

**Letter of Support for the
Uniform Public Expression Protection Act
from Dr. Chelsea B. Polis**

My name is Dr. Chelsea Polis. I am a reproductive health epidemiologist based in New York. I earned my PhD in reproductive health from the Johns Hopkins Bloomberg School of Public Health. During my career, I have worked for the United States federal government, and for several non-profit reproductive health research organizations. Much of my work focuses on contraception, including how to accurately estimate the effectiveness of various contraceptive methods.

I am writing to share my support for the Uniform Public Expression Protection Act, which protects citizens' rights to speak out about issues of public concern and exercise their First Amendment rights. I am passionate about this legislation because in May 2020, I was frivolously sued for \$1 million dollars for defamation for speaking out about my scientific and regulatory concerns regarding Valley Electronics, a company which manufactures a thermometer-based fertility tracking device called Daysy. Although forbidden by the U.S. Food and Drug Administration ("FDA") to be marketed as a contraceptive method, Valley marketed Daysy not only as a contraceptive method, but with claims that it was as effective as an IUD – one of the most highly effective methods of contraception available. These claims were based in part on a fatally flawed study. Furthermore, these claims were touted widely on social media, putting consumers – especially youth – at risk of unintended pregnancy, which can carry numerous health, social, and economic consequences.

When I privately contacted Valley in 2017, asking them to stop such marketing and do a proper contraceptive effectiveness study, they said that was too costly – apparently ignoring the costs of unintended pregnancy to their consumer base. So, in 2018, I published a peer-reviewed commentary detailing numerous flaws in their study and called for it to be retracted from the scientific literature. In 2019, after independent review, the scientific journal agreed with my concerns and retracted Valley's study. I also submitted an allegation of regulatory misconduct to the FDA, prompting an FDA investigation, after which the company was required to change its marketing language and stop marketing Daysy as a contraceptive.

During media interviews, I used words like "junk science" to refer to the retracted study and "unethical" to refer to a company violating FDA regulations. In 2020, Valley claimed that my statements were defamatory and sued me – despite knowing that a scientific journal and a U.S. federal agency had acted upon the concerns I had raised. I was shocked and terrified. I had done this work without pay, on personal time, and purely in hopes of protecting public health. I could not fathom that I was being punished for taking responsible and professional steps to protect the public. In addition to the time and stress of undergoing a frivolous lawsuit, I suffered serious emotional and physical symptoms, and had to step away from various work opportunities.

Thanks to my wonderful lawyers, over the next two years, the company lost its frivolous lawsuit against me, including its appeal. While the case against me was ultimately dismissed, I remain gravely concerned about the threat frivolous lawsuits pose to experts who speak out on matters of public health importance and in other areas.

We need legislation to limit Strategic Lawsuits Against Public Participation – SLAPP suits. These suits are often not filed with the intention of winning, but rather with the intention of silencing people from speaking publicly in ways that the plaintiff does not like. This is an abuse of the legal system and a slap in the face to those exercising their First Amendment rights.

The Uniform Public Expression Protection Act provides a more efficient, less expensive, and less stressful way for defendants to deal with a SLAPP suit, as well as deters plaintiffs from filing a SLAPP suit in the first place. In May 2020, when this lawsuit was filed against me, New York state had a very weak anti-SLAPP law. While I am pleased to say that New York’s law has been substantially strengthened, this is unfortunately not the case for many other states. For states with no anti-SLAPP law, or a weak anti-SLAPP law, the Uniform Public Expression Protection Act ensures citizens can exercise their First Amendment rights without fear of getting caught up in frivolous litigation.

Respectfully,
Dr. Chelsea B. Polis