



Kansas Section of the American College of Obstetricians and Gynecologists

Comments Regarding Health Care Provider COVID Liability Protections Senate Committee on Judiciary May 18, 2020

Chairman Patton and Members of the Committee:

My name is Dr. Kimberly Swan and I serve as the Kansas Section Legislative Chair for the American College of Obstetricians and Gynecologists (ACOG). As the premier membership organization for obstetrician–gynecologists (OB-GYNs) and providers of women’s health care, ACOG and its members are dedicated to the advancement of women’s health care through continuing medical education, practice, research, and advocacy. Thank you for the opportunity to submit written comments in strong support of critical legislation enacting liability protections for health care providers, including OB-GYNs.

As the Administration and Legislature continues to develop strategies to prioritize, guide and increase medical resources during the COVID-19 pandemic, we must make sure that fear of liability does not prevent physicians from acting decisively to deliver the medical response needed. Physicians must have assurance that they will not later be judged or sued for abiding by COVID-19 directives or making care decisions based on their best judgment and determination during the pandemic.

In addition to broadening liability immunity protections for physicians, it is critical that Kansas policymakers act to remove the future threat of lawsuits on physicians for helping the state mitigate and manage the COVID-19 surge by delaying elective, preventative and non-emergency treatment.

An OB-GYN can provide a wide range of preventive care services, including pap smears, STI testing, breast exams, pelvic exams, ultrasounds, and blood work. OB-GYNs are also trained surgeons who can perform procedures, such as removing ovarian cysts and uterine fibroids. All of these preventative and wellness services are designed to manage women’s health, prevent disease and identify health concerns at their earliest stages when they are most treatable.

Federal and state health guidance and state orders intended to curb the spread of COVID-19 have placed limitations on the ability of OB-GYNs to provide these important, non-urgent, wellness services. The legislation presented by the Kansas Medical Society ensures that physicians who were restricted from providing preventative and elective services due to COVID-19 are immune from liability if a patient develops a more serious health concern. Kansas physicians are facing the economic challenges in light of COVID-19 and increased medical malpractice uncertainty in the shadow of the Kansas Supreme Court’s decision on Hillburn. The last thing physicians can afford at this time is costly exposure to liability which has arisen at no fault of their own. ACOG Kansas urges you to support the legislation as written and provide health care providers with the certainty they need.