

Archived: Monday, October 2, 2023 3:33:54 PM

From: [Halley Crissman](#)

Mail received time: Mon, 2 Oct 2023 17:10:54

Sent: Mon, 2 Oct 2023 13:09:59

To: [BPL-BoardSupport](#)

Cc: [Ryan Burtka](#) [Vashali Bhargava](#)

Subject: MSACOG comments regarding Board of Medicine rules

Importance: Normal

Sensitivity: None

Attachments:

[MSACOG Comment on Board of Medicine Rules 10022023.pdf](#) 

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To whom it may concern,

Please accept the attached Public Comments from the Michigan Section of the American College of Obstetricians and Gynecologists regarding the Board of Medicine rules.

Sincerely,

Halley Crissman, MD, MPH, FACOG

Michigan Section of ACOG



The American College of
Obstetricians and Gynecologists

WOMEN'S HEALTH CARE PHYSICIANS

October 2, 2023

To whom it may concern,

The American College of Obstetricians and Gynecologists (ACOG) is the governing body, and the source for clinical standards of care, for the specialty of obstetrics and gynecology across the United States. ACOG is a non-partisan organization representing more than 950 OBGYNs in Michigan and more than 60,000 OBGYNs nationwide.

We are writing regarding the Michigan Board of Medicine rule 333.2411(7) that restricts the ability of an allopathic physician from delegating prescriptive authority for scheduled drugs to advanced practice clinicians for the purposes of abortion care. This rule restricting a physician's ability to delegate their prescriptive authority for abortion care is not based in medical science nor patient safety.

The American College of Obstetricians and Gynecologists is committed to ensuring access to the full spectrum of evidence-based quality reproductive health care, including abortion. Abortion is one of the safest medical procedures performed in the United States—safer than other routine medical procedures and substantially safer than childbirth. Yet, it is increasingly out of reach because of mounting government-imposed restrictions targeting women, physicians, and other clinicians. A report by the National Academies of Sciences, Engineering, and Medicine (NASEM) comprehensively reviewed the state of science all methods of abortion, and confirmed once again that abortion is one of the safest medical procedures. In fact, it found that the biggest threats to the quality of abortion care in the United States are unnecessary and burdensome government regulations that undermine evidence-based care.

Mandates that only physicians can provide abortion care, are one example of government restrictions that are not based on scientific evidence, improperly regulate medical practice, and impede patients' access to quality, evidence-based health care. Laws requiring that only physicians provide abortion care diminish the number of qualified medical professionals who can provide abortion care and block women from obtaining safe, legal, and accessible abortion. The pool of clinicians who provide first-trimester medication and aspiration abortion should be expanded to appropriately trained and credentialed advanced practice clinicians in accordance with individual state licensing requirements (ACOG Committee Opinion No. 815).

In order to ensure access to safe abortion care, it is necessary to increase the availability of trained abortion providers. Advanced practice clinicians possess the clinical and counseling skills necessary to provide first-trimester abortion safely, and there is no medical rationale or benefit to restricting early abortion care to physicians (ACOG Committee Opinion No. 612).

APCs who are properly trained have the clinical and counseling skills necessary to provide medication abortion. The safety and efficacy of medication abortion performed by APCs have

been shown to be equivalent to physician provision through multiple randomized trials throughout the world (ACOG Practice Bulletin 225).

Moreover, physician-only laws exacerbate health inequities for people who already face the most barriers to abortion care. Adolescents, people of color, those living in rural areas, those with low incomes, and people who are incarcerated can face disproportionate effects of restrictions on abortion access, including physician-only laws (ACOG Committee Opinion No. 815).

In conclusion, we ask that the Board of Medicine rule 338.2411(7) be struck given that it is not based in medical science nor patient safety.

Sincerely,

Halley Crissman, MD, MPH, FACOG
Halley.crissman@gmail.com
Michigan Section ACOG Fellow Advocacy Chair

Vashali Bhargava, MD, FACOG
vashalibhargava@gmail.com
Michigan Section ACOG Chair

References:

National Academies of Sciences, Engineering, and Medicine. The Safety and Quality of Abortion Care in the United States (March 2018) at <https://www.nap.edu/read/24950/chapter/1>

Increasing access to abortion. ACOG Committee Opinion No. 815. American College of Obstetricians and Gynecologists. *Obstet Gynecol* 2020;136:e107–15 at <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2020/12/increasing-access-to-abortion>

Abortion Training and Education. Committee Opinion No. 612. American College of Obstetricians and Gynecologists (Reaffirmed 2019). At <https://www.acog.org/Clinical-Guidance-and-Publications/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/Abortion-Training-and-Education>

Medication abortion up to 70 days of gestation. ACOG Practice Bulletin No. 225. American College of Obstetricians and Gynecologists. *Obstet Gynecol* 2020;136:e31–47.

Archived: Monday, October 2, 2023 4:32:00 PM

From: [Monika Miner](#)

Sent: Mon, 2 Oct 2023 20:22:49

To: [BPL-BoardSupport](#)

Cc: [Lee Roosevelt CNM](#)

Subject: Comments for Administrative Rules for Medicine - General Rules in Rule Set 2023-30

Importance: Normal

Sensitivity: None

Attachments:

[ACNM affiliate comments.pdf](#) 

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Dear BPL:

Attached you will find comments for the administrative rules for the medicine, on behalf of the Michigan Affiliate of the American College of Nurse-Midwives (ACNM).

Thank you,

Monika Miner



Michigan Department of Licensing and Regulatory Affairs

Bureau of Professional Licensing

Board and Committees Section

P.O. Box 30670

Lansing, Michigan 48909-8170

To Whom It May Concern:

The Michigan Affiliate of the American College of Nurse-Midwives (ACNM) offers the following comments to the Michigan Department of Licensing and Regulatory Affairs on the currently proposed Administrative Rules for Medicine - General Rules in Rule Set 2023-30. On behalf of our members and in support of our mission to advocate for public policy that will improve sexual and reproductive health services in the State of Michigan, we support equitable access for every Michigander to a comprehensive range of reproductive health care provided by a qualified healthcare provider of their choosing.

The American College of Nurse Midwives has long affirmed the support of Advanced Practice Clinicians, including nurse-midwives, as qualified reproductive health service providers. There is a wealth of research documenting that advanced practice registered nurses (APRN), including Certified Nurse-Midwives, are capable of performing medication abortion (abortion with pills) at least as safely and effectively as physicians. In many other states APRNs are already providing abortion services safely and effectively. That is why the American College of Obstetrics and Gynecology, the American Public Health Association, the American Association of Physician Assistants, the American College of Nurse-Midwives, and the World Health Organization all take the position that APRNs should be permitted to provide full-scope first trimester abortion care.

We believe the proposed language in rule 338.2411(7) to prohibit a physician from delegating their prescribing authority to an APRN, with a specialty certification under MCL 333.17210 for any drug or device for any woman known to be pregnant with the intention of causing either "miscarriage or fetal death" lacks any medical or scientific basis and is not rooted in concerns about patient safety or the ability of an APRN to competently perform a medication abortion.

We request subsection (7) be removed in its entirety from R 338.2411. We believe such action is in keeping with Michigan voters' passage of Proposal 3 in 2022 to enshrine the full continuum of reproductive rights in the Michigan Constitution. Lastly, we would draw attention to the fact that subsection (7) is the only portion of R 338.2411 targeted at a specific population (women) and a specific medical condition (pregnancy). It also discriminates against APRNs, effectively limiting their scope of practice, by removing their ability to receive delegation that is not similarly limited to other licensed health professionals.

Abortion care is an essential element of reproductive health care in accordance with the American College of Nurse-Midwives' view that "everyone has the right to make reproductive health choices that meet their individual needs." Nurse-midwives who choose to do so are ideal reproductive health service providers. Their services help to improve access to reproductive health services in Michigan. If further information about our request is needed, please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee Roosevelt". The signature is fluid and cursive, with the first name "Lee" and the last name "Roosevelt" clearly distinguishable.

Lee Roosevelt, PhD, MPH, CNM, FACNM

President

American College of Nurse-Midwives, Michigan Affiliate

Archived: Monday, September 25, 2023 1:34:53 PM

From: [Colleen Ryan](#)

Mail received time: Mon, 25 Sep 2023 15:12:46

Sent: Mon, 25 Sep 2023 10:12:18

To: [BPL-BoardSupport](#)

Subject: Board of Medicine Rules Comments

Importance: Normal

Sensitivity: None

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Dear BPL:

I have reviewed the proposed changes to the Board of Medicine Rules and have the following comments.

The rules provide that a physician is allowed to delegate prescribing authority to an advanced practice registered nurse (APRN) for a range of controlled substances listed in Schedules 2 through 5. But the rules specifically prohibit a physician from delegating “*the prescription of a drug or device . . . for a woman known to be pregnant with the intention of causing either a miscarriage or fetal death.*” See R 338.2411(7).

This rule is contradictory to the constitutional right to individual reproductive freedom (enacted through Proposal 3 of 2022) and the Governor’s Executive Directive 2022-13.

Regardless of how the rules would be analyzed under a constitutional challenge, the executive directive contains clear (and mandatory) instructions to LARA. LARA “must” do the following: (1) ensure that all of LARA’s operations and practices related to reproductive rights provide “the maximum protection possible for the fundamental right to reproductive freedom”; (2) “identify any laws, regulations, policies, or practices within [LARA’s] jurisdiction, if any, that conflict with the constitutional right to reproductive freedom and work with the [DAG] to address those conflicts”; and (3) “identify potential opportunities to proactively increase protections for reproductive freedom.”

The rule, on its face, limits access to abortion medication by providing that only a physician can prescribe abortion medication, which cannot be delegated to an APRN. Further, this limitation has been implemented solely by administrative rule, and is not expressly required by the Michigan Public Health Code. Accordingly, this rule should be rescinded to be consistent with all three directives in the executive directive outlined above.

Sincerely,

Colleen Ryan

Archived: Monday, October 2, 2023 3:31:11 PM

From: [Elisabeth Smith](#)

Sent: Mon, 2 Oct 2023 16:58:38

To: [BPL-BoardSupport](#)

Subject: Administrative Rules for Medicine - General Rules in Rule Set 2023-30

Importance: Normal

Sensitivity: None

Attachments:

[R 338.2411_Center for Reproductive Rights_10.2.23.pdf](#) 

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To Whom It May Concern:

The Center for Reproductive Rights is a legal advocacy organization that uses the power of law to advance reproductive rights as fundamental human rights around the world. As a part of our mission, we aim to ensure that all people have meaningful access to abortion care services.

We write to offer the following comments to the Michigan Department of Licensing and Regulatory Affairs on the currently proposed Administrative Rules for Medicine - General Rules in Rule Set 2023-30.

Specifically, we request subsection (7) be removed in its entirety from R 338.2411 “Delegation of prescribing controlled substances to an advanced practice registered nurse; limitation.” Our full comments are attached.

Please do not hesitate to contact me with any questions.

All my best,
Elisabeth Smith

CENTER *for*
REPRODUCTIVE
RIGHTS

ELISABETH S. SMITH, J.D.* (she/her/hers)

Director, State Policy and Advocacy

esmith@reprorights.org

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*admitted only to the bar of Washington State

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CENTER *for* REPRODUCTIVE RIGHTS

NEW YORK

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reproductiverights.org

October 2, 2023

Michigan Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing
Board and Committees Section
P.O. Box 30670
Lansing, Michigan 48909-8170

VIA ELECTRONIC MAIL

**Re: Administrative Rules for Medicine - General Rules in Rule Set
2023-30; R 338.2411**

To Whom It May Concern:

The Center for Reproductive Rights (“Center”) is a legal advocacy organization that uses the power of law to advance reproductive rights as fundamental human rights around the world. As a part of our mission, we aim to ensure that all people have meaningful access to abortion care services.

We write to offer the following comments to the Michigan Department of Licensing and Regulatory Affairs on the currently proposed Administrative Rules for Medicine - General Rules in Rule Set 2023-30. Specifically, we request subsection (7) be removed in its entirety from R 338.2411 “Delegation of prescribing controlled substances to an advanced practice registered nurse; limitation.”

Medication abortion is an important component of abortion care—it accounts for more than half of the abortion care provided in the U.S.¹ and is the only method of abortion care that patients can access remotely. These important factors have made medication abortion the target of anti-abortion factions that seek to deny abortion access to all pregnant people in the United States. Michigan law should promote access to medication abortion to the greatest extent possible to ensure Michiganders’ bodily

¹ Rachel K. Jones, Elizabeth Nash, Lauren Cross, Jesse Philbin, and Marielle Kirstein, *Medication abortion now accounts for more than half of all US abortions*, GUTTMACHER INSTITUTE (last updated Dec. 1, 2022) <https://www.guttmacher.org/article/2022/02/medication-abortion-now-accounts-more-half-all-us-abortions>.

Field Code Changed

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autonomy and to implement the constitutional requirements contained in Article 1, Section 28 of the Michigan Constitution.²

Rule 338.2411(7) lacks any medical or scientific basis, does not further patient safety, and incorrectly limits advanced practice registered nurses (APRNs) from prescribing medication abortion although numerous studies have demonstrated their competence.³ Such limitations on prescribing authority harm Michiganders' ability to make their own decisions about their health and their bodies, including decisions about abortion.

Please do not hesitate to contact me if you have questions or would like further information.

Sincerely,



Elisabeth S. Smith
Director, U.S. State Policy and Advocacy
Center for Reproductive Rights
esmith@reprorights.org

² MICH. CONST. art. 1, § 28

³ Tracy A. Weitz, Diana Taylor, Sheila Desai, Ushma D. Upadhyay, Jeff Waldman, Molly F. Battistelli, and Eleanor A. Drey, [*Safety of Aspiration Abortion Performed by Nurse Practitioners, Certified Nurse Midwives, and Physician Assistants Under a California Legal Waiver*](#) 103 AM. J. OF PUB. HEALTH, 454, 461 (Mar. 2013) <https://doi.org/10.2105/AJPH.2012.301159>.

Archived: Sunday, October 1, 2023 8:43:53 AM
From: [Amy Zaagman](#)
Sent: Thu, 28 Sep 2023 22:42:34
To: BoardSupport@michigan.gov [BPL-BoardSupport](#)
Subject: Written comments for Medicine 2023-30 LR
Importance: Normal
Sensitivity: None
Attachments:
[MCMCH comments 2023-30 LR 10.27.pdf](#) 

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Please find written comments attached for the public hearing on Monday, October 2 re: Administrative Rules for Medicine – General Rule in Rule Set 2023-30 LR.

Thank you -

Amy U. Zaagman

Executive Director

517-482-5807 - office

517-230-1816 - mobile

www.mcmch.org





September 27, 2023

Michigan Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing
Board and Committees Section
P.O. Box 30670
Lansing, Michigan 48909-8170

To Whom It May Concern:

The Michigan Council for Maternal and Child Health offers the following comments to the Michigan Department of Licensing and Regulatory Affairs on the **currently proposed Administrative Rules for Medicine - General Rules in Rule Set 2023-30**. On behalf of our members and in support of our mission to advocate for public policy that will improve maternal and child health, we support equitable access for every Michigander to any type of reproductive health service, including exams and health screenings, every form of contraception, any type of procedure and any medically necessary care delivered by competent and qualified providers.

We believe the proposed language in rule 338.2411(7) to prohibit a physician from delegating their prescribing authority to an advanced practice registered nurse (APRN) with a specialty certification under MCL 333.17210 for any drug or device for any woman known to be pregnant with the intention of causing either “miscarriage or fetal death” lacks any medical or scientific basis and is not rooted in concerns about patient safety or the ability of an APRN to competently perform a medication abortion. We request subsection (7) be removed in its entirety from R 338.2411.

We believe such action is in keeping with Michigan voters’ passage of Proposal 3 in 2022 to enshrine the full continuum of reproductive rights in the Michigan Constitution, as well as the subsequent Executive Directive issued by Governor Whitmer stating, among other provisions, “departments and agencies must identify any laws, regulations, policies, or practices within their jurisdiction, if any, that conflict with the constitutional right to reproductive freedom ... departments and agencies must respect the Michigan Constitution’s provision that only a compelling state interest may justify infringement on the protected right and that any such infringement must be achieved by the least restrictive means necessary.”

Lastly, we would draw attention to the fact that subsection (7) is the only portion of R 338.2411 targeted at a specific population (women) and a specific medical condition (pregnancy). It also discriminates against APRNs, effectively limiting their scope of practice, by removing their ability to receive delegation that is not similarly limited to other licensed health professionals. If further information about our request is needed, please let us know.

Sincerely,

Amy U Zaagman
Executive Director

SUSTAINING MEMBERS

Beaumont Children’s Hospital

Children’s Hospital of
Michigan/Detroit Medical Center

Henry Ford Health System

University of Michigan C.S. Mott
Children’s Hospital and Von
Voigtlander Women’s Hospital

CONTRIBUTING MEMBERS

Michigan Section, American
College of Obstetricians and
Gynecologists

Mott Children’s Health Center

School-Community Health
Alliance of Michigan

PARTNERING MEMBERS

Honor Community Health

Michigan Association for Infant
Mental Health

Michigan Association of
School Nurses

Michigan Breastfeeding
Network

Michigan School Health
Coordinators’ Association

Michigan State Medical Society

Northern Michigan Health
Consortium

Washtenaw County
Public Health

GENERAL MEMBERS

Maternal-Newborn Nurse
Professionals of Southeastern
Michigan

Michigan Chapter, National
Association of Pediatric
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EXECUTIVE DIRECTOR

Amy Zaagman
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