

Testimony of Elizabeth Shadigian, M.D. before the Wisconsin State Assembly, Committee of Judiciary and Ethics Wisconsin Assembly Bill 710 January 31, 2008

Introduction

My name is Dr. Elizabeth Shadigian, and I am speaking today as a physician, scientist and educator in support of the mother's life exception (rather than a health exception), as part of the Wisconsin Partial Birth Abortion Ban. I was retained by the United States Department of Justice as an expert witness in the litigation challenging the federal Partial Birth Abortion Ban Act of 2003. I have also testified in other matters before the United States Senate and House of Representatives committees.

Background and Credentials

I have submitted to the committee a recent copy of my Curriculum Vita. I graduated in 1985 from Purdue University with a B.S. in Chemistry. I received an M.D. degree from Johns Hopkins University School of Medicine in 1990 and completed my Obstetrics and Gynecology residency at Franklin Square Hospital Center in 1994, both in Baltimore, Maryland.

I am currently in private practice in Ann Arbor, Michigan and am Adjunct Clinical Associate Professor of Obstetrics and Gynecology at the University of Michigan, where I worked full time for over twelve years from 1994 through 2005. I have been board certified in Obstetrics and Gynecology since 1996 and am licensed to practice medicine in the State of Michigan.

I am a Fellow of the American College of Obstetricians and Gynecologists (ACOG) and President of one of ACOG's largest special interest groups, the American Association of Pro Life Obstetricians and Gynecologists (AAPLOG).

My Statement of Opinions as an expert witness for the United States Department of Justice

1. In the absence of any published peer-reviewed medical studies evaluating the indications and complications of the D&X procedure, there is no sound basis for concluding that the D&X procedure offers safety or other clinical advantages over alternative abortion methods.
2. It is never medically necessary for physicians to perform partial-birth abortions in order to properly treat pregnant women suffering from high-risk medical conditions.
3. Medical induction is a safer abortion procedure than D&X.
4. Once a pregnancy reaches mid to late second trimester, medical induction is the safest method of performing an abortion.

Other Summaries

Additionally, my testimony and the testimony of other experts in the litigation surrounding the Partial Birth Abortion Ban Act of 2003 was summarized in the AAPLOG brief written for the Supreme Court, dated May 22, 2006. Specifically,

1. The Act imposes no undue burden under *Planned Parenthood vs. Casey* because there is no substantial, reliable evidence that the Act will increase medical risks for any woman.

2. There is no substantial, reliable evidence that any maternal or fetal condition requires the use of D&X.
3. There is no substantial, reliable evidence that D&X is safer than existing procedures.

Mother's Life Exception

The federal Partial Birth Abortion Ban Act of 2003 contains an express exception “to save the life of a mother, whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-threatening physical condition cause by or arising from the pregnancy itself.” The same language is included in Wisconsin Assembly Bill 710.

Evidence-based research reveals that there is no indication for use of this procedure, even in the context of hydrocephaly or other anomalies of the baby or for any condition of the mother. Because of the extreme subjectivity of the lower courts standard of review (“medically necessary to preserve a woman’s health”) relied entirely on intuition and personal observation, not empirical evidence, the Supreme Court upheld the federal Act. In addition, the terms “medically necessary” and “health” have become terms of art with broad definitions unique to abortion law. The Supreme Court rejected these previously used terms and assessed risks to the mother of an unstudied procedure and the safety of existing procedures. Specifically, the Supreme Court stated that given the availability of other abortion procedures that are considered safe alternatives, the Act is not invalid on its face where there is uncertainty over whether the barred procedures is ever necessary to preserve the woman’s health. The Supreme Court also stated that,

“Physicians are not entitled to ignore regulations that direct them to use reasonable alternative procedures. The law need not give abortion doctors unfettered choice in the course of their medical practice, nor should it elevate their status above other physicians in the medical community. “

Conclusion

The language contained in the Act covers an express exception which is sufficient to cover a true life-threatening emergency, which exempts from liability physicians acting to save a mother’s life. Therefore, I support the federal and Wisconsin’s language of a life exception rather than a health exception, based upon the medical evidence.