

**Testimony on Behalf of the
American College of Obstetricians and Gynecologists (ACOG), District II
Joint Legislative Budget Hearing: Health and Medicaid
January 23, 2024**

The American College of Obstetricians and Gynecologists (ACOG), District II appreciates the opportunity to provide written testimony on the Governor’s Fiscal Year 2024-25 Proposed Budget. As the leading group of physicians providing comprehensive gynecologic and obstetric services, ACOG District II promotes policies that prioritize comprehensive obstetric and gynecologic services, address health disparities and improve the quality of health care services delivered in New York state. ACOG District II partners closely with the Legislature, Executive, and state agencies to provide clinical guidance and expertise on key reproductive health issues. As the nation grapples with disheartening attempts to curtail reproductive health care access, there is a significant opportunity for the Legislature to engage with key clinical experts to develop thoughtful, effective policies to enhance access in our state. It is through this lens that we respectfully submit the following testimony.

New York State’s Role in Protecting Quality Reproductive Health Care Access

New York has made significant progress in addressing critical reproductive health care issues, including a continued focused and investment in both maternal mortality prevention initiatives and abortion access. However, the long-term undervaluing of health care for those requiring abortion and obstetric services require enhanced and sustained investment to build upon our successful work. In light of the devastating confluence of maternal mortality and morbidity with our national abortion access crisis, it is essential that state health care policies be designed to improve access to maternity care and invest in reproductive health holistically.

➤ ***Provide Funding to Increase Medicaid Reimbursement for Obstetric Services***

ACOG District II is encouraged by the inclusion of funding to enhance obstetric Medicaid reimbursement to 80% of the Medicare rate in alignment with recommendations from the Centers of Medicare and Medicaid (CMS) recommendations outlined in their approval of New Yorks 1115 State Innovation Waiver.¹

A persistent challenge in the provision or expansion of services, including enhanced postpartum care, is the inadequate reimbursement rate for obstetric services in Medicaid. For example, NYS Medicaid reimburses vaginal deliveries at 67% of the full Medicare rate. This fee was designed for uncomplicated, low-risk vaginal deliveries. However, over the past several years increases in obstetrical age, the frequency of comorbid health conditions, and other complicating social determinants of health factors, have seen a corresponding increase in high-risk pregnancies and deliveries. Without a corresponding increase in reimbursement for the deliveries, many providers find they are challenged with successfully managing the increasingly complex factors impacting their patients.

Enhanced obstetric reimbursement could also work to address some of the structural inequities that impact hospitals that serve disproportionately lower-income birthing people as well as birthing people

¹ <https://www.medicare.gov/sites/default/files/2024-01/ny-medicare-rdsgn-team-appvl-01092024.pdf>

from racial and ethnic minority groups. California recently made a significant investment in maternal health care by increasing their maternity care reimbursement rate to 87.5% of the Medicare rate.²

As noted during the in-person testimony of Health Commissioner McDonald, there is a troubling maternal health access crisis which is worsening nationwide, and also impacts multiple counties in New York. Years of undervaluing the delivery of maternal healthcare and lagging obstetric care reimbursement have contributed to the challenges of sustaining labor and delivery departments in hospital facilities. We encourage the Legislature to recognize the value of these services and ensure the proposed obstetric reimbursement bump to 80% of the Medicare rate is included in the final enacted budget.

➤ ***Include \$250,000 in General Operating Funds to support the Safe Motherhood Initiative***

ACOG District II's Safe Motherhood Initiative (SMI) works with obstetric teams across the state to develop and implement clinical bundles that outline standardized approaches for managing obstetric emergencies associated with maternal mortality and morbidity. When the SMI was established in 2013 to address obstetric emergencies associated with maternal mortality and morbidity, New York ranked 48 out of 50 states. Since that time that ranking has improved to 15th out of the 37 states reporting nationwide on maternal mortality.³ Funding for the SMI has been historically established through a legislative add-on of \$250,000 in the Enacted Budget.

Through the Safe Motherhood funding, the SMI has been able to offer easily accessible tools through the SMI app and assists hospitals in implementing the bundles through education and ongoing implementation support to meet their patient safety goals. The SMI is a critical component of ongoing maternal mortality prevention work by enabling clinical experts to be responsive to recommendations of the Maternal Mortality Review Board and address mortality and morbidity and the stark racial disparities that persist. The SMI also partners with the Department of Health on the implementation of its perinatal quality collaboratives. The SMI is currently finalizing clinical materials to aid providers in recognizing and managing cardiac disease during pregnancy and the postpartum period. Following the completion of the cardiac bundle, ACOG plans to partner with the Department of Health in developing resources for obstetric emergencies in other settings, including the emergency department. We encourage the Legislature to continue to support this important initiative. Funding this program again this year is critical to sustaining this important clinical component of quality improvement work.

➤ ***Support Sustainable Abortion Care Access***

ACOG District II and its membership appreciate the \$25 million dollars for abortion funding in the proposed Executive budget. This funding is a lifeline for providers contending with increased demand for services, and the many additional challenges ahead.

Unfortunately, it will continue to be a challenging climate to provide care for years to come. We encourage the Legislature to provide funding for ongoing programming within the Department of Health to support abortion care access. Understanding this reality, the Legislature has proposed the Reproductive Freedom and Equity Fund (A. 361-B /S. 348-C) to build a more permanent grant program within the Department to support abortion care access. This program would cover the cost of

² <https://lao.ca.gov/handouts/health/2023/MCO-Tax-053023.pdf>

³ KFF, "Maternal deaths and mortality rates per 100,000 live births,"

<https://www.kff.org/other/stateindicator/maternal-deaths-and-mortality-rates-per-100000-live-births/>.

uncompensated care, provider training and capacity, facility improvements and staffing needs. These funds must also be directed to organizations addressing the practical support needs of people seeking abortion care.

The challenges we face in our national landscape of abortion access will require sustained effort to grow our capacity. To address the strains on capacity and to ensure timely and patient-centered abortion care is available for all who need it, we must be proactive in our efforts by including additional, long-term investments in the budget. Our response to this troubling moment in our history can serve as a model for other access states and help to mitigate the impediments patients across the country will continue to face.

➤ ***Clarify Young Peoples’ Access to Reproductive Health Care (HMH Article VII, Part N)***

ACOG District II is supportive of efforts to clarify young peoples’ ability to access reproductive healthcare services including contraception and abortion. Minors are among the most marginalized populations in our state and solidifying this population’s ability to access full spectrum reproductive health care is critical to their well-being. In 2022 Commissioner Bassett affirmed minors’ abilities to consent to reproductive health care services in a letter to reproductive health providers however, clarifying this in statute will ensure that minors in New York can access the health care they need no matter the national political landscape.

➤ ***Reform Pregnancy Loss Reporting in New York State***

ACOG District II respectfully requests that the Legislature work within the budget process to update New York’s pregnancy loss reporting systems. The current process for pregnancy loss reporting is administratively burdensome for providers and, due to outdated data collection systems, raises concerns about patient privacy. The Executive Budget includes an investment to modernize pregnancy loss reporting and transition it to a more expedient and efficient electronic process. In addition to this important action, we respectfully request that the FY25 budget language also amend relevant statutes to facilitate electronic reporting of pregnancy loss and ease administrative burdens related to reporting.

Support New York’s Physician Workforce

➤ ***Make Telehealth Payment Parity Changes Permanent (HMH Article VII, Part B)***

ACOG District II is appreciative of the Governor’s recommendation to extend telehealth payment parity. Unfortunately, the Article VII provisions applies only to Medicaid Fee for Service and Medicaid Managed Care, and only extends the parity requirement for another year. Given the way telehealth has filled in coverage gaps by offering additional patient-centered options to access their health care team, ACOG District II respectfully requests that the Legislature make the parity changes permanent, and additionally, require the same payment parity within commercial insurance in line with existing statute.

➤ ***Protect Physician’s Excess Medical Malpractice Insurance Program (HMH Article VII, Part K)***

ACOG District II and our members are concerned with the Executive Budget’s inclusion of increased costs for physicians utilizing the Excess Medical Malpractice Insurance. This proposal would require that physicians be billed 50% of the premium for this additional layer of medical liability coverage during the policy period. This could create a potentially untenable financial burden for providers in high-risk medical specialties, including obstetrics and gynecology. This proposal would force high risk specialties

to pay anywhere between thousands to tens of thousands of dollars for the Excess program, in addition to the exorbitant amount they already pay for their medical malpractice insurance.

To reach our shared goals of equitable access to health care for New Yorkers, we strongly encourage the Legislative to reject this proposal and adequately fund the Excess Medical Malpractice Insurance Program, and to implement comprehensive medical liability reform.

Conclusion:

In summary, thank you for consideration of ACOG District II's budget testimony. As an organization representing physicians who are entrusted with providing reproductive health care to patients during all stages of their lives, ACOG District II welcomes the opportunity to share further clinical insight on these or other reproductive health issues.