

EXHIBIT C

IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

PLANNED PARENTHOOD OF THE
HEARTLAND, INC., *et al.*,

Petitioners,

v.

KIM REYNOLDS, ex rel. STATE OF IOWA,
et al.,

Respondents.

Equity Case No. _____

**AFFIDAVIT OF ABIGAIL C.
DRUCKER, M.D., FACOG
IN SUPPORT OF PETITIONERS'
MOTION FOR TEMPORARY
INJUNCTIVE RELIEF**

I, Abigail C. Drucker, M.D., FACOG, declare as follows:

1. I am an obstetrics and gynecology (OB/GYN) surgeon licensed to practice in the state of Iowa. I earned my medical degree from the University of Nebraska in 2008, and completed my residency in obstetrics and gynecology at Creighton University in 2012. I also completed a fellowship in minimally invasive gynecologic surgery and urogynecology at the Women's Health Institute of Illinois in 2014. I have been certified by the American Board of Obstetrics and Gynecology since 2014. I provide office-based and surgical gynecologic care at Northwest Iowa Surgeons, P.C., in Spencer, Spirit Lake, Estherville, and Sibley, Iowa. Since 2018, I have been the Iowa Section Chair of the American College of Obstetricians & Gynecologists (ACOG). I am also a member of the Iowa Medical Society Committee on Medical Services.

2. I submit this declaration in support of Plaintiffs' motion for a temporary injunction, which seeks to enjoin the Proclamation of Disaster Emergency, issued March 26, 2020 ("Proclamation"), by Governor Kim Reynolds, as interpreted on March 27, 2020, in a statement by the Governor's office to ban all previability in clinic abortion procedures (also known as

surgical abortions) in the state. I am familiar with the Proclamation and the statement by the Governor's office interpreting it.

3. The facts and opinions included here are based on my education, training, practical experience, information, and personal knowledge I have obtained as an OB/GYN; my attendance at professional conferences; review of the relevant medical literature; and conversations with other medical professionals. If called and sworn as a witness, I could and would testify competently thereto.

4. My curriculum vitae, which sets forth my experience and credentials more fully, is attached as Exhibit 1.

The Proclamation

5. On March 26, 2020, Iowa Governor Kim Reynolds issued a Proclamation of Disaster Emergency, relating to hospital capacity, among other things, during the COVID-19 pandemic. The March 26, 2020 Proclamation is attached as Exhibit A to Petitioners' Motion for Temporary Injunctive Relief. That order went into effect as of 5:00 p.m. on March 27, 2020 and is in effect until 11:59 p.m. on April 16, 2020, although by its terms it may be extended. Specifically as it pertains to this motion, the Proclamation directs that "[a]ll nonessential or elective surgeries and procedures that utilize personal protective equipment (PPE) must not be conducted by any hospital, outpatient surgery provider, or outpatient procedure provider, whether public, private, or nonprofit." *Id.* The Proclamation defines a nonessential surgery or procedure as "one that can be delayed without undue risk to the current or future health of a patient, considering all appropriate factors including, but not limited to any:

- (1) threat to the patient's life if the surgery or procedure is not performed;
- (2) threat of permanent dysfunction of an extremity or organ system;

- (3) risk of metastasis or progression of staging; and
- (4) risk of rapidly worsening to severe symptoms.

Id.

6. The Proclamation further states that “[e]ach hospital, outpatient surgery provider, and outpatient procedure provider shall limit all nonessential individuals in surgery and procedure suites and patient care areas where PPE is required. Only individuals essential to conducting the surgery or procedure shall be present in such areas,” and that “[e]ach hospital, outpatient surgery provider, and outpatient procedure provider shall establish an internal governance structure to ensure that the principles outlined above are followed.” *Id.*

7. Although the Proclamation does not define PPE, I understand that term to refer to surgical masks, N95 respirators (a face covering that is designed to block at least ninety-five percent of very small test particles and which, when used appropriately, is a more effective filtration system than a surgical mask), sterile and non-sterile gloves, protective eyewear, gowns, and shoe covers.

8. On Friday, March 27, 2020, the *Des Moines Register* quoted a one-sentence statement by the office of the Governor interpreting the Proclamation. A true and correct copy of that article is attached to Petitioners’ Motion for Temporary Injunctive Relief as Exhibit B.

9. The statement suggests the Proclamation’s suspension of non-essential medical procedures includes “all surgical abortions.”

Harms of the Proclamation

10. While I do not provide abortion, I am an Iowa physician specializing in women’s health care and, therefore, recognize abortion as a legal and time-sensitive essential health service. I understand that the Iowa Section of ACOG has publicly expressed this position in a statement

responding to the Proclamation. The statement is attached as Exhibit G to Petitioners' Motion for Temporary Injunctive Relief.

11. Procedures enabling patients to avoid unwanted or unviable pregnancies are essential, time-sensitive care for many reasons. Most women who seek abortion do so out of tremendous socioeconomic or disease-related burden. Brief examples include medical conditions in which the physiologic changes of pregnancy will be threatening to the woman's life, devastating new diagnosis of fetal malformation that is not compatible with life, involvement in an abusive relationship in which a new pregnancy may present an immediate danger to a woman and her other children, other severe mental, physical or financial barrier. In short, this is a time when women need more support from health care resources, not less.

12. At this time of the unfolding COVID-19 pandemic, it is critical that the experts from health care and state government guiding public health decisions and counseling speak with one voice and transcend political ideology. The inclusion of what may be portrayed as a politically-motivated anti-abortion message diminishes the importance and credibility of objective data and public health care directives during this emergency.

13. Conservation of hospital beds, blood supply and personal protective equipment (PPE) are vital to our preparedness to COVID-19. Surgical abortion care is an outpatient procedure that may be completed with minimal PPE usage and does not take away substantially from COVID-19 readiness. Women without access to abortion services may choose to seek care outside the safety of a clinic, which increases the risk of hemorrhage, sepsis, and death. This would augment the current COVID-19-related strain on our healthcare system.

14. The maternal mortality rate is rising in the state of Iowa. We have a shortage of physicians to care for women and continue to see closures of Labor & Delivery units in rural areas.

Women's health care is already in a tenuous condition in the state. The restriction of access to surgical abortion during this pandemic will not negate the patient population; rather, it will needlessly shift it to a higher acuity drain on our health care system.

15. For these reasons, in my opinion, the restriction of surgical abortion language added to the Governor's Proclamation will harm patients and harm the ability of our health care system to care for our population during this emerging COVID-19 disaster.

16. I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

3/29/2020
Date

Abigail Drucker, MD FACOG
Signature, Abigail C. Drucker, M.D., FACOG

EXHIBIT 1

Abigail Drucker, MD FACOG



PROFESSIONAL EXPERIENCE

Northwest Iowa Surgeons, PC; Spencer, IA - 2014-present

New gynecologist joined established general surgery/gynecological surgery private practice. Have established busy office based and surgical gynecologic practice based on positive patient experience and relationships built with community physicians and nurse practitioners. Practice continues to grow annually serving Spencer, Spirit Lake, Estherville and Sibley.

Expert Witness, Johnson & Johnson Midurethral Sling Class Action Lawsuits - 2017-current

Have served as expert witness for the defense in national class action lawsuit. Responsibilities include review of medical records, in-depth knowledge of historical and current evidence based medical literature as pertaining to questions raised in each case, submission of a timely and thorough statement document, court testimony as needed.

LEADERSHIP

Iowa Section Chair, American College of Obstetricians & Gynecologists (ACOG) - 2018-present

ACOG is the nation's largest and premier professional society membership dedicated to the improvement of women's health. The state chair is an elected position to represent our state's interests on the national level as well as to disseminate national material back to state membership. Responsibilities include semiannual meetings with leadership of our district to address current areas of need to broadly include membership resources, public health challenges, residency training changes, coordination of member representation to state medical interests. One local goal of my tenure has been to increase membership involvement which was achieved by introducing a semiannual newsletter as well as changes to the Iowa Annual Meeting which increased turnout by more than 300%.

HRSA Workforce Subcommittee Member- current

In 2019, a 5 year/\$10 million grant was given to the University of Iowa and Iowa Department of Public health from the HRSA's State Maternal Health Innovation Program to improve maternal healthcare and outcomes across the state. One of several

subcommittees, the workforce subcommittee is tasked with addressing the intersection of Iowa's rising maternal morbidity rates and the state's current and projected workforce shortages as well as the ramifications to women living in rural areas.

Member, Committee on Medical Services, Iowa Medical Society - 2016-current

Member, Patient Care Medical Staff Committee, Spencer Hospital - 2017-current

Member, Medical Staff Quality Committee, Spencer Hospital - 2018-current

LICENSES & CERTIFICATION

Board Certification - American Board of Obstetrics & Gynecology (ABOG),
2014-current

Fellow, American College of Obstetricians & Gynecologists, 2014-current

Pediatric & Adolescent Gynecology Practice Focus Designation (ABOG), 2019-current

Medical License, State of Iowa, 2014-current

EDUCATION & TRAINING

Minimally Invasive Surgery & Urogynecology Fellowship, Women's Health Institute of Illinois, Oak Lawn, IL, 2012-2014

Residency in Obstetrics & Gynecology, Creighton University, Omaha, NE, 2008-2012

Doctorate of Medicine (MD), University of Nebraska, Omaha, NE, 2004-2008

Bachelor's degree (BA), Spanish, University of Kansas, Lawrence, KS, 2000-2004