AAPLOG

COMMITTEE OPINION

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Non-Representation of Pro-Life OB/GYNs in the American College of Obstetricians and Gynecologists

The American College of Obstetricians and Gynecologists (ACOG) is the default professional organization for obstetricians and gynecologists in the United States. Unfortunately, ACOG's policy and treatment of abortion is more radical than a large section of the country's obstetricians and gynecologists. ACOG has functionally ceased to represent this section of physicians, as its voice no longer speaks in unison with theirs. Worse still, ACOG has actively opposed obstetricians and gynecologists who do not agree with their radical policy, or who advocate for individual rights to choose not to refer for abortion. This document describes ACOG's abortion policy and outlines the events that led to non-representation.

Background

Parallel Organizations Divided on Abortion

The American Association of Pro-life Obstetricians and Gynecologists (AAPLOG) is a professional organization representing obstetricians and gynecologists (OB/GYNs), family practice physicians, midwives, and other healthcare providers who acknowledge that human life begins at fertilization and that the physician's duty to protect this life means he or she does not use death as a therapeutic option. AAPLOG's original membership gathered in 1973 in response to literature within the medical community promoting abortion on demand.[1] At that time, these physicians formed a pro-life special interest group within ACOG until special interest groups were removed as a structure in 2013.[2] AAPLOG promotes members' individual right to conscience as outlined by the Hippocratic oath.[3]

ACOG is a larger professional organization that does not recognize fertilization as the beginning of life for a new independent patient with the same rights as his or her mother.[4] ACOG accepts that causing the

AAPLOG Committee Opinion. This document was developed by three authors on the Research Committee. Committee Opinions summarize best practices that form an important part of pro-life practice.

death of this new organism can be a therapeutic option.[5] ACOG does not promote members' individual right to conscience.[6]

Many societies of medical professionals accept member proposals or votes on policy.[7-9] ACOG uses voting to elect members into some offices, but makes heavy use of unelected appointments. No category of general membership has voting rights on practice guidelines, and ACOG does not habitually solicit the input of the wider membership to determine clinical guidelines or policy. This governance structure predisposes ACOG to adopt a position on abortion which is not representative of their entire membership.

Preferential Treatment of Abortion

ACOG treats abortion unlike other surgical procedures and significant medications. ACOG guidance on medication abortion, for example, does not discuss informed consent and pre-procedure counseling.[10] In contrast, ACOG guidance on sterilization, another gynecologic surgical procedure that shapes a woman's reproductive history, includes an entire section on regret and the provider's duty to ensure the procedure is not being chosen because of coercion or financial constraints.[11] Elsewhere, ACOG acknowledges that informed consent is an ethical obligation[12] because in the wider medicolegal sense, inadequate disclosure is negligence.[13]

A second example of preferential treatment for abortion is the use of ultrasound. ACOG supports the use of imaging to establish a diagnosis that might change management in many areas of obstetrics and gynecology.[14-16] Ultrasound is known to change women's choices about abortion, based on a large study of women whose decision-making changed after a law required that they see an image of their embryo or fetus.[17] Ultrasound can also change *provider* management of abortion. Specifically, ultrasound can rule out ectopic pregnancy and provide accurate dating for the half of women whose menstrual dating is inaccurate.[15] Accurate dating is key in planning of curettage and evacuation procedures because the rate of abortion complications increases with each passing week of pregnancy.[18] Since complication rates increase with increasing gestational age, accurate dating is also an essential component of informed consent, since women may make different choices about type or timing of abortion based on complication rates. Despite this evidence, ACOG dismisses ultrasound as clinically unnecessary in abortion provision.[19] In fact, ACOG no longer even recommends Rh testing or physical exam prior to medication abortion,[10] even though these form part of routine care for early pregnancy in other settings.[15]

A third example of preferential treatment for abortion is ACOG's language surrounding progesterone for patients who regret their use of mifepristone in medication abortion. Retrospective cohorts suggest

that women who regret their medication abortions can continue pregnancy if they avoid misoprostol *and* proceed with progesterone.[21] A randomized trial gave progesterone to a small number of patients after mifepristone, and four of the five evaluable patients who received progesterone had a documented fetal heartbeat two weeks later (80%), with one of the five completed the abortion despite progesterone. This study also gave a small number of patients mifepristone without progesterone or misoprostol, which resulted in hemorrhage in two of five evaluable patients (who required emergency D&C for hemorrhage and one of those two required a transfusion).[22] This evidence does not show that *progesterone* is unsafe, it shows that mifepristone without misoprostol is unsafe. Despite this, ACOG dismisses the use of progesterone as pseudoscientific and unsafe.[23]

Finally, a global assessment of ACOG political work shows that the organization only advocates *for* abortion access, without restriction and without equally educating on other options.[24] While older versions of ACOG policy voiced support for "the availability of all reproductive options," this wording has been replaced with "reproductive *health services* (emphasis added)" reflecting that ACOG does not support alternatives like parenting or adoption with the force that it advocates for abortion, termed a health service.[5]

ACOG has a written abortion advocacy policy,[5] but no similar policy for parenting or adoption. ACOG has a frequently asked question page about options in unplanned pregnancy,[25] which addresses one question about parenting, three about adoption and five about abortion; ACOG also has a FAQ page dedicated solely to abortion and does not have pages dedicated solely to adoption or parenting.[26] ACOG has no practice guidelines about counseling women with unplanned pregnancies on parenting, one committee opinion that covers adoption, and four that cover abortion, including expanding abortion access.[9,27-29] From this disproportion, it may be gathered that ACOG focuses on abortion provision rather than advocating for all options and equipping physicians for nuanced counseling on parenting or adoption in the setting of unplanned pregnancy.

Non-Representation

Between 76% and 93% of OB/GYNs do not perform abortion according to survey data of different populations.[30-32] Within this majority there may be diversity of opinion about the acceptability of abortion when done at different gestational ages or for different reasons, but this has not been studied. ACOG ignores the diversity of opinions of its membership and there has been no scholarly debate on abortion as there have been on other aspects of women's health practice.[33,34]

Pro-life OB/GYNs have historical reason to be concerned about ACOG's abortion policy affecting their board certification. The

American Board of Obstetricians and Gynecologists (ABOG) supplies board certification for American OB/GYNs and has a tight relationship with ACOG, which provides education and guidelines.

In 2005, Dr. Michael Mennuti, then-president of ACOG, wrote to United States senators asking their support for a bill that "require[s] doctors with moral objections to refer for abortions."[35] AAPLOG responded as the then-largest special interest group in ACOG, and the bill did not pass.[36] The matter had no major impact, but ACOG began to phase out special interest groups, ultimately eliminating them in 2013.[2]

In November 2007, ACOG issued Committee Opinion 385, which states:

> In the provision of reproductive services, the patient's well-being must be paramount. Any conscientious refusal that conflicts with a patient's well-being should be accommodated only if the primary duty to the patient can be fulfilled.[6]

In this statement, the term "well-being" is nebulous, and is open to interpretation by the patient to be whatever she deems. ACOG's position is that the patient's autonomous decision to obtain an abortion, based on her determination of its effects on her life, overrides any intellectual or moral conviction held by the health care provider.

The same month, ABOG enacted a clause requiring compliance with ethical guidelines as a criterion for board eligibility.[37] If enforced to include Opinion 385, this would systematically exclude pro-life OB/GYNs from board certification, possibly leading to loss of hospital privileges, loss of employment, and exclusion from the profession.

These two acts prompted several responses. AAPLOG responded to this series of events with the voice of pro-life OB/GYNs in February of 2008:

> We find it unethical and unacceptable that a small committee of ACOG members would pretend to provide the moral compass for 49,000 other members on one of the most ethically controversial issues in our society and within our medical specialty…without ever consulting the full membership.[38]

The Christian Medical and Dental Association (CMDA) responded with a Joint Letter of Protest with 27 other pro-life groups.[39]

The Catholic Medical Association, then led by Dr. Kathleen M. Raviele, a Fellow of ACOG, responded with a letter pointing out that Opinion 385 "run[s] counter to AMA Code of Ethics Opinion E10.05" which states:

> It may be ethically permissible for physicians to decline a potential patient when …[a] specific treatment sought by an individual is incompatible with the physician's personal, religious, or moral beliefs.[40]

Sixteen members of the Congress also responded to Opinion 385 with deep concern.[41] Finally, Michael Leavitt, then Secretary of Health and Human Services (HHS) also expressed concerns to ABOG.[42]

In response to these wide criticisms both within and outside the profession, Dr. Normann Gant, then Executive Director of ABOG, responded

> I do not know where you came up with any suggestion, much less documentation, that [ABOG] has ever asked anyone to violate their own ethical or moral standards.[43]

This response dodged the text of ACOG's Opinion and ABOG's certification bulletin, and refocused the discussion on the fact that no *individual* OB/GYN had yet been forced to violate their conscience.

Dr. Kenneth Noller, then president of ACOG, also responded denying any threat to pro-life OB/GYNs. Noller stated that Opinion 385 "is not part of the Code of Professional Ethics of the American College of Obstetricians and Gynecologists," and not intended to be used as a rule of ethical conduct. Noller concluded by stating that ACOG's Committee on Ethics had been instructed to "reevaluate ACOG Committee Opinion 385."[44] The committee never revised Opinion 385, in fact reconfirming it largely unchanged in 2016.[45]

AAPLOG has concerns that ABOG may pressure individuals' consciences based on recent events. During the covid-19 pandemic, ABOG issued a statement that said, in part, "intentional misinformation that may harm patients or public health … may be grounds for adverse action on OB/GYN certification status."[46] The statement was ostensibly about covid-19, but less than a month later, it was cited to a pro-life OB/GYN during expert witness testimony, as a threat to her certification based on the "misinformation" of her pro-life views.[47]

Call to Action

AAPLOG calls for a definitive statement from ABOG that conscience-based refusal to perform or refer for abortion does *not* constitute an ethical violation in patient care. Further, AAPLOG invites the profession as a whole to an attitude of scholarly debate on the topic of abortion. Many other topics on which obstetricians differ are eagerly debated at conferences, to the benefit of patient care and provider education.[33,34] Abortion should not be different from other matters under consideration by the profession.

Clinical Questions and Answers

Q *What is ACOG's political relationship with abortion?*

Ideally, professional organizations that represent physicians with a variety of opinions are noncommittal on matters of disagreement. ACOG does not exhibit a

noncommittal attitude on abortion: its record of amicus briefs has never supported *any* abortion restriction.[24] ACOG's position does not match the practice patterns of many OB/GYNs who belong to ACOG, given that a majority of OB/GYNs do not perform abortion.[30-32]

The American College of Obstetricians and Gynecologists is a professional medical association, but a companion organization called the American Congress of Obstetricians and Gynecologists was founded in 2008 as a 501c(6), able to lobby and do more extensive political work.[48] Members of the College are automatically members of the Congress, regardless of their personal beliefs.

Q *What has AAPLOG done to combat the non-representation of ACOG?*

In 2018, AAPLOG filed a complaint with the Office of Civil Rights (OCR) at HHS.[49] The complaint asked the OCR to

> investigate ongoing efforts by [ACOG] and its lobbying sister organization American Congress of Obstetrics and Gynecology ("The Congress") to stifle and countermand conscience rights of pro-life physicians to decline to perform, participate in, or assist in the performance of abortion practices because of their conscience and/or religious opposition to such practices.

The complaint continued that ABOG's current silence on Opinion 385 is not reassuring:

> ABOG's…disclaimer carries no legal weight, since it is not an affirmative policy statement of ABOG itself. It thus gives no assurance to a pro-life OB/GYN against accusation of unethical conduct under Ethics Statement #385….

There have been no significant updates to this complaint.

Q *In the case that ABOG revokes board certification for pro-life OB/GYNs, are there parallel board certification structures?*

The National Board of Physicians and Surgeons (NBPAS) is a nascent parallel board certification structure which is accepted at a few hundred hospitals, but not widely utilized for OB/GYNs.[50]

Q *Where can I see these events documented?*

While some letters were public and others were later released, a full list of all documents in AAPLOG's archives relevant to non-representation is available at https://aaplog.org/nonrepresentation-of-pro-life-ob-gyns-a-timeline.

Q *Are there other issues on which ACOG doesn't represent pro-life physicians?*

Pro-life physicians are not a homogenous group; not all have a creed, and not all feel alike about various practices. Based on membership surveys from AAPLOG,[51] many pro-life physicians feel that ACOG is disparate from them on other issues, including:

- Adoption
- Gender medicine
- Comprehensive sex education
- Fetal pain

AAPLOG has positions on fetal pain and supports adoption, but has no formal position on comprehensive sex education or gender interventions. AAPLOG recognizes that these are issues on which pro-life physicians feel underrepresented by mainstream professional organizations.

Summary of Recommendations and Conclusion

The following recommendations are based on good and consistent scientific evidence (Level A):

1. The American College of Obstetricians and Gynecologists exhibits bias in its treatment and advocacy for abortion.
2. Pro-life OB/GYNs exist and are not represented by the position of the American College of Obstetricians and Gynecologists on abortion.
3. Parallel structures exist for pro-life OB/GYNs.

The following recommendations are based primarily on consensus and expert opinion (Level C):

1. There is significant potential for pro-life OB/GYNs to be eclipsed with the current political clime and current board certification structure in the United States.
2. Likeminded faith-based organizations can support pro-life organizations to aid representation.

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