South Carolina Academy of Family Physicians
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August 16, 2022

Delivered via e-mail to GeneHogan@scsenate.gov
The Honorable Daniel B. Verdin, III
Chairman, Senate Medical Affairs Committee
Gressette Office Building
Columbia, South Carolina 29201

Dear Chairman Verdin,

On behalf of the South Carolina Chapter of the American Academy of Family Physicians (SCAFP), we are writing to express our grave concerns with state legislative actions in response to the Supreme Court's ruling in *Dobbs v. Jackson Women's Health Organization*. Our concerns include the impact of enforcing the "South Carolina Fetal Heartbeat and Protection from Abortion Act" and other contemplated laws that we believe violate the sanctity of the patient-physician relationship and criminalize the practice of medicine.

The SCAFP is the largest primary care organization in South Carolina, representing nearly 2000 practicing physicians and medical students. Family physicians provide care to patients of all ages, and see the majority of reproductive-age women who seek office-based care. Family physicians provide reproductive health services including family planning, preconception counseling, pregnancy, postpartum, and menopausal care. In rural and underserved areas, family physicians are often the sole providers of reproductive healthcare. We work in hospitals, emergency departments, and community-based clinics, and we see firsthand how restrictions on providing reproductive health services endanger patient health and wellbeing.

While few family physicians provide abortion services, every physician who cares for girls and women in South Carolina would be affected by legislation criminalizing abortion. Therefore, we respectfully submit the following facts and findings:

These Laws Impose an Impossible Standard of Care — Under proposed legislation, physicians must delay termination of pregnancy until the moment at which it is unquestionably necessary to avert death or irreversible harm to the pregnant girl or woman. Performing an abortion at any moment prior to this tenuous threshold gives rise to the risk of felony conviction, civil litigation, and permanent loss of medical license. Conversely, delaying the procedure a moment too long—due to the very real threat of draconian penalties—can lead to patient harm, malpractice litigation, and professional sanctions.

These Laws Deprive Women of Equal Protection — Under proposed legislation, pregnant girls and women must place their lives and health in imminent danger before being allowed to receive appropriate medical treatment. No other citizens are treated with such disregard for their health and safety, nor denied equal protection of the law as guaranteed by the South Carolina Constitution (Article 1, Section 3).

Emergency Exceptions Are Inadequate — The narrow medical emergency exceptions in proposed legislation are inadequate to protect the health and safety of pregnant girls and women.

There are numerous medical conditions that pose a threat to health while not meeting the strict definition of a "medical emergency." Many of these conditions can, nevertheless, result in infertility, chronic illness, and life-long disability.

Mental Health Exclusions Are Cruel and Discriminatory — The proposed legislation specifically excludes "psychological or emotional" conditions as exceptions to an abortion ban. This is a discriminatory provision that violates the human rights and dignity of persons who suffer from mental illness. These exclusions are especially cruel when applied to young girls impregnated through rape or incest.

These Laws Conflict with Medical Ethics — The *Principles of Medical Ethics* require physicians to "regard responsibility to the patient as paramount." The proposed legislation would place physicians in an untenable position when faced with a patient needing treatment for a pregnancy-related complication. Medical decision-making is complex and often occurs under exigent circumstances. Once abortion has been banned, physicians will be forced to balance the life and health of their patient against the personal risk of criminal prosecution.

These Laws Will Worsen Healthcare Disparities — The criminalization of abortion will have a chilling effect on the availability of other reproductive health services. These effects will disproportionately harm rural, minority, and poor patients in a state that already ranks near the bottom in maternal health outcomes.

These Laws Are Unscientific and Ambiguous — The proposed legislation includes unscientific and ambiguous definitions that cast doubt on the legality of treating other obstetrical conditions. These laws will complicate the treatment of maternal cancer and cast doubt on the legality of infertility treatments and certain forms of birth control. The ambiguity of these laws will likely affect access to medications used for conditions completely unrelated to pregnancy termination.

These Laws Infringe Privacy Rights — Reproductive healthcare decisions are intensely personal. We believe the South Carolina Constitution protects girls and women from the "unreasonable invasions of privacy" (Article I, Section 10) that would be required to enforce a total abortion ban. The surveillance and reporting regime implicit in the proposed legislation would establish a dangerous precedent of government intrusion into the personal lives of private citizens.

These Laws Violate the Sanctity of the Patient-Physician Relationship — Perhaps the most egregious aspect of these laws is their effect on the patient-physician relationship. Open, honest, and confidential communication between the patient and physician is essential to providing safe, high-quality medical care. Patients expect medically accurate and comprehensive information from their physicians. Restricting the information that can be given to patients, or forcing physicians to provide medically inaccurate information, is a flagrant violation of freedom of speech rights guaranteed by the South Carolina Constitution (Article I, Section 2).

Abortion Is an Essential Component of Women's Healthcare — All major physician organizations recognize abortion as an essential component of women's healthcare. Abortion is an established medical procedure that is considered the standard of care for certain medical conditions. Abortion is safe, and there are no valid health or safety justifications for restricting the procedure.

The anti-abortion legislation currently under consideration—and the attendant infringements of personal autonomy, equal protection, speech and privacy rights—is an extreme

overreach in the wake of the *Dobbs v. Jackson* ruling. The medical community is united in its support for access to comprehensive pregnancy and reproductive services, and uniform in its opposition to non evidence-based restrictions on such care. The *Principles of Medical Ethics* (S.C. Code Regs. 81-60), to which all physicians—by law—must adhere, require that we be "dedicated to providing competent medical care, with compassion and respect for human dignity," that we" respect the rights of patients," and "safeguard patient confidence within the constraints of the law."

Furthermore, our *Principles* dictate that we "respect the law and also recognize a responsibility to seek changes in those requirements which are contrary to the best interest of the patient." Such is the case with the "Fetal Heartbeat Act" and other unjustified prohibitions being contemplated by the legislature. The SCAFP joins our specialty colleagues in opposing any law that jeopardizes patient safety, undermines personal autonomy, impedes the delivery of essential care, or violates the sanctity of the patient-physician relationship.

Sincerely,

Patricia J. Bouknight, MD
President