EXHIBIT 16

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

PLANNED PARENTHOOD CENTER FOR CHOICE, *et al*., Plaintiffs, v. GREG ABBOTT, in his official capacity as Governor of Texas, *et al*., Defendants.	No. 1:20-cv-00323-LY

DECLARATION OF STEPHANIE CHANG, M.D.

Stephanie Chang, M.D., declares as follows:

1. I am a board-certified obstetrician and gynecologist ("OB/GYN"), and a medical doctor licensed in the State of Texas and in good standing with the Texas Medical Board. My clinical practice includes both obstetrics and gynecology.

2. I graduated from UT Southwestern Medical School in 2007, completed a residency in obstetrics and gynecology at UT Southwestern Medical Center in 2011, and thereafter joined the faculty at UT Southwestern Medical Center as a member of the Department of Obstetrics and Gynecology. My primary site of practice is at Parkland Memorial Hospital.

3. I am a fellow/member of the American College of Obstetricians and Gynecologists ("ACOG"), the American Association of Gynecologic Laparoscopists, and the Association of Professors of Gynecology and Obstetrics. I am also a member of Parkland Memorial Hospital's Medical Executive Committee.

4. I make this declaration based upon my personal knowledge and am competent to testify thereto.

5. The statements in this declaration are attributable solely to me; I do not speak on behalf of any institution or organization with which I am affiliated.

6. Based on my practice, I am familiar with the use of personal protective equipment ("PPE") during obstetrical and gynecologic care, including prenatal care, labor and delivery, abortion, and other essential procedures, as well as non-essential procedures.

7. As a physician, I understand well the impact COVID-19 will have on patients and the health care systems. Like other members of the medical community, I do my part to conserve needed PPE and preserve hospital resources for potential COVID-19 patients. However, this does not mean turning away patients in need of time-sensitive care.

8. Throughout pregnancy, regular visits with an OB/GYN are strongly recommended.[1] These prenatal care visits are essential to ensuring the health of the mother and fetus. For these reasons, prenatal care visits are continuing during the COVID-19 outbreak.

9. During prenatal care visits, OB/GYNs perform diagnostic tests (such as ultrasounds, blood tests, and genetic testing) and physical exams (such as blood pressure tests and pelvic exams) to, for example, ensure fetal growth and check for any complications, not just for the fetus, but also for the pregnant patient.

10. The American Academy of Pediatrics and ACOG, as well as the federal government,[2] recommend that for uncomplicated first pregnancies, the patient visit their OB/GYN

[1] Am. Acad. of Pediatrics & ACOG, Guidelines for Perinatal Care 149 (8th ed. 2017).

[2] Office on Women's Health in the U.S. Dep't of Health & Human Servs., *Prenatal Care and Tests* (last updated Jan. 30, 2019), https://www.womenshealth.gov/pregnancy/youre-pregnant-now-what/prenatal-care-and-tests.

every four weeks during the first and second trimesters (to twenty-eight weeks), every two weeks until thirty-six weeks, and every week from thirty-six weeks to delivery. Thus, for a patient who initiates prenatal care at eight weeks of pregnancy (which is the recommended timing of the first visit), the patient will have approximately fourteen visits with their OB/GYN, including delivery. Patients with risk factors for complications (such as multiple pregnancies, pre-existing medical conditions such as high blood pressure, or advanced age) require more visits.[3] A majority of Texas women seek prenatal care during the first trimester, according to the most recent data from the Texas Department of State Health Services.[4]

11. During the COVID-19 pandemic, ACOG recommends that "[a]ntenatal fetal surveillance and ultrasonography . . . should continue as medically indicated when possible."[5] ACOG acknowledges the crisis may warrant delaying some prenatal care only "if the risk of exposure and infection within the community outweighs the benefit of [prenatal] testing" and ultrasonography. In places where there is a high risk of inadvertent exposure, ACOG suggests a reduced or modified schedule (no less than five in-person visits) may be appropriate, but normal care schedules should resume when the risk subsides.[6]

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[3] Risk factors for pregnancy complications are relatively common. For example, in 2018, 28% of pregnant women in Texas fell in the obese range of the pre-pregnancy Body Mass Index, a risk factor for developing hypertension, diabetes, and a variety of other medical problems during pregnancy. Tex. Dep't of State Health Servs., *2019 Texas Healthy Mothers & Babies Data Book* at 42–45 & Fig. 30 (revised Feb. 6, 2020), *available at* https://www.dshs.Texas.gov/healthytexasbabies/Documents/HTMB-Data-Book-2019-20200206.pdf.

[4] Tex. Dep't of State Health Servs., *Onset of Prenatal Care Within the First Trimester*, (last updated Apr. 12, 2019), https://www.dshs.texas.gov/chs/vstat/vs15/t12.asp.

[5] ACOG, *COVID-19 FAQs for Obstetrician-Gynecologists, Obstetrics* (last updated Mar. 26, 2020), https://www.acog.org/clinical-information/physician-faqs/covid-19-faqs-for-ob-gyns-obstetrics.

[6] ACOG, *Examples of Alternate or Reduced Prenatal Care Schedules* (Mar. 24, 2020), https://www.acog.org/clinical-information/physician-faqs/-/media/287cefdb936e4cda99a683d3cd56dca1.ashx.

12. Prenatal visits to conduct diagnostic tests necessarily must be in person, and as a result, require the use of PPE. The initial prenatal care visit requires a physical exam (including a pelvic examination and sometimes a pap smear), blood testing, urine tests, STD screening, and an ultrasound if needed to confirm the gestational age of the pregnancy.

13. Throughout prenatal care visits, patients are provided several genetic tests. Cell-free DNA testing, which is done to screen for various genetic conditions or aneuploidy, is done during the initial or an early prenatal visit. Two additional genetic tests requiring blood draws, including quadruple-marker screening test (which measures the levels of four different hormones in the patient's blood), are done between eleven and twenty-two weeks. If a patient needs a chorionic villus sampling (which analyzes a biopsy from the placenta), that is usually provided between ten and thirteen weeks, and amniocentesis (which analyzes fetal cells in a sample of amniotic fluid taken from the gestational sac) is done beginning at approximately fifteen weeks. Both procedures involve the insertion of a needle into the uterus, which can be painful, and both procedures carry the risk of complications, such as infection, miscarriage, and preterm labor.[7]

14. Some patients with risk factors for complications, including patients over thirty-five years of age, may need additional genetic testing.

15. Gloves are used when conducting an ultrasound, obtaining fetal heart tones, drawing blood, or collecting specimens. If a pelvic exam is needed, both the OB/GYN and a nurse-chaperone wear gloves.

[7] Johns Hopkins Med., Chorionic Villus Sampling (CVS), https://www.hopkinsmedicine.org/health/treatment-tests-and-therapies/chorionic-villus-sampling-cvs (last visited Apr. 1, 2020); Johns Hopkins Med., Amniocentesis, https://www.hopkinsmedicine.org/health/treatment-tests-and-therapies/amniocentesis (last visited Apr. 1, 2020).

16. Nearly all births in Texas occur in a hospital,[8] and approximately one-third of deliveries are by cesarean section ("C-section"), an open abdominal surgery requiring hospitalization for at least a few days.[9] During a vaginal delivery, the nurse, the OB/GYN, and between one to four pediatricians or pediatric nurse practitioners, depending on the status of the infant, are present. The delivering provider wears a surgical mask with face shield and a surgical gown. Each pediatric clinician wears a surgical mask and a disposable contact isolation gown. Everyone wears non-sterile gloves, except for the delivering provider, who wears sterile gloves.

17. C-sections require more hospital staff and thus comparatively more PPE use. For a C-section, two OB/GYN surgeons, an operating room technician, a circulating nurse, one to two anesthesia providers, and at least one pediatric provider are needed. If the mother or newborn needs to be intubated, even more staff is required.

18. In light of the governor's Executive Order and the risks to pregnant patients from obtaining care at the hospital, all scheduled procedures (i.e., elective procedures[10]) are performed in the outpatient setting—either at an office visit or ambulatory surgical center. Hospital-based care is reserved for emergent and urgent cases, as well as all deliveries. At the hospital, each patient

[8] Tex. Dep't of State Health Servs., *Summary of Vital Statistics for Texas 2014* (last updated Apr. 1, 2019), https://www.dshs.texas.gov/chs/vstat/vs14/nsumm.aspx ("In 2014, 98.5 percent of Texas resident births were delivered in a hospital.").

[9] *Id.*; Am.'s Health Rankings, United Health Found., *Low-Risk Cesarean Delivery in Texas*, https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/low_risk_cesarean/state/TX (last visited Apr. 1, 2020).

[10] As the American Hospital Association has recognized, "'elective' simply means a procedure is scheduled rather than a response to an emergency." Am. Hosp. Ass'n et al., *AHA Letter to Surgeon General Re: Elective Surgeries and COVID-19* (Mar. 15, 2020), https://www.aha.org/lettercomment/2020-03-15-aha-letter-surgeon-general-re-elective-surgeries-and-covid-19. Johns Hopkins Med., *Types of Surgery*, https://www.hopkinsmedicine.org/health/treatment-tests-and-therapies/types-of-surgery ("An elective surgery does not always mean it is optional. It simply means that the surgery can be scheduled in advance.") (last visited Apr. 1, 2020).

is allowed one support person in the labor and delivery unit and in the postpartum unit. No visitors or support people are allowed in for prenatal visits or antepartum admissions.

19. Most gynecologic care is medically indicated,[11] and thus the decision whether to postpone care is made after weighing other factors, including the risk to the patient.

20. I understand the Executive Order directs individual physicians to determine whether it is safe to postpone their patients' care. I also understand the Executive Order does not apply "to any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID-19 disaster."

21. Similarly, CMS,[12] the American College of Surgeons,[13] ACOG,[14] and other professional medical organizations recommend that the decision to postpone non-urgent cases should be weighed against current and projected COVID-19 cases, PPE supply, and other factors.

22. At present, hospital policies to preserve PPE have been put in place so that adequate PPE supplies are maintained to manage current patients with urgent or medically-indicated need while also preserving supplies for a potential COVID-19 surge. Thus, time-sensitive procedures required to correct gynecologic conditions or to evaluate for or treat malignancy are still being provided. These procedures include but are not limited to loop electrosurgical excision procedures

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[11] Am. Coll. of Surgeons, *COVID-19 Guidelines for Triage of Gynecology Patients* (Mar. 24, 2020), https://www.facs.org/covid-19/clinical-guidance/elective-case/gynecology; ACOG et al,, *Joint Statement on Elective Surgeries* (Mar. 16, 2020), https://www.acog.org/clinical-information/physician-faqs/~/link.aspx?_id=CBA52761BB3B4A6EA5D07729597C0609&_z=z.

[12] Sameer Siddiqui, *CMS Adult Elective Surgery and Procedures Recommendations*, Ctrs. for Medicare & Medicaid Servs., (Mar. 15, 2020), https://www.cms.gov/files/document/31820 - cms-adult-elective-surgery-and-procedures-recommendations.pdf.

[13] Am. Coll. of Surgeons, *COVID-19: Guidance for Triage of Non-Emergent Surgical Procedures* (Mar. 17, 2020), https://www.facs.org/covid-19/clinical-guidance/triage; Am. Coll. of Surgeons, *COVID-19 Guidelines for Triage of Gynecology Patients*, *supra* note 11.

[14] ACOG et al., *supra* note 11.

("LEEPs"), colposcopies, hysteroscopies, and cervical dilation with curettage (to manage miscarriage, or for evaluation of abnormal bleeding or intracavitary uterine masses).[15] LEEPs are procedures used to remove abnormal cells that may cause cervical cancer. Colposcopies are diagnostic procedures used to detect abnormal cells in the cervix and vagina. Hysteroscopy is a procedure to view the inside of the cervix and uterus for any abnormalities and if necessary remove abnormal tissue.

23. These procedures use minimal PPE: sterile gloves, a surgical gown, and a surgical mask. Given the conservation measures put in place, performing these outpatient procedures does not currently deplete hospital capacity or the PPE that is needed to cope with the COVID-19 pandemic.

24. The PPE used for procedural abortion is not greater than that used for currently allowable procedures. It is similar to that needed for prenatal care visits for patients at the same gestational ages, and most certainly less if one includes unplanned ER visits, labor, and delivery for a pregnancy that is carried to term. As with other outpatient procedures, practitioners providing procedural abortions may wear some or all of the following items: gloves, a surgical mask, and reusable scrubs.

25. The pandemic does not require use of N95 respirators for all procedures. Instead, an N95 mask is used if the patient has COVID-19 risk factors, symptoms, or a known exposure. Consistent with CDC guidance (and the guidance of medical professional organizations),[16] if a face mask is needed, a surgical face mask is adequate, and therefore, I use a surgical mask for all

[15] However, tubal ligations (other than after a C-section) and insertions of intrauterine devices and contraceptive implants are postponed.

[16] Am. Coll. of Surgeons, *COVID-19: Elective Case Triage Guidelines for Surgical Care* (Mar. 24, 2020), https://www.facs.org/covid-19/clinical-guidance/elective-case.

my procedures (including deliveries), unless there is a suspicion of or confirmed case of COVID-19.[17] In fact, the CDC cautions that "[s]pecial care should be taken to ensure that respirators are reserved for situations where respiratory protection is most important, such as performance of aerosol-generating procedures on suspected or confirmed COVID-19 patients or provision of care to patients with other infections for which respiratory protection is strongly indicated (e.g., tuberculosis, measles, varicella)."[18]

26. I declare under penalty of perjury the foregoing is true and correct.

Stephanie Chang, M.D.

Executed: April 2, 2020

[17] A recent study out of UT Southwestern, which was published in the *Journal of the American Medical Association*, found that there is "no significant difference in the effectiveness" of medical masks compared to N95 respirators for prevention of influenza or other viral respiratory illness. Lewis J. Radonovich et al., *N95 Respirators vs Medical Masks for Preventing Influenza Among Health Care Personnel: A Randomized Clinical Trial,* 322 JAMA 824, 832 (2019), *available at* https://jamanetwork.com/journals/jama/fullarticle/2749214; *see also* Mark Loeb et al., *Surgical Mask vs N95 Respirator for Preventing Influenza Among Health Care Workers: A Randomized Trial*, 302 JAMA 1865, 1870 ("Our data show that the incidence of laboratory-confirmed influenza was similar in nurses wearing the surgical mask and those wearing the N95 respirator.").

[18] Ctrs. for Disease Control and Prevention, *Interim Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 (COVID-19) in Healthcare Settings* (last updated Apr. 1, 2020), https://www.cdc.gov/coronavirus/2019-ncov/infection-control/control-recommendations.html. In this context, "aerosols" refer to "respiratory droplets [that are] produced when the infected person coughs or sneezes."