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July 11, 2022

Delivered via e-mail to GeneHogan@scsenate.gov

Chairman Daniel B. Verdin, III
Senate Medical Affairs Committee
Gressette Office Building
Suite 412
Columbia, SC 29201

Dear Chairman Verdin,

I write as the President of the South Carolina Medical Association to ask for your consideration of important patient safety and physician standards of care as your Committee deliberates South Carolina's current statutory law and any changes to those laws related to medical and surgical abortions.

There is not a consensus among South Carolina physicians on unrestricted access to abortion services; however, there seems to be agreement that physicians must have the ability to: 1) discuss patients' medical care openly and freely without fear of criminal prosecution, and 2) through shared decision making with a patient, perform an abortion that is medically necessary to preserve the life and/or health of the mother or in cases of fetal anomaly.

Unfortunately, within our human gestational physiology, from conception through even late third trimester, there are medical conditions which threaten both the life and health of the mother and child. Maternal conditions during pregnancy such as ectopic pregnancy; placental abruption; severe pre-eclampsia; certain, severe cardiac conditions; cancer; premature rupture of membranes; trauma; and certain, severe endocrine conditions may lead to the mother's risk of death or substantial detrimental risk to maternal health without medical intervention. In other equally horrific situations, fetal anomalies exist in unborn children.

Previous South Carolina laws related to abortion have contained exceptions for these unfortunate situations, and physicians and their pregnant patients worked within accepted medical-legal standards of care to protect and provide the safest care for the mother and her unborn child. Physicians in these medically necessary situations could provide, without fear of criminal prosecution, an abortion prior to twenty weeks. After twenty weeks, the physician could still perform an abortion in these medically necessary circumstances if in reasonable medical judgment, it would preserve the life of the mother, avert serious risk of substantial and irreversible physical impairment of maternal bodily function, or a fetal anomaly.

The recently enacted “Fetal Heartbeat and Protection from Abortion Act” also contains exceptions for these medically necessary situations but requires use of an exception once a fetal heartbeat is detected. And, the penalty for violation of the statute has changed from a misdemeanor to a felony.

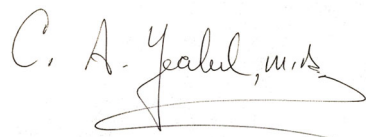
This represents an abrupt and unsettling shift for physicians and their pregnant patients. According to DHEC data, in 2021, 99.8% of all abortions in South Carolina occurred prior to 20 weeks which presumably includes these medically necessary abortions. Only 11 abortions, or 0.2%, occurred after 20 weeks. So, what used to be an incredibly rare use of an exception will now be much more commonplace. The gravity of the situation, the difficulty of the decision, the despair of the mother, and medical judgment in these circumstances has not changed, however, scrutiny by law enforcement and the potential penalties for the physician have drastically changed. Now, law enforcement has essentially been invited into the exam room to sit in judgment of this gut-wrenching decision which should be reserved for a physician and a patient and her family.

The South Carolina Legislature has wisely allowed for exceptions to account for these situations in all previous versions of the law, but current law that is more restrictive or any law going forward, must provide language to allow physicians and patients to navigate these life or health preserving situations, without fear of criminal prosecution. I would respectfully request the Committee consider the following:

- A physician exercising medical judgment in performing an abortion to preserve the life or health of the mother or in cases of a fetal anomaly should not be criminalized. If a physician’s ‘medical judgment’ is to be reviewed, it should be by the South Carolina Board of Medical Examiners, not law enforcement, and considered for a disciplinary sanction, if it is found that the physician acted outside reasonable medical judgment.
- Language should be included to account for **the risk of** death or substantial and irreversible impairment of a major bodily organ or function of the pregnant woman.

Thank you for your consideration of our position. If you or anyone on your staff have any questions or need additional information, please do not hesitate to contact our Senior Vice-President of Advocacy and Policy Counsel at hollyp@scmedical.org.

Sincerely,

A handwritten signature in black ink that reads "C. A. Yeakel, MD". The signature is written in a cursive style with a long horizontal flourish at the bottom.

Christopher A. Yeakel, MD, FAAP, FASA