

# Congress Must Pass the Women's Health Protection Act

As the nation's leading organization of physicians who care for women, the American College of Obstetricians and Gynecologists (ACOG) is committed to ensuring access to the full spectrum of quality obstetric and gynecological care for all patients.

ACOG has long opposed unnecessary, unjustified government restrictions on access to medical care and has consistently urged politicians to listen to medical experts when making policy that affects women's health.<sup>i</sup> Still, in the past decade alone, states have pursued hundreds of statutes and regulations that undermine evidence-based medicine, impose barriers to care, and threaten the patient-physician relationship.

Abortion is one of the safest medical procedures performed in the United States—safer than other routine medical procedures and substantially safer than childbirth.<sup>ii</sup> Yet, in many states, restrictions single out abortion from other outpatient procedures and impose medically unnecessary requirements designed to reduce access to abortion.<sup>iii</sup>

**Congress must protect evidence-based health care by passing the Women's Health Protection Act (S. 1975 /H.R. 3755).**

## WHAT IS THE WOMEN'S HEALTH PROTECTION ACT?

The Women's Health Protection Act (WHPA) would safeguard physicians and patients from ideological state restrictions on safe, medically appropriate care, including:

- Bans on abortion prior to viability that are a direct violation of constitutional rights
- Requirements that clinicians counsel patients using medically inaccurate information
- Restrictions on medication abortion
- Mandated medical procedures and protocols, such as forcing pregnant patients to undergo ultrasounds and endure mandatory delays
- Superfluous regulatory standards for abortion facilities and clinicians that are not applied to health care services with similar safety records

## HOW DO STATE RESTRICTIONS NEGATIVELY IMPACT REPRODUCTIVE HEALTH CARE?

Government restrictions that regulate medical practice without scientific justification impede access to abortion services and punish the clinicians who provide care, including by:

- **Criminalizing health care professionals.** Many state laws restricting abortion care impose civil, professional, and even criminal penalties on physicians. No physician should be treated like a criminal or face prison time for providing compassionate, evidence-based, and needed medical care.
- **Pushing abortion care out of reach.** Imposing hurdles such as mandatory waiting periods and multiple trips to a clinic prior to the provision of care can delay this time-sensitive care, or make it completely inaccessible. The consequences of being unable to obtain an abortion profoundly impact a person's life, health, and well-being.
- **Exacerbating inequities.** Structural inequities in the health care system and society mean that communities of color, people who must travel long distances to access care, and people with low incomes already face the most barriers to comprehensive reproductive health care, including abortion.<sup>iv,v</sup> These communities are disproportionately affected by restrictions on abortion care, which further widen the health care gap and exacerbate structural inequities.
- **Imposing administrative burdens on physicians.** Needless requirements such as mandating that facilities meet the physical plant standards of hospitals; that staffing, medications, equipment, and medical records be maintained at unnecessary levels; and that physicians providing abortions in the clinic setting obtain hospital admitting privileges, with no mechanism to ensure that hospitals will grant such privileges do not improve patient safety or quality of care and can result in clinic closures.<sup>vi</sup>
- **Compromising informed consent.** Laws that require physicians to provide or steer patients toward medically inaccurate scripted information are in direct violation of a physician's oath to care. They infringe on the patient-physician relationship and manipulate informed consent, an ethical doctrine that is rooted in the concept of self-determination and the fundamental understanding that people have the right to make their own decisions regarding their own health.<sup>vii</sup>

## WHAT DO THE MEDICAL EXPERTS SAY ABOUT UNDUE GOVERNMENT RESTRICTIONS ON HEALTH CARE?

- The National Academies of Sciences, Engineering, and Medicine, in reviewing the state of science on all methods of abortion, reaffirmed that abortion is safe and that the greatest threats to the quality of abortion care in the U.S. are unnecessary and burdensome government regulations.<sup>viii</sup>
- ACOG, along with colleague organizations across the women's health and primary care fields, led a rigorous review of the available evidence and guidelines that inform safe delivery of outpatient care.<sup>ix</sup> In the published findings, the authors note that in policy and law, regulation of abortion is frequently treated differently from other health services and that false concerns for patient safety are being used as a justification for promoting regulations that specifically target abortion.<sup>x</sup>
- Major medical organizations, including the American Medical Association, have consistently asked Courts to intervene in state attempts to unduly impede the provision of abortion care, including before the U.S. Supreme Court.<sup>xi</sup>
- Protecting the patient-physician relationship is a critical tenet of the practice of medicine, as affirmed by ACOG and other medical societies such as the American Academy of Pediatrics, the American Academy of Family Physicians, and the American College of Physicians.<sup>xii</sup>
- Twelve women's health care organizations, including ACOG, expressed alarm over increasing restrictions on women's reproductive health care access, particularly abortion, emphasizing that "lack of access to reproductive health care has negative consequences for women's health."<sup>xiii</sup>

Passing the Women's Health Protection Act is a critical first step in protecting pregnant people and their physicians from undue government intrusions into the practice of medicine and the patient-physician relationship. State abortion restrictions with no scientific justification undermine physicians' ability to practice the full scope of obstetrics and gynecology and impose additional, sometimes insurmountable, barriers to abortion access. **ACOG urges Congress to partner with medical experts to improve access to safe, high quality care and pass the Women's Health Protection Act without delay.**

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- <sup>i</sup> *Legislative Interference with Patient Care, Medical Decisions, and the Patient-Physician Relationship*, The American College of Obstetricians and Gynecologists. Available at <https://www.acog.org/clinical-information/policy-and-position-statements/statements-of-policy/2019/legislative-interference-with-patient-care-medical-decisions-and-the-patient-physician-relationship> (July 2019)
- <sup>ii</sup> National Academies of Sciences, Engineering, Medicine, *The Safety and Quality of Abortion Care in the United States* (March 2018); see also Raymond & Grimes, *The Comparative Safety of Legal Induced Abortion and Childbirth in the United States*, 119 *Obstetrics & Gynecology* 215, 216 (2012)
- <sup>iii</sup> *Increasing Access to Abortion*. Committee Opinion No. 815, American College of Obstetricians and Gynecologists (Dec. 2020). Available at <https://www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2020/12/increasing-access-to-abortion.pdf>
- <sup>iv</sup> Donovan M. In *Real Life: Federal Restrictions on Abortion Coverage and the Women They Impact*. Guttmacher Policy Review, 20 (2017). Available at <https://www.guttmacher.org/gpr/2017/01/real-life-federal-restrictions-abortion-coverage-and-women-they-impact#>
- <sup>v</sup> Coles MS, Makino KK, Stanwood NL, Dozier A, Klein JD. How are restrictive abortion statutes associated with unintended teen birth? *J Adolesc Health* 2010;47:160–7.
- <sup>vi</sup> *Increasing Access to Abortion*. Committee Opinion No. 815, American College of Obstetricians and Gynecologists (Dec. 2020). Available at <https://www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2020/12/increasing-access-to-abortion.pdf>.
- <sup>vii</sup> *Misinformed Consent: The Medical Accuracy of State-Developed Abortion Counseling Materials*. Richardson, C.T., & Nash, E.. Guttmacher Policy Review 2006; 9 (4), 6-11. At [https://www.guttmacher.org/sites/default/files/article\\_files/gpr090406.pdf](https://www.guttmacher.org/sites/default/files/article_files/gpr090406.pdf)
- <sup>viii</sup> National Academies of Sciences, Engineering, and Medicine. *The Safety and Quality of Abortion Care in the United States* (March 2018) at <https://www.nap.edu/read/24950/chapter/1>
- <sup>ix</sup> Report from the project on facility guidelines for the safe performance of primary care and gynecology procedures in offices and clinics. American College of Obstetricians and Gynecologists. *Obstet Gynecol* 2019;133:255–60
- <sup>x</sup> Levy BS, Ness DL, Weinberger SE. Consensus Guidelines for Facilities Performing Outpatient Procedures: Evidence Over Ideology. *Obstet Gynecol*. 2019;133(2):255-260. doi:10.1097/AOG.00000000000003058
- <sup>xi</sup> Brief for the American College of Obstetricians and Gynecologists as Amicus Curiae, June Medical Services, L.L.C. v. Gee Nos. 18-1323 & 18-1460 (2019) at <https://www.acog.org/-/media/project/acog/acogorg/files/advocacy/amicus-briefs/120219-june-medical-services-llcvrusso.pdf?la=en&hash=55B2CE2AA6B2BBCB03ADCBB346C1DDD8>
- <sup>xii</sup> Weinberger SE, Lawrence HC 3rd, Henley DE, Alden ER, Hoyt DB. Legislative interference with the patient-physician relationship. *N Engl J Med*. 2012;367(16):1557-1559. doi:10.1056/NEJMs1209858
- <sup>xiii</sup> Espy E, Dennis A, Landy U. The importance of access to comprehensive reproductive health care, including abortion: a statement from women's health professional organizations. *Am J Obstet Gynecol*. 2019;220(1):67-70. doi:10.1016/j.ajog.2018.09.008