

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

The American College of Obstetricians and Gynecologists (ACOG), District II appreciates the opportunity to provide written testimony on the Governor’s Fiscal Year 2021-22 Proposed Budget. As the leading group of physicians delivering women’s health care, ACOG District II promotes policies that reflect and prioritize the health needs of New York women. We appreciate the Joint Committee’s consideration of our testimony in their review of this year’s budget proposal. ACOG District II partners closely with the Legislature, Executive and state agencies to provide clinical guidance and expertise on key reproductive health issues. ACOG is committed to addressing ongoing health disparities, finding opportunities to bolster access, and improve the quality of health care services delivered in the state.

The COVID-19 pandemic stressed the health care community in a myriad of ways, including the ob-gyn workforce that continues to work on the frontlines of this unprecedented public health crisis. The pandemic has highlighted the shortcomings of our health care system, and persistent health inequities. It is through this lens that we respectfully submit the following testimony outlining the continued investments needed to improve maternal health outcomes.

***Prioritize Continued Investment in Ongoing Maternal Mortality and Morbidity and Prevention Work***

ACOG District II greatly appreciates New York State’s work over the past several years to support a variety of maternal mortality prevention initiatives, and for enacting historic legislation to improve New York’s maternal mortality review process through the creation of the maternal mortality review board (MMRB). These actions signified a commitment to support programming necessary to improve maternal health outcomes in our state.

ACOG strongly supports continued funding of the maternal mortality prevention initiatives of \$8 million in the Aid to Localities section of the budget. This work will continue to fund the maternal mortality review board, the maternal health data system, access to community health workers as well as a Birth Equity quality collaborative. As we well know, this work is extremely important because the communities which were most severely impacted by COVID-19 are also disproportionately impacted by maternal mortality and morbidity. We urge the legislature to focus attention on improving maternal health outcomes, and to enable the important quality improvement work to continue.

There has been a persistent undervaluing of maternal healthcare in this state. New York has been inconsistent in supporting maternal health programming, including surveillance, quality improvement work, and investment in community-based resources. The complexities of improving maternal health outcomes, especially in a post-COVID environment will require our state to continue to invest in maternal health care on multiple levels for the long-term.

***Include \$250,000 in General Operating Funds for 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. 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 offers easily accessible tools through the SMI app and assists hospitals in implementing the bundles through education and hospital implementation visits and ongoing support. The SMI works to provide obstetric teams with hands-on technical assistance and quality improvement support to overcome barriers and challenges in meeting their patient safety goals.

Due to allocated funding being diverted during the pandemic, SMI hospital implementation support was postponed. However, the SMI's clinical leadership continued to meet regularly and provide key maternal health updates and best practices guidance on managing COVID-19 during pregnancy through a series of webinars. The SMI also developed and released a maternal sepsis bundle focused on the identification and implementation of evidence-based practices and tools for the prevention and management of sepsis in the obstetric population.

Funding this program again this year will allow ACOG to resume hospital implementation support, enhance safety bundles with a specific focus on health equity and respectful care; develop a cardiac bundle and be responsive to recommendations from the Maternal Mortality Review Board to ensure providers across the state can learn from the reviews, and implement actionable strategies for prevention. We strongly urge the state to not let this work be further sidelined.

### ***Ensure Changes to Telehealth Prioritize Health Equity and Access***

The pandemic put into sharp focus the shortcomings within our health system, emphasized the continued disparities in access to care and health outcomes, and exposed the limitations of current telehealth policies. Governor Cuomo's Executive budget Part F of the Health/Mental Hygiene Art. VII bill does not address key elements necessary to ensure equitable and sustainable telehealth access. Specifically, the health care community calls for legislation which ensures payment parity for telehealth services across all payers, and ensures coverage for audio-only telehealth communications.

### **Payment Parity**

In order to ensure that physicians and other healthcare providers can meet patient demand and institute operational requirements necessary to integrate telehealth into their practices, it is important that care delivered via telehealth is valued and reimbursed equal to in-person office visits. Misconceptions about the delivery of telehealth suggest that this care is not as robust or effective as in-person visits. In fact, patients report a high level of satisfaction with the care delivered via telehealth, and often achieve more face time with their physician via telehealth.<sup>1,2,3</sup>

The use of telehealth in physician offices also does not obviate the need for brick and mortar operations for most providers. The overwhelming majority of practices will need to have systems in place to provide both telehealth and in-person visits. In order to support the ability of practices to continue to deliver the highest level of evidence-based care for both services, it is necessary for the care to be reimbursed equally.

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<sup>1</sup> Andrews E, Berghofer K, Long J, Prescott A, Caboral-Stevens M. Satisfaction with the use of telehealth during COVID-19: An integrative review. *Int J Nurs Stud Adv.* 2020;2:100008. doi:10.1016/j.ijnsa.2020.100008

<sup>2</sup>Ramaswamy A, Yu M, Drangsholt S, et al. Patient Satisfaction With Telemedicine During the COVID-19 Pandemic: Retrospective Cohort Study. *J Med Internet Res.* 2020;22(9):e20786. Published 2020 Sep 9. doi:10.2196/20786

<sup>3</sup> Heath, Sara. Patient Satisfaction with Telehealth High Following COVID-19. *Patient Engagement HIT.* October 7, 2020.

<https://patientengagementhit.com/news/patient-satisfaction-with-telehealth-high-following-covid-19> Accessed December 8, 2020.

For all practical purposes, reimbursing physician practices at lower rate than traditional office visits, puts telehealth services out of reach for countless patients. Unfortunately, this will negatively impact communities that often benefit most from the flexibility of telehealth including low income patients, and those with transportation or child care challenges.

### **Parity Across All Payers**

In order to achieve true equity in health care access, New York must require that payment parity is also ensured in Medicaid Fee for Service and Medicaid Managed Care. Without this parity across all systems, Medicaid providers may not have the financial abilities to provide telehealth services and thus enrollees would not have this access point as readily available as it is in commercial insurance. A bifurcated system where only some patients can access telehealth services is problematic to our shared goal of promoting high quality care and equitable access.

### **Audio Only Telehealth Services**

During the height of the first wave of the COVID-19 pandemic, DFS and DOH took important steps to ensure coverage of audio only telehealth services. Since then, legislation has been enacted to ensure long-term Medicaid payment for audio only telehealth services. Across specialties, providers report that during the pandemic, audio only communication was often the difference between providing care and leaving patients with unmet health needs. This has highlighted the need to ensure physicians can meet patients where they are, including those without computers or reliable internet access so as to not further inhibit access to care and exacerbate health care disparities based on race, ethnicity, age and socioeconomic status. We recommend that audio only services be reimbursed across all payers and reimbursed on par with other telehealth services.

### ***Reject Physician Disciplinary Process Changes***

ACOG District II joins other physician groups across the state to strongly object to an Executive Budget proposal (Part Q of the Health/Mental Hygiene Art. VII bill) that would allow the NYS Health Department to disregard essential due process protections when a complaint has been filed against a physician, and make information public about a physician under disciplinary investigation. This inclusion of this proposal following New York state physicians' heroic response to the COVID-19 pandemic is extremely disheartening to the health care community. While ACOG shares the goal of assuring the State has ample power to protect the public when the conduct of a particular health care provider places patients at risk, the Commissioner already has authority to take summary action prior to the conclusion of a disciplinary hearing in the absence of a finding of misconduct. We respectfully urge that these provisions be removed from the Budget.

### ***Reject Proposed Excess Medical Liability Program Changes***

ACOG also respectfully requests that the Legislature reject a proposal contained in the Governor's proposed State Budget (Part K of the Health/Mental Hygiene Article 7 bill) that would require the 16,000 physicians currently enrolled in the Excess Medical Malpractice Insurance program to bear 50% of the cost of these policies. We thank you for your past support for the Excess program including helping to reject this proposal last year when it was brought up during State Budget negotiations.

This incredibly short-sighted proposal would thrust over \$50 million of new costs on the backs of our community-based physicians who served on the front lines of responding to the pandemic. This new cost imposition would hit these practices at a time when many of these practices are already facing huge losses as a result of a substantial reduction in the number of patients receiving care during the pandemic. Many procedures have been and continue to be delayed

due to elective surgery restrictions, as well as patients appropriately limiting their trips out of their homes. Imposing these new costs is stunning given all that physicians did and continue to do to serve the public during this crisis, putting their health and their families' health at risk. Many became sick and some even passed away.

The Excess Medical Malpractice Insurance Program provides an additional layer of \$1M of coverage to physicians with hospital privileges who maintain primary coverage at the \$1.3 million/\$3.9 million level. The program was created as a result of the liability insurance crisis of the mid-1980's to address concerns among physicians that their liability exposure far exceeded available coverage limitations. They legitimately feared that everything they had worked for all of their professional lives could be lost as a result of one wildly aberrant jury verdict. This fear continues today since New York State has failed to enact meaningful liability reform to ameliorate this risk.

We appreciate the Legislature standing with the physician community, particularly during this extremely difficult time. Changes to the Excess Liability Program during an ongoing pandemic is short-sited and not in alignment with our shared goals of a robust physician workforce and equitable access to health care for New Yorkers.

In summary, thank you for consideration of our budget testimony. As an organization representing physicians who are entrusted to care for women during all stages of their lives, we urge the Legislature to strongly support maternal health quality improvement initiatives and ensure dedicated funding is included in the final budget. As leading authorities in women's health care, ACOG welcomes the opportunity to share further clinical insight on these or other women's health issues.