



The American College of
Obstetricians and Gynecologists
WOMEN'S HEALTH CARE PHYSICIANS

March 25, 2020

The Hon. Eugene Scalia, Secretary
United States Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Secretary Scalia:

On behalf of over 60,000 of the nation's primary care obstetrician-gynecologists, subspecialty and high-risk obstetric providers, and the patients for whom they provide care, we are writing regarding potential regulations that may be issued by the Department of Labor for the recently-passed Families First Coronavirus Response Act (P.L. 116-127).

Both the Society for Maternal-Fetal Medicine (SMFM) and the American College of Obstetricians and Gynecologists (ACOG) are leading medical professional societies that consist of physicians and clinicians providing health care for women, and our missions complement one another as we work to support the clinical practice of our members – obstetrician-gynecologists, some with additional training in high-risk pregnancy - through education, patient education and advocacy for women's health care.

Our members are on the front lines of the COVID-19 public health emergency, and although some aspects of the practice of obstetrics and maternal-fetal medicine can be conducted via telehealth services and remote care, much of the practice of maternal-fetal medicine – ultrasound, maternal and fetal monitoring, and of course labor and delivery, cannot use a telehealth approach.

As you know, this legislation expands access to the Family and Medical Leave Act (FMLA) for this particular public health emergency, when employees cannot telework and must remain home to attend to children under the age of 18. We understand and expect that the Department of Labor will provide regulations that would exclude "certain health care providers," as outlined in the legislation. Current statute defines health care provider as "a doctor of medicine or osteopathy, podiatrist, dentist, chiropractor, clinical psychologist, optometrist, nurse practitioner, nurse-midwife, or a clinical social worker who is authorized to practice by the State and performing within the scope of their practice as defined by State law, or a Christian Science practitioner." Unfortunately, for the purposes of addressing this public health crisis, this definition does not include the full scope of health care providers necessary to caring for pregnant women amid a global pandemic.

Given the broad action required to combat COVID-19 and to continue direct patient care for pregnant women, we ask that when you issue guidance specific to addressing COVID-19 you include medical professionals who are engaged in essential direct patient care as "health care providers." This would include respiratory therapists, sonographers, nurses, medical assistants, radiology techs, as well as care

coordinators, clerical and other support staff whose presence is critical to continue to provide essential patient care during this public health crisis.

We recognize that the intent of this legislation is not to force those who have tested positive for COVID-19 or who otherwise become ill to come to work. In those cases, SMFM is encouraging members to comply with their employers' guidance surrounding sick leave.

We appreciate your attention to this matter, and should you have any questions, please contact SMFM's Chief Advocacy Officer, Katie Schubert, at kschubert@smfm.org or (202) 517-6122 or ACOG's Federal Affairs Manager, Tatiana Calderon, at tcalderon@acog.org or 202-863-2505.

Sincerely,



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