

**Missouri State Medical Association
House of Delegates**

Resolution # 24
(A-24)

Introduced by: Albert L. Hsu, MD

Subject: Opposing “Personhood” Rights for Embryos

Referred to:

1 **WHEREAS**, on Fri 2/16/24, the Alabama Supreme Court¹ ruled that

- 2 (a) “an embryo created through in vitro fertilization (IVF) is a child protected by Alabama’s
- 3 wrongful death act and the Alabama Constitution;” and that,
- 4 (b) “a human frozen embryo is a ‘child’ which is an unborn or recently born children;” and that
- 5 (c) “the Constitution ... commands the judge to ... upholding the sanctity of unborn life,
- 6 including unborn life that exists outside the womb;” and that,
- 7 (d) “the Court would not create an exception in the statute for these IVF embryo children just
- 8 because they were located outside the womb;” and,
- 9

10 **WHEREAS**, historically, multiple states have already rejected attempts through legislation, constitutional

11 amendments or ballot measures to establish and expand the definition of personhood and associated

12 rights:

- 13 - In 2008 and 2010, Colorado² voters rejected ballot measures, to give constitutional rights to
- 14 individuals “at the beginning of biological development;” and,
- 15 - In 2011, Mississippi³ considered Proposition 26: "Should the term ‘person’ be defined to include
- 16 every human being from the moment of fertilization, cloning, or the equivalent thereof?" which
- 17 was voted down; and,
- 18 - In 2012, the Virginia House of Delegates⁴⁻⁵ passed House Bill 1 that was subsequently tabled by
- 19 the state Senate until 2013, which if passed would “construe the word ‘person’ under Virginia
- 20 Law ... to include unborn children” and enact that “the life of each human being begins at
- 21 conception;” and,
- 22 - Similar “Personhood” bills have also been passed by a single legislative chamber in North
- 23 Dakota, Oklahoma,⁶ and Mississippi,⁷ and,
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25 **WHEREAS**, these “Personhood” bills and ballot measures define a person as being a legal

26 entity from the moment of conception; and thus define fertilized eggs and embryos, as persons with

27 constitutional rights; and,

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29 **WHEREAS**, giving constitutional rights to a fertilized oocyte or embryo would interfere with the

30 physician-patient relationship in the provision of in vitro fertilization (IVF) services; and,

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32 **WHEREAS**, in current IVF practice in the United States, over half of embryo transfers will *not* result in

33 live birth, as many embryos after transfer will either (a) not result in a pregnancy, (b) result in a

34 miscarriage, or (c) result in a non-viable ectopic or molar pregnancy; and,

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36 **WHEREAS**, cryopreserved embryos also do *not* have a 100% thaw-survival rate, and a small

37 percentage of embryos will not survive freeze-thaw; and if embryos in the IVF lab have the same legal

38 status as children, then an embryology laboratory that fails to have a 100% thaw-survival rate may also
39 have some potential liability; and,

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41 **WHEREAS**, not all IVF patients can afford the long-term storage fees to cryopreserve embryos for future
42 use or to donate those embryos to others; and,

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44 **WHEREAS**, defining all embryos as “children” promotes the dangerous notion that all embryos should
45 somehow be transferred in an IVF cycle (instead of cryopreserving extra embryos of adequate quality),
46 which could potentially increase the rate of dangerous higher-order multiple gestation pregnancies
47 (triplets, quadruplets, etc); and,

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49 **WHEREAS**, defining all embryos as “children” may promote the dangerous and misguided notion that an
50 ectopic pregnancy could somehow be safely implanted into the uterus (as is erroneously reported on
51 various “Personhood” websites⁹); and,

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53 **WHEREAS**, considering embryos to be “children” also raises potential legal complications, such as how
54 inheritance and probate laws would apply to embryos, and,

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56 **WHEREAS**, defining all embryos as “children” may promote the dangerous and misguided notion that a
57 molar pregnancy can somehow be “rescued” instead of being a potential cancer; and,

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59 **WHEREAS**, considering abandoned embryos to be “children” raises questions about whether states
60 would then be liable to provide support for cryopreserved embryos and long-term storage costs, such as
61 under Medicaid as if they were “wards” of the state; and,

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63 **WHEREAS**, giving “rights” to embryos in the IVF lab will potentially complicate the practice of IVF by
64 inappropriately pressuring physicians to transfer abnormally-growing and arrested embryos; and,

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66 **WHEREAS**, the American Society for Reproductive Medicine (ASRM) Position Statement on Personhood
67 Measures states that

- 68 - The ASRM is strongly opposed to measures granting constitutional rights or protections and
69 “personhood” status to fertilized reproductive tissues.
- 70 - IN a growing number of states, vaguely worded and often misleading measures are appearing
71 either in legislation or as proposed constitutional amendments, defining when life begins and
72 granting legal “personhood” status to embryos at varying stages of development. If approved,
73 these measures will have profound consequences for women and their families.
- 74 - ..., these broadly worded measures will have significant effects on a number of medical
75 treatments available to women of reproductive age.
 - 76 ○ Personhood measures would make illegal some commonly used birth control methods.
 - 77 ○ Personhood measures would make illegal a physician's ability to provide medically
78 appropriate care to women experiencing life-threatening complications due to a tubal
79 pregnancy.
 - 80 ○ Personhood measures would consign infertility patients to less effective, less safe
81 treatments for their disease.
 - 82 ○ Personhood measures would unduly restrict infertile patients’ right to make decisions
83 about their own medical treatments, including determining the fate of any embryos
84 created as part of the IVF process.
- 85 - ASRM will oppose any personhood measure that is unclear, confusing, ambiguous, or not based
86 on sound scientific or medical knowledge, and which threatens the safety and effective
87 treatment of patients.

88 therefore, be it,

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90 **RESOLVED**, that our Missouri State Medical Association (MSMA) and American Medical Association
91 oppose any legislation or ballot measures that could criminalize in-vitro fertilization (Establish New
92 Policy); and, be it further,

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94 **RESOLVED**, that our MSMA and AMA work with other interested organizations to oppose any legislation
95 or ballot measures that equate gametes (oocytes and sperm) or embryos with children; and, be it
96 further,

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98 **RESOLVED**, that our MSMA and AMA work with other interested organizations to oppose Court rulings
99 that equate gametes (oocytes and sperm) or embryos with children; and, be it further,

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101 **RESOLVED**, that our AMA report back on this issue at A-25; and, be it further,

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103 **RESOLVED**, that our MSMA forward this resolution to the AMA at A-24.

Fiscal Note: None

Current Policy: