

TO: Washington State Legislators
FROM: Sharon Quick, MD, Washington Coordinator, American Academy of Medical Ethics
RE: OPPOSE EHB 1268

Non-embryonic (adult) stem cell research and a ban on all human cloning should be supported, but **EHB 1268 should be strongly OPPOSED for the following reasons:**

1. **This bill is unnecessary.** There is no ban on human cloning or embryonic stem cell research in this state or at the federal level, and fertility clinics in WA currently offer patients the option of donating leftover embryos for research. The bill is not needed to allow adult stem cell research, which is legal and can be federally funded.
2. **Human cloning is not properly defined. As written, this intended ban does not prevent human cloning but attempts to regulate what is done with human cloned embryos after they are created. The bill allows unethical practices.**
 - a. **Proper definition of Human Cloning, also known as "somatic cell nuclear transfer"** (See also Stem Cell Research and Cloning—Science and Ethics): Combining the following 2 cells to form a 1-celled embryo: (1) a body cell of one animal and (2) an egg cell that has had its nucleus containing the chromosomal DNA removed. Once this one-celled cloned embryo has been formed, the process of cloning is complete; after that is simply growth and development of the cloned organism. This cloned embryo is essentially the genetic twin of the animal from which the body cell was taken. The cloned embryo is induced to divide and grow until it reaches a hollow ball stage at which point it has 2 possible fates:
 - i. Implantation into a uterus with the purpose of a live birth—so-called "reproductive cloning"
 - ii. Destruction to obtain its embryonic stem cells—so-called "therapeutic cloning."
 - b. **Scientifically and medically**, an embryo (whether cloned or not) from the one-cell stage and beyond is a living human individual (*Homo sapiens*). Implantation of an already cloned human embryo is banned in this bill in Sec. 2 (5) only if it is performed "with the purpose of creating a human being." **Because "human being" is not legally defined, it will be interpreted by courts to mean a live-born human. Implanting that cloned embryo in a womb, growing the child to the ninth month, and killing him or her for stem cells or tissues is not prohibited by this bill.**
 - c. In section 2 (7), "somatic cell nuclear transfer" and "therapeutic cloning" are not equivalent terms. As described above, the former is synonymous with cloning; the latter is one option for the fate of a cloned embryo.
 - d. **A ban on implantation of cloned embryos is unenforceable** because cloned embryos and sexually-produced embryos for in vitro fertilization are indistinguishable under the microscope--there is no way to prevent one type versus the other from being implanted. What happens if a woman has a cloned embryo implanted? Is she forced to have an abortion?
 - e. **Not allowing live cloned human embryos to be transferred into a uterus** (their only means of survival) **would mandate destruction of human lives. This bill would create a new class of humans whose only legal use is destruction and exploitation by researchers.** The state would have the impossible task of monitoring biotechnology companies to make sure that none of these tiny developing humans escapes alive. This bill violates the state's traditional responsibility to protect the weak and vulnerable from those who would exploit them for profit.¹
3. **Allows human eggs and sperm to be donated to manufacture human embryos for the sole purpose of destructive research** (Section 7); **human embryonic stem cell research is not limited to "leftover" human embryos.** Even proponents of embryonic stem cell research repudiate this practice, and WA would be the first state to authorize such human embryo production for destruction. Women may be exploited in order to get eggs to produce embryonic stem cell lines.

4. **The practices authorized in this bill are in direct conflict with worldwide medical codes established to protect human research subjects.** The Nuremberg Code, for example, was adopted after WWII atrocities in concentration camps involving the elite physicians and medical institutions of Germany. It states that, "No experiment should be conducted where there is a priori reason to believe that death or disabling injury will occur." The embryo cannot give consent, and is being killed for the presumptuous benefit of another.
5. **This bill has NO conscience clause, yet (in Sec. 4) it requires physicians to give patients undergoing infertility treatment options for the disposition of human embryos including killing them or donating the embryos for research purposes.** Human life begins with the one-celled embryo. Should this bill become law it would require a physician to authorize the killing of a helpless human. Many physicians still ascribe to the ethical tenets outlined in the Hippocratic Oath sworn to by doctors for over 2000 years and, thus, will not destroy the unborn or suggest to their patients that they do so. Physicians deserve the right of choice just as much as their patients. They are not mere technicians but professionals. **It is wrong to coerce physicians to advocate to their patients conduct they consider unethical and unprofessional.**
6. Donation of human embryonic or fetal tissue for research purposes is allowed and "reasonable payment" for various parts of processing is permitted (Sec. 6). Even though the wording seems to outlaw purchase of human tissue, the "reasonable payments" could be profit-producing and encourage destruction of human embryos. A decade-old federal law already prohibits the sale of human embryonic or fetal tissue (42 USC 289g-2), although it has not been completely effective. For example, in 1999 a tissue procurement company called Opening Lines distributed a long list of fetal organs of various types and stages, with prices (e.g., "Eyes (>8 weeks) – 40% discount for single eye - \$50," "Spinal Column - \$150," etc.). The company evaded the federal law by presenting this list as a "Fee for Services Schedule," taking advantage of the law's provision allowing "reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue."² EHB 1268 contains essentially the same loophole.
7. Sec. 4 (2) has multiple similar statements which are unclear and could potentially lead to abuses of human embryos: for example, "donating the blastocysts to another person" or "making blastocysts available to the [male or female] partner." The purpose for such a donation is not indicated. If it is supposed to mean that unused embryos can be donated to another individual for the purpose of adoption and implantation into a uterus, then that should be made clear. However, it is hard to understand how a male partner might accomplish this. As currently written, the recipient could do anything they want with the embryos, including abuses such as black market sales which might be listed as "processing fees."
8. **A complete ban on human cloning for any purpose ("reproductive" or "therapeutic") is essential, yet this bill does not provide for such a ban.** Human cloning is not only harmful to the embryos produced, but potentially to the patients in whom cloned products are transplanted and to women as well (See Stem Cell Research and Cloning—Science and Ethics).
9. **The sources of stem cells that are allowed by this bill include human embryonic stem cells, which are derived by killing human embryos. Research which requires cloned or noncloned human embryo destruction is unsafe, unethical, and unnecessary** (See Stem Cell Research and Cloning—Science and Ethics).

The scientific data support adult stem cell research as being the best investment for our research dollars with the most likely chance of producing new, safe, and ethical cures in the lifetimes of those patients who are living now. If Washington State invests its limited research dollars into adult stem cell research, it will be a leader in making the hope for a cure a reality, instead of wasting dollars on unsafe, unethical, and unnecessary research with human cloning and human embryonic stem cells.

Please OPPOSE HB 1268 as it authorizes destruction of human life, coerces physicians to violate their consciences, and endorses practices potentially harmful to patients and women.

1. Testimony of Richard Doerflinger before the Health and Human Development Committee of the Delaware House of Representatives concerning Senate Bill No. 55, "Cloning Prohibition and Research Protection Act"; January 14, 2003.
2. Doerflinger R. Congressional Testimony to House Health and Government Operations Committee of the Maryland Legislature; Mar. 12, 2003.