18-2133

IN THE

United States Court of Appeals

FOR THE FOURTH CIRCUIT

PLANNED PARENTHOOD SOUTH ATLANTIC;
JULIE EDWARDS, on her behalf and on behalf of all others similarly situated,

Plaintiffs-Appellees,

v.

JOSHUA BAKER, in his official capacity as Director,
South Carolina Department of Health and Human Services,

Defendant-Appellant.

On Appeal from the United States District Court
for the District of South Carolina at Columbia,
No. 3:18-cv-02078-MGL (Hon. Mary Geiger Lewis)

MOTION OF *AMICI CURIAE* AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, THE AMERICAN MEDICAL ASSOCIATION, THE SOCIETY FOR MATERNAL FETAL MEDICINE, THE AMERICAN ACADEMY OF PEDIATRICS, THE AMERICAN COLLEGE OF PHYSICIANS, AND THE SOCIETY FOR ADOLESCENT HEALTH AND MEDICINE IN SUPPORT OF APPELLEES FOR AFFIRMANCE

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THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

PLANNED PARENTHOOD SOUTH ATLANTIC and JULIE EDWARDS, on her behalf and on behalf of all others similarly situated, Plaintiffs-Appellees, v. JOSHUA BAKER, in his official capacity as Director, South Carolina Department of Health and Human Services, Defendant-Appellant.	Case No. 18-2133 MOTION OF AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS ET AL. FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF APPELLEES

Pursuant to Federal Rule of Appellate Procedure 29 and Fourth Circuit Rule 29, the American College of Obstetricians and Gynecologists ("ACOG"), the American Medical Association (the "AMA"), the Society of Maternal-Fetal Medicine Specialists ("SMFM"), the American Academy of Pediatrics ("AAP"), the American College of Physicians ("ACP"), and the Society for Adolescent Health and Medicine ("SAHM") (collectively, "*Amici*") hereby move this Court for an order granting them leave to file the attached *amicus curie* brief in support of Plaintiffs-Appellees, Planned Parenthood South Atlantic and Julie Edwards, on

her behalf and on behalf of all others similarly situated. In support of this motion, *Amici* state:

1. *Amici* are leading medical organizations representing physicians and medical providers who provide care to millions of Americans each year. Representing more than 90% of board certified obstetrician-gynecologists in the United States, *Amicus* ACOG is the leading medical organization of providers of health care unique to women, with a membership of 58,000 members (including approximately 900 members in South Carolina). *Amicus* AMA is the largest professional association of physicians, residents, and medical students in the United States. AMA members practice in every state and in every medical specialty. *Amicus* SMFM is the medical professional society for obstetricians who have additional training in the area of high-risk, complicated pregnancies. *Amicus* AAP is a leading medical organization dedicated to child and adolescent healthcare with a membership of more than 67,000 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialists. *Amicus* ACP is the largest medical specialty organization in the United States with a membership that includes 154,000 internal medicine physicians (internists), related subspecialists, and medical students. *Amicus* SAHM is a multidisciplinary organization committed to improving the physical and psychosocial health and well-being of all

adolescents through advocacy, clinic care, health promotion, health service delivery, professional development, and research.

2. *Amici* are dedicated to health care, research, and evidence-based health policy. *Amici* are committed to improving the health of women and to preserving access to health care, including reproductive health care.

3. *Amici's* membership care for patients in rural, urban, wealthy, and low-income communities, including many of the more than 70 million Americans enrolled in Medicaid. Medicaid providers, many of whom are members of *Amici*'s organizations, play a critical role in the United States health care system. They offer much needed health care to low-income individuals, most of whom are otherwise unable to afford such services.

4. *Amici* seek to file an *amicus* brief in the above-captioned case out of concern that the decision by the South Carolina Department of Health and Human Services ("DHHS") to terminate Planned Parenthood's status as a qualified Medicaid provider will significantly impede South Carolinians' access to critical health care services, leading to poor health outcomes. *Amici* further seek to file a brief to assist the Court in evaluating this case through providing their unique perspective, derived from their collective expertise, regarding the harms that would arise if DHHS's decision is permitted to stand and the lack of any public health justification for DHHS's decision.

5. A copy of *Amici's* proposed *amicus* brief is attached as Exhibit A. It is relevant to the disposition of this case because it sets forth the health risks that DHHS's decision will impose on South Carolinians if it is permitted to go into effect.

6. Further, the brief explains the crucial and specialized role that Planned Parenthood holds in providing health care in South Carolina.

7. The brief also illustrates the deleterious effect that DHHS's decision would have on other health care providers.

8. Courts, including the United States Supreme Court and this Court, have relied on submissions from *amici* as medical authority in cases that affect the provision of health care. *See, e.g.*, *Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292, 2312, 2315 (2016) (citing *amici* brief submitted by ACOG, AMA, AAP, and other medical associations in assessing disputed admitting privileges and surgical center requirements); *Hodgson v. Minn*., 497 U.S. 417, 454 n.38 (1990) (citing ACOG's *amicus* brief in assessing disputed parental notification requirement); *Stuart v. Camnitz*, 774 F.3d 238, 251-52, 254, 255 (4th Cir. 2014) (citing ACOG and the AMA's *amici* brief in assessing how an ultrasound requirement exceeded the bounds of traditional informed consent and interfered with physicians' medical judgment), *cert. denied*, 135 S. Ct. 2838 (2015); *Planned Parenthood Ariz., Inc. v. Humble*, 753 F.3d 905, 916-17 (9th Cir. 2014) (citing

ACOG and the AMA's *amici* brief as further support for a particular medical regimen), *cert. denied*, 135 S. Ct. 870 (2014).

9. Indeed, *amici* regularly submit briefs in cases that concern women's access to health care. *See, e.g.,* Brief of Amici The American College of Obstetricians and Gynecologists and The American Medical Association, *Planned Parenthood Ariz., Inc. v. Humble*, 753 F.3d 905 (9th Cir. 2014) (No. 14-15624); Brief of Amici The American College of Obstetricians and Gynecologists and The American Medical Association, *Stuart v. Camnitz*, 774 F.3d 238 (4th Cir. 2014) (No. 14-1150); Brief of Amici The American College of Obstetricians and Gynecologists and Physicians for Reproductive Heath, *MKB Mgmt. Corp. v. Stenehjem*, 795 F.3d 768 (8th Cir. 2015) (No. 14-2128); Brief of Amici The American College of Obstetricians and Gynecologists, et al., *Planned Parenthood of Wis., Inc. v. Schimel*, 806 F.3d 908 (7th Cir. 2015) (No. 15-1736); Brief of Amici The American College of Obstetricians and Gynecologists and The American Medical Association, *Whole Woman's Health v. Hellerstedt*, 833 F.3d 565 (5th Cir. 2016) (No. 14-50928); Brief of Amici The American College of Obstetricians and Gynecologists*, W. Ala. Women's Ctr. v. Williamson*, 900 F.3d 1310 (11th Cir. 2018) (No. 17-15208); Brief of Amici The American College of Obstetricians and Gynecologists, *Hopkins v. Jegley* (8th Cir., No. 17-2879); Brief of Amici The American College of Obstetricians and Gynecologists and The American Medical

Association, *EMW Women's Surgical Center v. Beshear* (6th Cir., No. 17-06183);); Brief of Amici The American College of Obstetricians and Gynecologists and The American Medical Association, *Whole Woman's Health v. Paxton* (5th Cir., No. 17-51060); Brief of Amici The American College of Obstetricians and Gynecologists, et al., *Garza v. Hargan* (D.C. Cir., No. 18-5093); Brief of Amici The American College of Obstetricians and Gynecologists, et al., *California v. Azar* (9th Cir., Nos. 18-15144, 18-15166, and 18-15255); Brief of Amici The American College of Obstetricians and Gynecologists, et al., *Commonwealth of Massachusetts v. HHS* (1st Cir., No. 18-1514); Brief of Amici The American College of Obstetricians and Gynecologists, et al., *Whole Woman's Health v. Smith* (5th Cir., No. 18-50730).

10. Accordingly, for the reasons outlined above, *Amici* respectfully proffer their brief to the Court and ask that the Court grant leave to file the same for the Court's consideration.

Dated: January 22, 2019

Respectfully submitted,

FRIED, FRANK, HARRIS, SHRIVER
& JACOBSON LLP

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CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2019, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system, pursuant to Fourth Circuit Rule 25.

Dated: January 22, 2019

/s/ Janice M. Mac Avoy
JANICE M. MAC AVOY

EXHIBIT A

BRIEF OF PROPOSED *AMICI CURIAE* AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, THE AMERICAN MEDICAL ASSOCIATION, THE SOCIETY FOR MATERNAL-FETAL MEDICINE, THE AMERICAN ACADEMY OF PEDIATRICS, THE AMERICAN COLLEGE OF PHYSICIANS, AND THE SOCIETY FOR ADOLESCENT HEALTH AND MEDICINE IN SUPPORT OF APPELLEES FOR AFFIRMANCE

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1, amici curiae submitting this brief have no parent corporation nor do any publicly held corporations own 10% or more of any of their stock.

IDENTITY AND INTEREST OF *AMICI CURIAE*

The American College of Obstetricians and Gynecologists ("ACOG"), the American Medical Association (the "AMA"), the Society for Maternal-Fetal Medicine ("SMFM"), the American Academy of Pediatrics ("AAP"), the American College of Physicians ("ACP"), and the Society for Adolescent Health and Medicine ("SAHM") submit this brief *amici curiae* in support of the Plaintiffs-Appellees.

ACOG is a national non-profit educational and professional organization that works to promote the advancement of women's health through continuing medical education, practice, research, and advocacy. With more than 58,000 members representing more than 90% of all board-certified ob-gyns in the United States, including approximately 900 members in South Carolina, ACOG is the leading organization of providers of health care unique to women.

ACOG is dedicated to continuously improving all aspects of healthcare for women, establishing and maintaining the highest possible standards for education and clinical practice, promoting high ethical standards, publishing evidence-based practice guidelines, encouraging contributions to medical and scientific literature, and increasing awareness among its members and the public about the changing issues facing women's healthcare. ACOG's work has often been cited by federal courts, including the Supreme Court of the United States, as authoritative medical

data.[1] ACOG members provide care to patients from all economic backgrounds, including those who rely on Medicaid for their care. ACOG opposes the exclusion of qualified providers from the Medicaid program.

The AMA is the largest professional association of physicians, residents, and medical students in the United States. Additionally, through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all U.S. physicians, residents, and medical students are represented in the AMA's policy making process. The AMA was founded in 1847 to promote the science and art of medicine and the betterment of public health, and these remain its core purposes. AMA members practice in every state and in every medical specialty.

The SMFM supports the clinical practice of maternal-fetal medicine by providing education, promoting research, and engaging in advocacy to optimize

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[1] *See, e.g.*, *Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292, 2312, 2315 (2016) (citing *amici* brief submitted by ACOG, AMA, AAP, and other medical associations in assessing disputed admitting privileges and surgical center requirements); *Hodgson v. Minn.*, 497 U.S. 417, 454 n.38 (1990) (citing ACOG's *amicus* brief in assessing disputed parental notification requirement); *Stuart v. Camnitz*, 774 F.3d 238, 251-52, 254, 255 (4th Cir. 2014) (citing ACOG and the AMA's *amici* brief in assessing how an ultrasound requirement exceeded the bounds of traditional informed consent and interfered with physicians' medical judgment), *cert. denied*, 135 S. Ct. 2838 (2015); *Planned Parenthood Ariz., Inc. v. Humble*, 753 F.3d 905, 916-17 (9th Cir. 2014) (citing ACOG and the AMA's *amici* brief as further support for a particular medical regimen), *cert. denied*, 135 S. Ct. 870 (2014);.

the health of high-risk pregnant women and their babies. Established in 1977, SMFM is the medical professional society for obstetricians who have additional training in the area of high-risk, complicated pregnancies. MFMs see the sickest and most vulnerable patients, and aim to improve care, research, advocacy and education for pregnant women.

The AAP was founded in 1930 and is a national, not-for-profit professional organization dedicated to furthering the interests of child and adolescent health. Since the AAP's inception, its membership has grown from 60 physicians to over 67,000 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialists. Over the past 89 years, the AAP has become a powerful voice for child and adolescent health through education, research, advocacy, and the provision of expert advice. The AAP has worked with federal and state governments, health care providers, and parents on behalf of America's children and adolescents to ensure the availability of safe and effective contraceptives.

The ACP is the largest medical specialty organization in the United States with members in more than 145 countries worldwide. ACP membership includes 154,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific

knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

The SAHM was founded in 1968 and is a multidisciplinary organization committed to improving the physical and psychosocial health and well-being of all adolescents through advocacy, clinic care, health promotion, health service delivery, professional development, and research.

SUMMARY OF ARGUMENT

Amici are leading medical organizations representing physicians in the United States. *Amici* are dedicated to health care, research, and evidence-based health policy. *Amici* are committed to improving the health of women and to preserving access to health care, including reproductive health care.

Amici's membership care for patients in rural, urban, wealthy, and low-income communities, including many of the more than 70 million Americans enrolled in Medicaid. *Amici* oppose political interference in the provision of health care, interference in the patient-physician relationship, and political acts that undermine the ability of people to access health care. This includes actions, such as the one at issue in this case, that exclude qualified Medicaid providers for political or discriminatory reasons.

Medicaid providers, many of whom are members of *amici's* organizations, play a critical role in the United States health care system. They offer much needed health care to low-income individuals, most of whom are otherwise unable to afford such services. These services Medicaid providers offer in South Carolina are necessary and significant: one in five (20%) adults in the state report poor health status and the state has higher cancer death rates and infant mortality rates compared to the rates for the United Sates. *See* Kaiser Family Found., *Key Data on Health and Health Coverage in South Carolina* (Feb. 10, 2016),

https://www.kff.org/disparities-policy/fact-sheet/key-data-on-health-and-health-coverage-in-south-carolina. Planned Parenthood plays an irreplaceable role in the provision of life-saving healthcare, each year providing care to millions of Americans and thousands of South Carolinians. Planned Parenthood is unique among Medicaid providers both for the quantity of care it provides, as well as the type. Planned Parenthood offers Medicaid recipients a range of cancer screenings, sexually transmitted infection screening and treatment, contraception, family planning, and other reproductive healthcare. These services are particularly difficult for low-income South Carolinians to access, and Planned Parenthood plays a critical role in individuals obtaining access to care.

Yet, South Carolina has taken a series of efforts to single out and remove Planned Parenthood from the state's Medicaid program. The latest, at issue in this case, is a decision by the Secretary of the South Carolina Department of Health and Human Services ("DHHS") to terminate Planned Parenthood's status as a qualified Medicaid provider solely on the basis that Planned Parenthood provides (without use of Medicaid funds) abortion care. The Secretary's actions seek to remove Planned Parenthood from South Carolina's Medicaid program. If successful, this would have a devastating impact on South Carolina women. Other Medicaid providers in the state will not be able to fill the void left by Planned Parenthood,

which will mean that South Carolinians, and especially South Carolinian women, will have to forgo receiving critical health care services.

This has already been tried, and the results are already known. In 2011, Texas pursued a similar strategy of starving Planned Parenthood of funding. The tactic led to the closure of clinics and firing of clinic staff throughout the state. The number of women seeking and getting public health care declined. Texas women faced new obstacles to accessing reproductive health care. South Carolina women could suffer the same consequences if this Court declines to uphold the injunction.

In light of the crucial and unique role that Planned Parenthood plays in providing health care to South Carolinians and the lack of any medically necessary reason to exclude Planned Parenthood from the Medicaid program, *amici* ask the Court to affirm the District Court's order and permanently enjoin Appellant from removing Planned Parenthood from South Carolina's Medicaid program.

ARGUMENT

I. MEDICAID AND PLANNED PARENTHOOD ARE INTEGRAL TO THE PROVISION OF HEALTH CARE IN SOUTH CAROLINA

A. Medicaid Plays A Critical Role In Providing Essential Health Care To Individuals In South Carolina

Medicaid is the largest public health insurance program through which low-income individuals receive health care services in the Unites States. The program

covers a wide range of Americans, including low-income families, qualified children, adolescents, pregnant women, and individuals receiving Supplemental Security Income. *See* Medicaid, *List of Medicaid Eligibility Groups, Mandatory Categorically Needy*, https://www.medicaid.gov/medicaid-chip-program-information/by-topics/waivers/1115/downloads/list-of-eligibility-groups.pdf (last accessed Jan. 13, 2019). Individuals are often able to select their own provider, and the provider is generally reimbursed by Medicaid.

Many South Carolinians are Medicaid beneficiaries. South Carolina's population has higher rates of key health problems as compared to the national population. *See* Kaiser Family Found., *Key Data on Health and Health Coverage in South Carolina*, *supra*. Further, the poverty rate in South Carolina is above the national average. *See id.* Consequently, approximately one in five South Carolinians is covered by Medicaid. *See* Kaiser Family Found., *Medicaid in South Carolina* (Nov. 2018), http://files.kff.org/attachment/fact-sheet-medicaid-state-SC.

B. Planned Parenthood Provides Crucial Family Planning And Reproductive Healthcare Services

1. Planned Parenthood is a National Leader in Providing Care for Low-Income Individuals

Planned Parenthood is one of several providers that uses Medicaid and other sources of federal funding to provide critically important health care services to low-income individuals. In 2015, Planned Parenthood affiliates across the country

provided care for approximately 1,500,000 patients who received some form of federal funding assistance. *See* Planned Parenthood, 2015-2016 Annual Report 11 (2017), https://www.plannedparenthood.org/uploads/filer_public/18/40/1840b04b-55d3-4c00-959d-11817023ffc8/20170526_annualreport_p02_singles.pdf. Planned Parenthood is a leader in this field; six in ten women receiving contraceptive care at a family planning clinic consider Planned Parenthood to be their usual source of health care, and for four in ten women it is their only source of care. *See* Jennifer J. Frost et al., *Specialized Family Planning Clinics in the United States: Why Women Choose Them and Their Role in Meeting Women's Health Care Needs*, 22-6 Women's Health Issues e519, e519, e522 (2012); Jennifer J. Frost, *U.S. Women's Use of Sexual and Reproductive Health Services: Trends, Sources of Care and Factors Associated with Use, 1995-2010*, Guttmacher Institute 43 (May 2013), http://www.guttmacher.org/pubs/sources-of-care-2013.pdf.

Planned Parenthood provides more timely, convenient, accessible, and comprehensive services to its patients as compared to other clinics. Its clinics are significantly more likely to offer same-day appointments and to have shorter wait times for first visits. Jennifer J. Frost et al., *Variation in Service Delivery Practices Among Clinics Providing Publicly Funded Family Planning Services in 2010*, Guttmacher Institute 19 (May 2012), https://www.guttmacher.org/sites/default/files/report_pdf/clinic-survey-2010.pdf; *see also* Mia R. Zolna & Jennifer J.

Frost, *Publicly Funded Family Planning Clinics in 2015: Patterns and Trends in Service Delivery Practices and Protocols*, Guttmacher Institute 9 (Nov. 2016), https://www.guttmacher.org/sites/default/files/report_pdf/publicly-funded-family-planning-clinic-survey-2015_1.pdf. Individuals seeking an appointment at a Planned Parenthood clinic can expect to wait, on average, 1.8 days, whereas the average wait times at other family planning clinics are much longer (6.8 days at a health department, 5.3 days at a Federally Qualified Health Center ("FQHC"), and 5.4 days at other types of publicly funded clinics). *See* Frost, *Variation in Service Delivery Practices*, at 36. Planned Parenthood clinics are also by far the most likely type of clinic to offer extended clinic hours to their patients. *See id.* at 19. Additionally, relative to FQHCs, Planned Parenthood clinics are more likely to have staff trained to address the special needs of certain groups of clients, including: adolescents (91% of Planned Parenthood facilities to 72% of FQHCs); lesbian or gay individuals (83% to 46%); individuals experiencing intimate partner violence (81% to 68%); non-English-speaking individuals (82% to 65%); and men (77% to 59%). *See id.* at 22, 38, Table 9.

Planned Parenthood provides a wide variety of family planning and reproductive health care services, including contraceptive care and services; cancer screening; general health care screening; sexually transmitted infection ("STI") testing and treatment; pregnancy support; and patient education. Planned

Parenthood, *Our Services*, https://www.plannedparenthood.org/get-care/our-services (last visited Jan. 13, 2019). Indeed, between October 1, 2015 and September 30, 2016, Planned Parenthood health centers provided approximately 4.4 million tests or treatment for STIs, including more than 706,000 HIV tests and 617,000 cervical and breast cancer screenings, and over 1 million pregnancy tests. Planned Parenthood, 2016-2017 Annual Report 7, 31 (2018), https://www.plannedparenthood.org/uploads/filer_public/71/53/7153464c-8f5d-4a26-bead-2a0dfe2b32ec/20171229_ar16-17_p01_lowres.pdf.

2. Planned Parenthood Provides Needed Specialized Care

Planned Parenthood holds an outsized role as a specialized provider of contraceptive services. Frost, *Specialized Family Planning Clinics*, at e519. Though Planned Parenthood clinics account for only 10% of all publicly funded family planning clinics, they serve over one third (36%) of all clinic patients. Zolna & Frost, *supra*, at 4. Additionally, although there were 5,829 FQHCs providing family planning services in 2015, the average annual number of female contraceptive patients served was 320 per site. Kinsey Hasstedt, *Federally Qualified Health Centers: Vital Sources of Care, No Substitute for the Family Planning Safety Net*, 20 Guttmacher Pol'y Rev. 67, 68 (2017), https://www.guttmacher.org/sites/default/files/article_files/gpr2006717

_0.pdf. In contrast, the 676 Planned Parenthood centers had an average annual caseload of 2,950 such patients per center, almost ten times larger. *See id.*

As compared to other clinics, Planned Parenthood also provides a wider variety of accessible birth control methods. *See* Frost, *Variation in Service Delivery Practices*, *supra*, at 10, 27; Kinsey Hasstedt, *Understanding Planned Parenthood's Critical Role in the Nation's Family Planning Safety Net*, 20 Guttmacher Pol'y Rev. 13, 13 (2017), https://www.guttmacher.org/sites/default/files/article_files/gpr2001216.pdf. Planned Parenthood clinics are more likely to dispense oral contraceptives and provide re-fills onsite. *See* Frost, *Variation in Service Delivery Practices*, at 34. Planned Parenthood is also significantly more likely than all other clinics to provide a long-acting reversible contraceptive ("LARC") method to its patients, with nearly all centers offering same day insertion. Zolna & Frost, *supra*, at 12; Hasstedt, *Understanding Planned Parenthood's Critical Role*, at 13. LARCs, which include intrauterine devices and contraceptive implants, are widely viewed as the most medically effective and cost-effective forms of contraception. *See, e.g.*, Brooke Winner et al., *Effectiveness of Long-Acting Reversible Contraception*, 366 New Eng. J. Med. 1998, 2004 (2012); ACOG, Committee on Gynelogic Practice Long Acting Reversible Contraception Working Group, *Increasing Access to Contraceptive Implants and Intrauterine Devices to Reduce Unintended Pregnancy*, Committee

Opinion No. 642, 2 (2015), https://www.acog.org/-/media/Committee-Opinions/Committee-on-Gynecologic-Practice/co642.pdf; American Academy of Pediatrics, *Policy Statement: Contraception for Adolescents*, e1251 (2014), http://pediatrics.aappublications.org/content/pediatrics/134/4/e1244.full.pdf ("Given the efficacy, safety, and ease of use, LARC methods should be considered first-line contraceptive choices for adolescents.").

Moreover, Planned Parenthood centers are more likely to use rapid-result testing for HIV, which allows patients to begin treatment sooner and receive counseling on preventive measures. *See* Frost, *Variation in Service Delivery Practices*, at 12. Indeed, Planned Parenthood clinics are more likely than other publicly funded clinics providing family planning services to have met the Center for Disease Control's goal to provide the full range of FDA-approved methods of contraception, which is important so that women can avoid unintended pregnancies and plan the timing of their pregnancies. *See* Zolna & Frost, *supra*, at 12.

C. South Carolina Medicaid Recipients Face Significant Barriers To Care

Despite the need for accessible, affordable, and effective health care services provided by Planned Parenthood and covered by Medicaid, access to Medicaid health care providers (including Planned Parenthood) is not guaranteed, both nationally and in South Carolina. For example, over two-thirds of states have reported challenges to ensuring enough Medicaid providers to serve patients. *See*

U.S. Gov't Accountability Office, GAO-13-55, Medicaid: States Made Multiple Program Changes, and Beneficiaries Generally Reported Access Comparable to Private Insurance 18 (Nov. 2012), https://www.gao.gov/assets/650/649788.pdf. Further, not all health care providers accept Medicaid. For example, in 2013, only 68% of physicians accepted new patients with Medicaid coverage, presumably because Medicaid reimbursement rates are often lower than rates paid by commercial services; other private providers limit the number of Medicaid patients they will treat. *See* Esther Hing et al., *Acceptance of New Patients With Public and Private Insurance by Office-based Physicians: United States, 2013*, NCHS Data Brief No. 195, Centers for Disease Control and Prevention (Mar. 2015), https://www.cdc.gov/nchs/data/databriefs/db195.pdf. Additionally, states have sought to exclude certain qualified providers like Planned Parenthood from Medicaid, as the state attempts to do here, which further reduces individuals' access to health care.

As such, individuals covered by Medicaid are limited in their choice of provider, and many rely on publicly funded health care centers, like Planned Parenthood. In the family planning realm, of about 8.6 million women who received publicly funded contraceptive services in 2015, 72% (or 6.2 million) received care at family planning clinics such as Planned Parenthood, while only 28% (or 2.4 million) received care from private clinicians, such as private doctors'

offices. Jennifer J. Frost et al., *Publicly Funded Contraceptive Services at U.S. Clinics, 2015*, Guttmacher Institute 1 (Apr. 2017), https://www.guttmacher.org/sites/default/files/report_pdf/publicly_funded_contraceptive_services_2015_3.pdf.

Each year, Planned Parenthood provides nearly 4,000 men and women in South Carolina with breast and cervical cancer screenings, pregnancy testing, family planning services, and other preventive care including vaccinations. *See* Planned Parenthood, *South Carolina Governor Targets Planned Parenthood Patients* (Aug. 25, 2017), https://www.plannedparenthood.org/about-us/newsroom/press-releases/south-carolina-governor-targets-planned-parenthood-patients. Planned Parenthood has only two clinics in South Carolina; nevertheless, as of 2010, it had 2,420 female contraceptive clients. *See* Jennifer J. Frost et al., *Contraceptive Needs and Services, 2010*, Guttmacher Institute 39 (July 2013), http://www.guttmacher.org/pubs/win/contraceptive-needs-2010.pdf.

Planned Parenthood is even more crucial in a state like South Carolina where half of all pregnancies are unintended. *See* Guttmacher Institute, *State Facts About Unintended Pregnancy: South Carolina* (2016), https://www.guttmacher.org/sites/default/files/factsheet/sc_8_0.pdf. Unintended and closely spaced pregnancies are intimately correlated with negative maternal and childhood health outcomes and a variety of social and economic challenges. *See id.* Without publicly supported family planning services like Planned Parenthood, the rates of

unintended pregnancy, unplanned birth, and abortion would be 58% higher in South Carolina, and the rate of teen pregnancy would increase by 46%. *See* Guttmacher Institute, *State Facts on Publicly Funded Family Planning Services: South Carolina* (2016), https://www.guttmacher.org/sites/default/files/factsheet/fp-sc.pdf. Additionally, centers in South Carolina like Planned Parenthood have helped provide STI and cancer screening, which results in early detection and treatment and helps prevent transmission to partners. *See id.*

Despite Planned Parenthood's many efforts, South Carolina is still underserved. In 2014, approximately 323,000 women in South Carolina were identified as in need of publicly funded contraceptive services and supplies, yet only about 139,000 women actually received these services. Jennifer J. Frost et al., *Contraceptive Needs and Services, 2014 Update*, Guttmacher Institute, Table 3, 28 (Sept. 2016), https://www.guttmacher.org/sites/default/files/report_pdf/contraceptive-needs-and-services-2014_1.pdf. As such, South Carolina's attempt to exclude Planned Parenthood as a qualified provider would further imperil many South Carolinians' already limited and insufficient access to family planning and contraceptive care.

II. SOUTH CAROLINA HAS PROVIDED NO MEDICALLY-NECESSARY REASON FOR EXCLUDING PLANNED PARENTHOOD FROM THE STATE'S MEDICAID PROGRAM

Amici oppose political interference in individuals' ability to obtain care from qualified providers. This is consistent with Medicaid's "any willing provider" and "freedom of choice" protections, which were enshrined in law to ensure that there are enough providers to care for Medicaid beneficiaries. 42 U.S.C. 1396a(a)(23). It is also consistent with medical ethics. *See* AMA Code of Medical Ethics, Principle IX ("A physician shall support access to medical care for all people.").

The Secretary's exclusion of Planned Parenthood from the state's Medicaid program is based on a desire by the Secretary and South Carolina Governor Henry McMaster to exclude providers that provide abortion care in the range of services they offer *outside* of the Medicaid program. The State has provided no medically necessary reason to exclude Planned Parenthood from providing care. The Court should reject this open attempt to politically interfere with the provision of care to low-income individuals.

III. EXCLUDING PLANNED PARENTHOOD FROM MEDICAID IN SOUTH CAROLINA WOULD BE DETRIMENTAL TO THE PUBLIC HEALTH AND WILL HAVE A DISPROPORTIONATELY NEGATIVE IMPACT ON WOMEN'S HEALTH

South Carolina's attempt to exclude Planned Parenthood from the state's Medicaid program would be detrimental to the public health, depriving an already underserved population of critical care and disproportionately negatively impacting

women. As discussed more fully below, data is clear that other providers cannot fill the void that would be left by exclusion of Planned Parenthood and that the end result of this exclusion will be disruptions in the ability of people, and most especially women, to seek critical, and even lifesaving, care. Restrictions on access to contraception methods and counseling, cancer and disease screenings, and other critical reproductive health services that Planned Parenthood offers Medicaid recipients could lead to more unintended pregnancies, undetected cancers and diseases, and poor health outcomes for an already vulnerable population.

A. Other Health Care Providers Cannot Compensate for the Loss of Planned Parenthood

Other health centers in South Carolina cannot fill the void in family planning care provision that would be left if Planned Parenthood loses its status as a qualified Medicaid provider. As previously noted, more than two-thirds of states already report challenges to ensuring enough Medicaid providers to serve beneficiaries. GAO-13-55 at 18. Without Planned Parenthood, there would be even fewer Medicaid providers, and FQHCs would have to attempt to make up the difference. For example, as of 2010, in 332 of the 491 counties in which Planned Parenthood centers operated, Planned Parenthood provided care for at least half of the women who depended on publicly funded family planning services from a

health care safety-net provider. Sara Rosenbaum, *Can Community Health Centers Fill the Health Care Void Left by Defunding Planned Parenthood?*, Health Affairs Blog (Jan. 27, 2017), http://healthaffairs.org/blog/2017/01/27/can-community-health-centers-fill-the-health-care-void-left-by-defunding-planned-parenthood.

FQHCs would be inundated with new contraceptive clients, given that Planned Parenthood serves a disproportionately high number of contraceptive patients; Planned Parenthood centers account for only 6% of all safety-net family planning providers but serve 32% of all safety-net family planning clients, whereas FQHCs account for 54% of all safety-net family planning providers while serving only 30% of all safety-net family planning clients. *See* Hasstedt, *Federally Qualified Health Centers*, at 68. In South Carolina, there would be a 381% increase in FQHCs' contraceptive client caseload should they be required to serve all federally funded family planning program clients. *See* Letter from Rachel Benson Gold, Vice President for Public Policy, The Guttmacher Institute, to the Office of Population Affairs, U.S. Dep't of Health & Human Services, Guttmacher Institute, Table 2 (July 31, 2018), https://www.guttmacher.org/sites/default/files/letters/Guttmacher-Institute-comments-RIN-0973ZA00.pdf.

Further, FQHCs are designed to provide primary care and preventive services; they are not specialized centers like Planned Parenthood. *See* Rosenbaum, *Can Community Health Centers Fill the Health Care Void*. Because

they must address all of the health needs of their patients, FQHCs generally rely on referral arrangements with other providers, including for contraceptive services, which creates barriers to access. *See id.; see also* Susan Wood et al., *Health Centers and Family Planning: Results of a Nationwide Study*, George Washington Univ. Dep't of Health Pol'y 26 (Mar. 7, 2013), https://www.rchnfoundation.org/wp-content/uploads/2013/04/Health_Centers_and_Family_Planning-final-1.pdf (69% of FQHCs reported making referrals for family planning services to local family planning providers). Without Planned Parenthood, FQHCs already facing severe financial difficulties and foisting long wait times on clients will likely be overwhelmed by patients seeking specific contraceptive services to which they are neither accustomed nor able to provide. *See* Sara Rosenbaum, *Planned Parenthood, Community Health Centers, And Women's Health: Getting the Facts Right*, Health Affairs Blog (Sept. 2, 2015), http://healthaffairs.org/blog/2015/09/02/planned-parenthood-community-health-centers-and-womens-health-getting-the-facts-right; Hasstedt, *Federally Qualified Health Centers*, at 70. FQHCs would also have to expand their range of contraceptive methods and be prepared to provide same-day services if they aim to provide services and access comparable to Planned Parenthood. *See* Hasstedt, *Federally Qualified Health Centers*, at 68.

To address an influx of new patients previously served by Planned Parenthood, FQHCs would be forced to hire additional personnel. This is unlikely

to happen. FQHCs are typically understaffed in the first place, and almost all FQHCs (95%) have at least one clinical vacancy at any given time. More than two-thirds have a vacancy for a family physician, half have a vacancy for a nurse practitioner, and 41% have a vacancy for a registered nurse. National Assoc. of Cmty. Health Ctrs., *Staffing the Safety Net: Building the Primary Care Workforce at America's Health Centers*, 2-3 (Mar. 2016), http://www.nachc.org/wp-content/uploads/2015/10/NACHC_Workforce_Report_2016.pdf.

There are simply too many low-income Americans who currently do not receive sufficient health care to eliminate Planned Parenthood and thereby further burden FQHCs; an estimated 62 million Americans confront elevated health risks and do not have a regular source of primary care. *See* Rosenbaum, *Planned Parenthood, Community Health Centers*. Even worse, under federal law, FQHCs must be located in communities with few other health care providers. *Id.* As a result, communities losing access to Planned Parenthood may not have another FQHC readily accessible. *See id.* In South Carolina, 30% of the population lives in areas in which there is a shortage of primary care. Robin Rudowitz et al., *Factors Affecting States' Ability to Respond to Federal Medicaid Cuts and Caps: Which States Are Most At Risk?*, Kaiser Family Found. 22 (June 2017), http://files.kff.org/attachment/Issue-Brief-Factors-Affecting-States-Ability-to-Respond-to-Federal-Medicaid-Cuts-and-Caps-Which-States-Are-Most-At-Risk.

The two Planned Parenthood centers in South Carolina are located in areas designated underserved by the U.S. Health Resources and Services Administration ("HRSA"). Not only would crippling those Planned Parenthood centers, both of which are located in urban areas, exhaust FQHCs (which likely are not even in the same area), but it would also worsen the general provision of health care to low-income South Carolinians who already do not receive sufficient care.

Furthermore, Planned Parenthood clinics are often more accessible for individuals than other health centers. As noted above, the wait times are substantially shorter, and the centers take other efforts to make care accessible to people with transport, work, and schedule limitations. Exclusion of Planned Parenthood would remove these unique features that allow individuals to obtain care when they otherwise would not be able.

B. Reduction in Access to Planned Parenthood Services Will Lead to Poor Health Outcomes

Unintended pregnancy and abortion rates are higher in the United States than in most other developed countries, and low-income women have disproportionately high rates. *See* ACOG, *Committee on Health Care for Underserved Women*, Committee Opinion No. 613 (Nov. 2014), https://www.acog.org/-/media/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/co613.pdf?dmc=1&ts=20160226T0920153439. The rates are especially high in South Carolina, where half of all pregnancies are

unintended and, in 2014, 6,040 abortions were provided. *See* Guttmacher Institute, *State Facts About Unintended Pregnancy: South Carolina*, *supra*; Guttmacher Institute, *State Facts About Abortion: South Carolina* (2018), https://www.guttmacher.org/sites/default/files/factsheet/sfaa-sc.pdf. The human cost of unintended pregnancy is high: women must either carry an unplanned pregnancy to term and keep the baby or make a decision for adoption, or choose to undergo abortion. Women and their families may struggle with this challenge for medical, ethical, social, legal, and financial reasons. Although the studies have limitations, the data show that unintended live births suffer a disproportionately high rate of maternal and infant health problems, interfere with young mothers completing their education, and reduce the financial and emotional resources available to support and nurture existing children. Barry Zuckerman, et al., *Preventing Unintended Pregnancy: A Pediatric Opportunity*, 133 Pediatrics 181 (2014). Medical literature and evidence-based studies are abundantly clear that reduction in access to effective contraception methods leads to increased rates of unintended pregnancy. Planned Parenthood plays a crucial role in South Carolina in providing contraceptive counseling and services to a range of women, including to those who rely on Medicaid for care. Eliminating access to these services will result in unintended pregnancies. *See* ACOG, Committee Opinion No. 613, *supra*.

Reducing Planned Parenthood's services in South Carolina will affect patients in areas beyond reproductive health. As discussed above, Planned Parenthood provides critical services for cancer and HIV patients, including tests to detect cancer and HIV. Early testing and detection are crucial for optimizing treatment for these patients. *See* American Cancer Society, *Cancer Prevention & Early Detection Facts & Figures 2017-2018*, American Cancer Society 2018, 52, 64, https://www.cancer.org/content/dam/cancer-org/research/cancer-facts-and-statistics/cancer-prevention-and-early-detection-facts-and-figures/cancer-prevention-and-early-detection-facts-and-figures-2017.pdf ("Early detection of cancer through screening reduces mortality from cancers of the colon and rectum, breast, uterine cervix, and lung."); Group ISS et al., *Initiation of antiretroviral therapy in early asymptomatic HIV infection*, 373 New Eng. J. of Med. 795–807 (2015), https://www.nejm.org/doi/full/10.1056/NEJMoa1506816 (describing increased morbidity and mortality when HIV treatment is delayed).

The risks of delayed care to these patients are readily apparent: the longer patients go without knowing they have cancer or HIV, the greater the chances that they will be unable to receive optimal treatment. Many South Carolinians depend on Planned Parenthood to diagnose these illnesses, and DHHS's decision to terminate Planned Parenthood as a qualified Medicaid provider could subject them to unnecessary harm.

C. Texas's Exclusion of Planned Parenthood Demonstrates the Harms Women in South Carolina Will Face Absent the Injunction

The risks of harm to South Carolina women are not mere academic speculation or conjecture. To the contrary, this scenario has already played out in Texas, and Texas women bore the consequences.

In 2007, Texas introduced the Women's Health Program, a publicly-funded Medicaid program that provided reproductive health care services (excluding abortion services) to Texas women. *Women's Health Program FAQs*, Texas Med. Assoc., https://www.texmed.org/template.aspx?id=20940 (May 20, 2016). In 2011, Texas legislators banned Planned Parenthood and other health care facilities with ties to abortion from the Medicaid Women's Health Program. *See* Ali Weinberg, *Planned Parenthood was Defunded by Texas: Here's What Congress Can Learn*, ABC News (Aug. 2, 2015), https://abcnews.go.com/Politics/texas-defunded-planned-parenthood-congress-learn/story?id=32807130.

The program had received funding from both the federal government and the state of Texas, but following the legislature's decision the federal government stopped funding the Medicaid Women's Health Program. *See id.* Texas replaced the federal funding with a new program, the Texas Women's Health Program, allowing it to pursue its goal of providing care while excluding certain providers. Becca Aaronson, *Claims Drop Under State-Run Women's Health Program in*

Texas, New York Times (Dec. 12, 2013), https://www.nytimes.com/2013/12/13/us/claims-drop-under-state-run-womens-health-program.html?_r=0&login=email&auth=login-email.

Not surprisingly, this attempt to defund Planned Parenthood and other providers caused harm to Texas women. Eighty-two family-planning clinics in Texas closed because of the legislature's decision, while nearly half of the facilities that remained open and received state funding were forced to make staff cuts. Amanda J. Stevenson, et al., *Effect of Removal of Planned Parenthood from the Texas Women's Health Program*, 374 New Eng. J. of Med. 853 (2016); Ctr. for Reprod. Rights & Nat'l Latina Inst. for Reprod. Health, *Nuestra Voz, Nuestra Salud, Nuestro Texas: The Fight for Women's Reproductive Health in the Rio Grande Valley* 18 (Nov. 2013), http://www.nuestrotexas.org/pdf/NT-spread.pdf. Between 2011 and 2013, there was a 9% decrease in enrollees in the Texas Women's Health Program, as well as a 26% decrease in Medicaid claims and a 54% decline in contraceptive claims. Kinsey Hasstedt, *How Texas Lawmakers Continue to Undermine Women's Health*, Health Affairs (May 20, 2015), https://www.healthaffairs.org/do/10.1377/hblog20150520.047859/full. Additionally, more than half of Texas women surveyed in a 2014 Texas Policy Evaluation Project study faced at least one obstacle to accessing reproductive health care, such as being unable to pay for these medical services or

not feeling comfortable with their health care provider. *Barriers to Family Planning Access in Texas*, Texas Pol'y Evaluation Project (May 2015), https://liberalarts.utexas.edu/txpep/_files/pdf/TxPEP-ResearchBrief_Barriers-to-Family-Planning-Access-in-Texas_May2015.pdf. A 2016 study published in the New England Journal of Medicine found that, following the exclusion of Planned Parenthood and other providers, fewer women in Texas were able to access contraception, including a decrease in the number of claims for LARC methods. *See* Stevenson, *supra*.

Simply put, Texas's efforts of gutting Planned Parenthood harmed Texas women. South Carolina women may suffer the same consequences if the Order is not struck down.[2]

[2] Scott County, Indiana, offers an analogous cautionary tale in the HIV context. In 2013, the sole Planned Parenthood clinic in the county shut down, following years of budget cuts in the state for public health. Laura Bassett, *Indiana Shut Down Its Rural Planned Parenthood Clinics And Got an HIV Outbreak*, Huffington Post (Mar. 31, 2015), https://www.huffingtonpost.com/2015/03/31/indiana-planned-parenthood_n_6977232.html. Shortly after, the area experienced an unprecedented outbreak of HIV infection. Jeffrey S. Crowley, et al., *Preventing HIV and Hepatitis Infections Among People Who Inject Drugs: Leveraging an Indiana Outbreak Response to Break the Impasse*, 21 AIDS and Behavior 968-72 (2017). The county had previously experienced an average of only five HIV diagnoses per year, but between November 2014 through November 2015, after the Planned Parenthood clinic closed, there were 181 HIV diagnoses in the county. *See id.*

CONCLUSION

For the foregoing reasons, *amici curiae* ask the Court to affirm the District Court's order, and to permanently enjoin Appellant from terminating the Medicaid enrollment agreement of Planned Parenthood.

Dated: January 22, 2019

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1. This brief complies with the type-volume limitations of Fed. R. App. P. 32(a)(7)(B) and Fed. R. App. P. 29(a) because it contains 5,354 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii), as calculated by the word-counting function of Microsoft Office 2010.

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally-spaced typeface using Microsoft Office Word in 14-point Times New Roman.

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I hereby certify that on January 22, 2019, I caused the foregoing Brief of *Amici Curiae* American College of Obstetricians and Gynecologists, American Medical Association, Society for Maternal-Fetal Medicine, American Academy of Pediatrics, American College of Physicians, and Society for Adolescent Health and Medicine In Support of Plaintiff/Appellees For Affirmance to be electronically filed with the Clerk of the Court for the Fourth Circuit using the CM/ECF system, which will automatically serve electronic copies upon all counsel of record.

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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(party name)

☐ appellant(s) ☐ appellee(s) ☐ petitioner(s) ☐ respondent(s) ☒ amicus curiae ☐ intervenor(s) ☐ movant(s)

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I certify that on January 22, 2019 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

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THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

PLANNED PARENTHOOD SOUTH ATLANTIC and JULIE EDWARDS, on her behalf and on behalf of all others similarly situated, Plaintiffs-Appellees, v. JOSHUA BAKER, in his official capacity as Director, South Carolina Department of Health and Human Services, Defendant-Appellant.	Case No. 18-2133 Appearance of Counsel Form Rider

I, Janice M. Mac Avoy, do hereby enter my appearance in Appeal No. 18-2133 as pro bono counsel for the below listed entities, as *amicus curiae*:

1. The American College of Obstetricians and Gynecologists;
2. The American Medical Association;
3. The Society for Maternal-Fetal Medicine;
4. The American Academy of Pediatrics;
5. The American College of Physicians; and
6. The Society for Adolescent Health and Medicine.

Dated: January 22, 2019

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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No. 18-2133 Caption: Planned Parenthood South Atlantic, et al. v. Baker

Pursuant to FRAP 26.1 and Local Rule 26.1,

American Academy of Pediatrics (AAP)
(name of party/amicus)

who is an amicus, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

2. Does party/amicus have any parent corporations? ☐ YES ☑ NO
If yes, identify all parent corporations, including all generations of parent corporations:

3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☑ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☑ NO
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Signature: s/ Janice M. Mac Avoy Date: January 22, 2019

Counsel for: AAP

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American College of Obstetricians and Gynecologists (ACOG)
(name of party/amicus)

who is an amicus, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

2. Does party/amicus have any parent corporations? ☐ YES ☑ NO
If yes, identify all parent corporations, including all generations of parent corporations:

3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☑ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☑ NO
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☑ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: s/ Janice M. Mac Avoy Date: January 22, 2019

Counsel for: ACOG

CERTIFICATE OF SERVICE

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I certify that on January 22, 2019 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

Janice M. Mac Avoy (signature) January 22, 2019 (date)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

Disclosures must be filed on behalf of all parties to a civil, agency, bankruptcy or mandamus case, except that a disclosure statement is **not** required from the United States, from an indigent party, or from a state or local government in a pro se case. In mandamus cases arising from a civil or bankruptcy action, all parties to the action in the district court are considered parties to the mandamus case.

Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

If counsel is not a registered ECF filer and does not intend to file documents other than the required disclosure statement, counsel may file the disclosure statement in paper rather than electronic form. Counsel has a continuing duty to update this information.

No. 18-2133 Caption: Planned Parenthood South Atlantic, et al. v. Baker

Pursuant to FRAP 26.1 and Local Rule 26.1,

American College of Physicians (ACP)
(name of party/amicus)

who is an amicus, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

2. Does party/amicus have any parent corporations? ☐ YES ☑ NO
If yes, identify all parent corporations, including all generations of parent corporations:

3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☑ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☑ NO
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☑ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: s/ Janice M. Mac Avoy Date: January 22, 2019

Counsel for: ACP

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No. 18-2133 Caption: Planned Parenthood South Atlantic, et al. v. Baker

Pursuant to FRAP 26.1 and Local Rule 26.1,

American Medical Association (AMA)
(name of party/amicus)

who is an amicus, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

2. Does party/amicus have any parent corporations? ☐ YES ☑ NO
If yes, identify all parent corporations, including all generations of parent corporations:

3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☑ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☑ NO
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☑ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: s/ Janice M. Mac Avoy Date: January 22, 2019

Counsel for: AMA

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No. 18-2133 Caption: Planned Parenthood South Atlantic, et al. v. Baker

Pursuant to FRAP 26.1 and Local Rule 26.1,

Society for Adolescent Health and Medicine
(name of party/amicus)

who is an amicus, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

2. Does party/amicus have any parent corporations? ☐ YES ☑ NO
If yes, identify all parent corporations, including all generations of parent corporations:

3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☑ NO
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If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☑ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: s/ Janice M. Mac Avoy Date: January 22, 2019

Counsel for: SAHM

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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No. 18-2133 Caption: Planned Parenthood South Atlantic, et al. v. Baker

Pursuant to FRAP 26.1 and Local Rule 26.1,

Society for Maternal-Fetal Medicine (SMFM)
(name of party/amicus)

who is an amicus, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

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If yes, identify entity and nature of interest:

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If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☑ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: s/ Janice M. Mac Avoy Date: January 22, 2019

Counsel for: SMFM

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