



Bryan White <zebrafactcheck@gmail.com>

Correction Request: Abortion amendment makes abortion legal up through moment before birth

1 message

Bryan White <zebrafactcheck@gmail.com>

Fri, May 3, 2024 at 2:47 PM

To: truthometer@politifact.com

Cc: "sputterman@poynter.org" <sputterman@poynter.org>

Dear Truth-O-Meter,
cc Samantha Putterman

Your [April 30, 2024 fact check](#) examining the claim that Florida's proposed abortion rights amendment would mandate abortion through the moment of birth needs correction.

[Miami Herald fact-checkers examined the same claim on April 18, 2024](#) and reached a conclusion that conflicts with yours (though neither fact check examines the question fairly):

WHAT TO KNOW

DeSantis' statement is technically true, but lacks important context. Under the language of the amendment, abortions could legally be allowed "up until birth" for health reasons — but Florida law already permits abortions with no hard cutoff for limited health reasons. And that will remain true under Florida's impending six-week ban, which DeSantis signed and is set to take effect in early May.

Both fact checks effectively ignore the stipulation in the amendment that the health care provider (abortionist, that is) determines what constitutes protecting the health of the mother. Seemingly that could include the risk of childbirth itself, which could cover all pregnancies. Various other laws allowing abortion exceptions based on the health of the patient use qualifying language to at least present the appearance of an actual restriction, though I'm not sure any U.S. doctor has ever, since *Roe*, been charged for performing an illegal abortion based on using a bogus health exception (fact check that?).

Also, your fact check [comes close to duplicating the problem that got Science Feedback a slap on the wrist from the International Fact-Checking Network](#). Your fact check dismisses the possibility that a health provider could use any reason to justify allowing a health exception. The fact check supports that claim with a quotation from an expert, but that expert has a history of donating to the "pro-choice" group [EMILY's List](#).

Money to Candidates	CORBIN, CAROLINE CORAL GABLES, 33146	UNIVERSITY OF MIAMI SCHOOL OF LAW	PROFESSOR	10-06-2008	\$1,000	Barack Obama (D)	Federal
Money to Candidates	CORBIN, CAROLINE MIAMI, 33146	UNIVERSITY OF MIAMI SCHOOL OF LAW	PROFESSOR	09-18-2018	\$1,000	Bill Nelson (D)	Federal
Money to Candidates	CORBIN, CAROLINE MIAMI, 33146	UNIVERSITY OF MIAMI SCHOOL OF LAW	PROFESSOR	10-08-2018	\$1,000	Bill Nelson (D)	Federal
Money to PACs	CORBIN, CAROLINE CORAL GABLES, 33146	UNIVERSITY OF MIAMI SCHOOL OF LAW	LAW PROFESSOR	12-30-2018	\$250	EMILY's List	Federal

A proper citation of said expert should have the expert explain, to whatever degree possible, why a healthcare provider couldn't legally justify the exception based on any reason at all. Simply stating that it cannot happen does not reflect expertise and leaves the reader wondering what would justify the statement. If the only justification is "Well, she's an expert" then the expert's testimony is indistinguishable from [a fallacious appeal to authority](#).

The proper citation would also reveal to readers the conflict of interest between the expert's politics and opinion offered about the amendment.

To again emphasize the point, **the amendment as written gives the privilege of determining what constitutes the health of the patient directly to the healthcare provider (abortionist) and nobody else.** If the healthcare provider says the risk of a hangnail from proceeding with the pregnancy represents a health risk to the patient, the proposed amendment supports that. A court that takes the text of the law seriously is obligated to accept that reasoning as a legitimate application of the law.

Contrary to the other expert cited in your fact check, it would not be up to the court to define what legitimately counts as protecting the health of the mother. The amendment places that determination solely and squarely with the abortionist. It's right there in the text of the amendment, with no ambiguity: "Except as provided in Article X, Section 22, no law shall prohibit, penalize, delay, or restrict abortion before viability or **when necessary to protect the patient's health, as determined by the patient's healthcare provider.**"

There's not even room to appeal to legislative elaboration on the question of the health of the patient. The amendment cuts that off with "no law shall." It's entirely up to the healthcare provider.

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Sincerely,

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editor
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