physicians to tell women that a medication abortion may be reversed despite no scientific or medical evidence to support this claim. This directive would systematically mislead women at the beginning of the medical abortion process. In doing so, CCR SB 67 requires what the Kansas Supreme Court has already declared to be actionable medical malpractice in this State.⁶ This distortion of the doctor-patient relationship is legally untenable.

III. CCR SB 67 Unconstitutionally Interferes with the Right to a Safe Abortion.

Legislative mandates based on unproven, unethical research are dangerous to women’s health and should not be adopted as a matter of policy. However, providing un-sound or inaccurate information to patients also impacts a woman’s constitutional right to privacy because it has the potential to skew a woman’s decision to receive an abortion.⁷ Requiring doctors to provide misleading information also likely violates the First Amendment rights of doctors to communicate healthcare risks according to their professional judgment.⁸ CCR SB 67 is therefore ripe for a constitutional challenge on this basis should it become a law.

Based on the overwhelming rejection of CCR SB 87 by the scientific community and its clear invalidity as a matter of law, we urge you to veto this bill and to oppose any bills of this kind which use unsubstantiated science to manipulate legislation.

Sincerely,

Letitia Harmon
Policy Director

⁵ *Funke v. Fieldman*, 212 Kan. 524, 530-32 (Kan. 1973).

⁶ *Id.* at 531 (“A physician violates his duty to his patient and subjects himself to liability if he withholds any facts which are necessary to form the basis of an intelligent consent by the patient to the proposed treatment. *Likewise the physician may not minimize the known dangers of a procedure or operation in order to induce his patient’s consent*”) (citing *Salgo v. Leland Stanford Etc. Bd. Trustees*, 154 Cal. App. 2d 560 (1957)) (emphasis added).

⁷ *Women’s Medical Ctr. v. Roberts*, 530 F. Supp. 1136, 1153 (D. RI 1982) (citing *Planned Parenthood League v. Bellotti*, 641 F.2d 1006, 1017 (1st Cir. 1981)) (noting that the fundamental right to privacy guards against both undue intrusion into the doctor-patient relationship and against a state’s attempt to “skew [a woman’s] choice one way or another”).

⁸ *EMW Women’s Surgical Ctr., P.S.C. v. Beshear*, Case Nos. 17-6151/6183, 2019 U.S. App. LEXIS 9945, at *3 (6th Cir. Apr. 4, 2019) (noting that abortion informed consent laws should only be upheld “so long as the disclosure is truthful, non-misleading, and relevant to an abortion”).