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July 11, 2022

Dr. George A. Macones, President
Dr. George D. Wendel, Jr., Executive Director
Board of Directors
American Board of Obstetrics and Gynecology
2828 Routh St., Suite 700
Dallas, TX 75201

Via Overnight Delivery

Re: ABOG Threat to Revoke Board Certification for “Disinformation” Regarding Abortion

Dear Drs. Macones and Wendel, and Members of the Board of Directors:

I represent the American Association of Pro-Life Obstetrician-Gynecologists (AAPLOG), the Catholic Medical Association (CMA), and the Christian Medical and Dental Association (CMDA). Collectively, these organizations are made up of thousands of physicians, including many American Board of Obstetrics and Gynecology (ABOG) diplomates, who provide life-affirming, compassionate, and excellent medical care to women without providing elective abortion.

We are aware of ABOG’s recent public statement proclaiming, despite the views of many of its diplomates, that ABOG favors legal abortion and believes it to be “essential women’s healthcare.”¹ We are also aware of ABOG’s July 7, 2022 statement threatening diplomates with the loss of their board certification for espousing what ABOG deems “misinformation” and “disinformation” about elective abortion.²

ABOG does not define “misinformation” or “disinformation,” so it is unclear precisely what speech or “opinion” will subject diplomates to loss of their board certification and does not give fair warning about what conduct will be penalized.³ But the purpose of ABOG’s threat is perfectly clear. The July 7 statement states that “[m]isinformation and disinformation about contraception and abortion can

¹ ABOG, “ABOG Reiterates Support for OB GYNs and Reproductive Health Rights,” June 24, 2022, <https://www.abog.org/about-abog/news-announcements/2022/06/24/abog-reiterates-support-for-ob-gyns-and-reproductive-health-rights>.

² ABOG, “Statement Regarding Misinformation and Disinformation and Medical Professionalism,” July 7, 2022, <https://www.abog.org/about-abog/news-announcements/2022/07/07/statement-regarding-misinformation-and-disinformation-and-medical-professionalism>.

³ *Id.*

create false narratives about essential safe practices in the specialty. In addition, false or misleading information from board-certified medical professionals can also be used to advocate for legislation, regulations, criminal code, and health policy.” ABOG’s statement plainly seeks to intimidate diplomates who may offer opinions or testimony that state legislatures or courts may rely on in examining abortion regulations. It is a naked attempt to prevent these diplomates from exercising their constitutionally protected rights.

Threatening to revoke board certification from its diplomates who publicly advocate for abortion regulation is problematic for multiple reasons:

- It is unclear that ABOG has legal authority to revoke certification from qualified diplomates.
- ABOG’s views are out of step with those of its diplomates—around 90% of OB-GYNs do not perform elective abortions.⁴ Millions of U.S. women oppose elective abortion, and pro-life OB-GYNs are specifically sought out by women who for religious or moral reasons seek life-affirming care for themselves and their unborn children.
- Suppressing dissenting views and research for ideological reasons does not serve patient care and suppresses scientific inquiry.
- Board certification allows the public to assess the professional qualifications of physicians. If board certification becomes contingent upon political fealty, especially on an issue as controversial as abortion,⁵ the public’s trust in the medical profession will be eroded.
- Revoking board certifications will have devastating consequences for diplomates. Board certification is often necessary for hospital admitting privileges, job qualifications, and credentialing for most insurers. Government entities frequently use board certification as a necessary qualification for the provision of government-funded health services. And if board certification is revoked, some states may conduct a review of that physician’s license. Board certification is necessary in many cases for a physician’s career, especially for OB-GYNs. ABOG’s threat thus does not just threaten to arbitrarily revoke a certification that was expensive and time-consuming to obtain—it threatens diplomates’ livelihood. It will also have devastating consequences to their patients. The possible loss of admitting privileges or insurance coverage will leave patients in some parts of the country without adequate medical care simply because their physician did not hold the correct ideological stance.

⁴ Desai S, Jones RK, “Castle K. Estimating abortion provision and abortion referrals among United States obstetrician-gynecologists in private practice,” *Contraception* 2018 Apr. 97(4):297-302, available at https://www.researchgate.net/publication/321238536_Estimating_abortion_provision_and_abortion_referrals_among_United_States_obstetrician-gynecologists_in_private_practice (finding 93% of OB-GYNs responding to survey did not perform abortion in the previous year); Stulberg DB, Dude AM, Dahlquist I, Curlin FA, “Abortion provision among practicing obstetrician-gynecologists,” *Obstet Gynecol.* 2011 Sep;118(3):609-614, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3170127/> (finding 86% of OB-GYNs do not perform abortions).

⁵ As the Supreme Court recently noted, “[a]bortion presents a profound moral issue on which Americans hold sharply conflicting views.” *Dobbs v. Jackson Women’s Health Org.*, No. 19-1392, 2022 WL 2276808, at *5 (U.S. June 24, 2022); see also *id.* at *60 (Kavanaugh, J., concurring) (“Abortion is a profoundly difficult and contentious issue The interests on both sides of the abortion issue are extraordinarily weighty.”).

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If ABOG takes action against pro-life diplomates, legal liability may result. On behalf of its members, AAPLOG, CMA, and CMDA urge ABOG to focus on upholding medical standards rather than advocating for political positions and engaging in threats and intimidation. If it does not, AAPLOG, CMA, and CMDA will take action to protect the rights of its members.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Hacker', with a stylized flourish at the end.

Heather Gebelin Hacker
Counsel for AAPLOG and CMDA

cc: Dr. Donna Harrison, CEO, AAPLOG
Dr. Mike Chupp, CEO, CMDA
Dr. Craig Treptow, President, CMA
Dr. Quentin VanMeter, President, American College of Pediatricians
Dr. Richard Hawkins, President/CEO, American Board of Medical Specialties
Dr. Greg Ogrinc, Senior Vice President, Certification Standards and Programs, American Board of Medical Specialties