21-1043
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.

THOMAS CLARK PHILLIP, JR., in his official capacity as Acting 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)

BRIEF OF *AMICI CURIAE* AMERICAN ACADEMY OF FAMILY PHYSICIANS, AMERICAN ACADEMY OF PEDIATRICS, AMERICAN COLLEGE OF NURSE-MIDWIVES, AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, AMERICAN COLLEGE OF PHYSICIANS, AMERICAN MEDICAL ASSOCIATION, AMERICAN PSYCHIATRIC ASSOCIATION, NURSE PRACTITIONERS IN WOMEN'S HEALTH, SOCIETY FOR MATERNAL-FETAL MEDICINE, SOCIETY OF GYNECOLOGIC ONCOLOGY, AND SOCIETY OF OB/GYN HOSPITALISTS IN SUPPORT OF APPELLEES FOR AFFIRMANCE

Janice M. Mac Avoy
Counsel of Record
Alexis R. Casamassima
(not admitted in the Fourth Circuit)
Danielle M. Stefanucci
(not admitted in the Fourth Circuit)

FRIED, FRANK, HARRIS, SHRIVER
& JACOBSON LLP

One New York Plaza
New York, New York 10004
212-859-8000

Counsel for Amici Curiae
American Academy of Family Physicians, American Academy of Pediatrics, American College of Nurse-Midwives, American College of Obstetricians and Gynecologists, American College of Physicians, American Medical Association, American Psychiatric Association, Nurse Practitioners in Women's Health, Society for Maternal-Fetal Medicine, Society of Gynecologic Oncology, and Society of OB/GYN Hospitalists

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by all parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 21-1043 Caption: Planned Parenthood South Atlantic et al. v. Phillip

Pursuant to FRAP 26.1 and Local Rule 26.1,

American Academy of Family Physicians (AAFP)
(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? ☐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, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.

7. Is this a criminal case in which there was an organizational victim? ☐YES ☑NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ Janice M. Mac Avoy Date: June 4, 2021

Counsel for: AAFP

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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No. 21-1043 Caption: Planned Parenthood South Atlantic et al. v. Phillip

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

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Signature: /s/ Janice M. Mac Avoy Date: June 4, 2021

Counsel for: AAP

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No. 21-1043 Caption: Planned Parenthood South Atlantic et al. v. Phillip

Pursuant to FRAP 26.1 and Local Rule 26.1,

American College of Nurse-Midwives (ACNM)
(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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Signature: /s/ Janice M. Mac Avoy Date: June 4, 2021

Counsel for: ACNM

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Pursuant to FRAP 26.1 and Local Rule 26.1,

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

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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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Counsel for: ACOG

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No. 21-1043 Caption: Planned Parenthood South Atlantic et al. v. Phillip

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
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Signature: /s/ Janice M. Mac Avoy Date: June 4, 2021

Counsel for: ACP

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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
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Counsel for: AMA

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No. 21-1043 Caption: Planned Parenthood South Atlantic et al. v. Phillip

Pursuant to FRAP 26.1 and Local Rule 26.1,

American Psychiatric Association (APA)
(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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Counsel for: APA

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Pursuant to FRAP 26.1 and Local Rule 26.1,

Nurse Practitioners in Women's Health (NPWH)
(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
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Counsel for: NPWH

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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

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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Counsel for: SMFM

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Pursuant to FRAP 26.1 and Local Rule 26.1,

Society for Gynecologic Oncology (SGO)
(name of party/amicus)

who is an amicus, makes the following disclosure:
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1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

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If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.

7. Is this a criminal case in which there was an organizational victim? ☐YES ☑NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ Janice M. Mac Avoy Date: June 4, 2021

Counsel for: SGO

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by all parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 21-1043 Caption: Planned Parenthood South Atlantic et al. v. Phillip

Pursuant to FRAP 26.1 and Local Rule 26.1,

Society of OB/GYN Hospitalists (SOGH)
(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? ☐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, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.

7. Is this a criminal case in which there was an organizational victim? ☐YES ☑NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ Janice M. Mac Avoy Date: June 4, 2021

Counsel for: SOGH

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES ii
IDENTITY AND INTEREST OF *AMICI CURIAE* 1
SUMMARY OF ARGUMENT 3
ARGUMENT 5
I. MEDICAID AND PLANNED PARENTHOOD ARE INTEGRAL TO PROVIDING HEALTH CARE IN SOUTH CAROLINA 5
A. Medicaid Plays a Critical Role in Providing Essential Health Care To Individuals in South Carolina 5
B. Planned Parenthood Provides Crucial Family Planning and Reproductive Health Care Services 7
1. Planned Parenthood Is a National Leader in Providing Care for Low-Income Individuals 7
2. Planned Parenthood Provides Needed and Specialized Care 10
C. South Carolina Medicaid Recipients Face Significant Barriers To Care 12
II. SOUTH CAROLINA HAS PROVIDED NO MEDICAL REASON FOR EXCLUDING PLANNED PARENTHOOD FROM THE STATE'S MEDICAID PROGRAM 16
III. EXCLUDING PLANNED PARENTHOOD FROM MEDICAID IN SOUTH CAROLINA WOULD BE DETRIMENTAL TO THE PUBLIC HEALTH 17
A. Other Health Care Providers Cannot Compensate for the Loss of Planned Parenthood 18
B. Reduction in Access to Planned Parenthood Services Will Lead to Poor Health Outcomes 22
C. Other States' Exclusion of Planned Parenthood Demonstrates the Harms Women in South Carolina May Face Absent the Injunction 25
CONCLUSION 28

TABLE OF AUTHORITIES

Page(s)

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IDENTITY AND INTEREST OF *AMICI CURIAE*[1]

Amici, the American Academy of Family Physicians, the American Academy of Pediatrics, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists ("ACOG"), the American College of Physicians, the American Medical Association (the "AMA"), the American Psychiatric Association, Nurse Practitioners in Women's Health, the Society for Maternal-Fetal Medicine, the Society of Gynecologic Oncology, and the Society of OB/GYN Hospitalists, are major local and national organizations representing physicians and other medical professionals who serve patients in South Carolina and beyond. Collectively, these groups count hundreds-of-thousands of medical professionals amongst their membership. Among other things, *amici* advocate for patients and practitioners, educate the public and others about health, and work to advance the ethical practice of medicine.

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

[1] Pursuant to Federal Rule of Appellate Procedure 29, undersigned counsel for *amici curiae* certify that no counsel for a party authored this brief in whole or in part. No party or counsel for a party contributed money that was intended to fund preparing or submitting this brief. No person or entity—other than *amici curiae*, their members, or their counsel—contributed money that was intended to fund preparing or submitting this brief. All parties consent to the filing of this brief.

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. For this reason, *amici* have an interest in this case.

SUMMARY OF ARGUMENT

South Carolina's attempt to exclude Planned Parenthood South Atlantic ("PPSAT") from its Medicaid program for reasons wholly unrelated to patient care and well-being would be detrimental to public health. PPSAT is professionally competent to administer the extensive medical services it offers. The State does not contest this fact. Yet, the State has taken actions that would result in PPSAT being no longer able to provide services to Medicaid beneficiaries. *Amici* oppose actions, such as the one at issue here, 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.

Planned Parenthood Federation of America Inc. ("Planned Parenthood") plays an irreplaceable role in offering a wide range of health care services, including life-saving health care, to millions of Americans. Planned Parenthood is unique among Medicaid providers for both the quantity and type of care it provides: cancer screenings, sexually transmitted infection ("STI") screenings and treatment, contraception, family planning, and other reproductive health care services. Low-income South Carolinians particularly struggle to obtain these

services, particularly those in health care deserts. Planned Parenthood helps to fill this void by playing an outsized role in providing such care.

The State has been clear that it does not seek to terminate PPSAT from Medicaid because of the quality of its services but instead, because, outside of Medicaid, Planned Parenthood provides lawful, constitutionally protected abortion services. Notably, state law already prohibits the use of Medicaid funds for abortion care, except under extremely limited circumstances. In prioritizing its political agenda, the State creates a barrier to crucial health care services.

If successful, terminating PPSAT as a Medicaid provider would have a devastating impact on people in South Carolina. Decreased access to contraception methods and counseling, cancer and disease screenings, and other critical reproductive health services will likely result in more unintended pregnancies, undetected cancers and diseases, and poor health outcomes for an already vulnerable population. Since other Medicaid providers cannot fill the void, South Carolinians, and especially South Carolina women, may need to forego these critical health care services altogether.

This has already been tried, and the results are already known. For example, Texas's defunding of Planned Parenthood led to the closure of clinics and firing of clinic staff throughout the state. The number of women seeking and obtaining public health care declined. Texas women faced new obstacles to accessing

reproductive health care. South Carolinians should not be subjected to similar consequences.

This Court has already found that the State cannot deny Medicaid beneficiaries the right to choose their own qualified provider and thereby prevent access to the high-quality health care provided by PPSAT. The same logic supports affirmance of the District Court's order permanently enjoining the State from removing PPSAT from South Carolina's Medicaid program.

ARGUMENT

I. MEDICAID AND PLANNED PARENTHOOD ARE INTEGRAL TO PROVIDING 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 in the United States and continues to grow. *See* Peggah Khorrami & Benjamin D. Sommers, *Changes in U.S. Medicaid Enrollment During the COVID-19 Pandemic*, JAMA Network Open (May 5, 2021), https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2779458. The program covers Americans from low-income families to 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/sites/default/files/2019-12/list-of-

eligibility-groups.pdf (last visited June 2, 2021). In 2015, for example, Medicaid covered 48% of reproductive-age women with incomes below the federal poverty line, a disproportionate number of whom were women of color. Adam Sonfield, *Why Protecting Medicaid Means Protecting Sexual and Reproductive Health*, 20 Guttmacher Pol'y Rev. 39 (Mar. 9, 2017), https://www.guttmacher.org/gpr/2017/03/why-protecting-medicaid-means-protecting-sexual-and-reproductive-health.

Under Medicaid, individuals can select from among qualified providers, who Medicaid generally reimburses. Medicaid accounts for 75% of all public family planning expenditures, and the federal government matches 90% of state family planning expenditures through the program, a higher rate than for other services. Kaiser Family Found., *Medicaid's Role for Women*, at 4 (Mar. 28, 2019), https://www.kff.org/medicaid/fact-sheet/medicaids-role-for-women.

Medicaid is crucial in South Carolina. South Carolinians are particularly in need of Medicaid insurance, as the poverty rate in the state is higher than the national average and Medicaid covers one in five South Carolinians. *See* Kaiser Family Found., *State Health Care Snapshots: South Carolina* (Oct. 15, 2020), https://www.kff.org/statedata/election-state-fact-sheets/south-carolina/; Kaiser Family Found., *Medicaid in South Carolina* (Oct. 2019), http://files.kff.org/attachment/fact-sheet-medicaid-state-SC. Moreover, nearly one

in five South Carolina adults report poor or fair health status. *State Health Care Snapshots: South Carolina*, *supra* page 6, at 8 For example, South Carolinians have higher rates of key health problems, including obesity, diabetes, and cardiovascular diseases, as compared to the national population. *Id.* at 10. In addition, the state's infant mortality rates are higher than the national average. *Id.*

B. Planned Parenthood Provides Crucial Family Planning and Reproductive Health Care 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 federal funding to subsidize critical health care services to low-income individuals. In 2015, Planned Parenthood affiliates across the country cared for approximately 1,500,000 patients receiving 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 leads the field; six in ten women who receive contraceptive care at a family planning clinic consider Planned Parenthood to be their usual source of health care and approximately four in ten women consider it their only source. *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*, at 43 (Guttmacher Inst. 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 than 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*, at 19 (Guttmacher Inst. 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*, at 9 (Guttmacher Inst. Nov. 2016), https://www.guttmacher.org/sites/default/files/report_pdf/publicly funded-family-planning-clinic-survey-2015. Individuals seeking an appointment at a Planned Parenthood clinic can expect to wait an average of 1.8 days, significantly shorter than the average wait times at other clinics: 6.8 days at a public 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*, *supra* page 8, at 36. Planned Parenthood clinics are also the most likely

to offer extended clinic hours. *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 clinics 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 clinics provide a wide variety of family planning and reproductive health care services, including contraceptive care and services, cancer screening, general health care screening, STI testing and treatment, pregnancy support, and patient education. Planned Parenthood, *Our Services*, https://www.plannedparenthood.org/get-care/our-services (last visited June 2, 2021). It also offers a range of telehealth services and online resources to accommodate its patients' needs during the COVID-19 pandemic. *Id.* 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 and Specialized Care

Planned Parenthood has an outsized role as a specialized provider of contraceptive services. Frost, *Specialized Family Planning Clinics*, *supra* page 7, at e519. Though Planned Parenthood clinics account for only 10% of all publicly funded family planning clinics, they serve over one third of all clinic patients. Zolna & Frost, *supra* page 8, at 4. Additionally, although 5,829 FQHCs provided family planning services in 2015, each site served, on average, only 320 female contraceptive patients annually. Kinsey Hasstedt, *FQHCs: 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. By contrast, each of the 676 Planned Parenthood clinics served, on average, 2,950 female contraceptive patients annually, almost ten times more than FQHCs. *See id.*

Planned Parenthood clinics also provide a wider variety of birth control methods compared to other family-planning clinics. *See* Frost, *Variation in Service Delivery Practices*, *supra* page 8, 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 refills on-site. *See* Frost, *Variation in Service Delivery Practices*, *supra* page 8, 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* page 8, at 12; Hasstedt, *Understanding Planned Parenthood's Critical Role*, *supra* page 10, 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 Gynecologic Practice Long Acting Reversible Contraception Working Group, *Increasing Access to Contraceptive Implants and Intrauterine Devices To Reduce Unintended Pregnancy*, Committee Opinion No. 642, at 2 (2015, re-aff'd 2018), https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2015/10/increasing-access-to-contraceptive-implants-and-intrauterine-devices-to-reduce-unintended-pregnancy; 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."). Overall, Planned Parenthood clinics are most likely to have met the Center for Disease Control's goal to provide the full range of FDA-approved contraceptive methods. *See* Zolna & Frost, *supra* page 8, at 12; *see also* Loretta Gavin, et al, *Providing Quality Family Planning Services: Recommendations of CDC and the U.S. Office of Population Affairs*, 63 Morbidity & Mortality Weekly Report (RR-4) (Apr. 25, 2014), https://www.cdc.gov/mmwr/preview/mmwrhtml/rr6304a1.htm.

In addition, Planned Parenthood clinics are more likely to use rapid-result HIV blood testing than health departments, FQHCs, or other clinics. *See* Frost, *Variation in Service Delivery Practices*, *supra* page 8, at 12, 33. Rapid-result HIV testing typically produces results within a half hour, compared to one to two weeks for a traditional test. *Id.* at 12. These quicker results often eliminate the need for a second clinic visit and allow for earlier detection and treatment in the case of a positive result. *Id.*

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 clinics and covered by Medicaid, access to Medicaid health care providers (including Planned Parenthood) is not guaranteed nationally or 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 19* (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*, at 39 (Guttmacher Inst. Apr. 2017), https://www.guttmacher.org/sites/default/files/report_pdf/publicly_funded_contraceptive_services_2015_3.pdf.

Each year, PPSAT provides nearly 4,000 people 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. PPSAT 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*, at 39 (Guttmacher Inst. 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 and almost 79% of unintended pregnancies were publicly funded. *See* Guttmacher Inst., *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 correlated with negative maternal and childhood health outcomes

and may present a variety of social and economic challenges. *See id.* Publicly funded family planning centers like PPSAT in South Carolina helped avert 23,000 unintended pregnancies, 11,400 unplanned births, and 7,800 abortions in 2013. *See id.* Additionally, STI and cancer screenings provided by Planned Parenthood clinics often result in early detection and treatment and help prevent transmission to partners. *See id.*

Despite PPSAT's 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 100,000 women actually received these services. Jennifer J. Frost et al., *Contraceptive Needs and Services, 2014 Update*, at 24–28 (Guttmacher Inst., Sept. 2016), https://www.guttmacher.org/sites/default/files/report_pdf/contraceptive-needs-and-services-2014_1.pdf. The COVID-19 pandemic has only exacerbated this issue: one in three women reported in a June 2020 survey that they had to "delay or cancel visiting a health care provider" for reproductive health care or "had trouble getting their birth control" because of the pandemic. Laura Lindberg et al, *Early Impacts of the COVID-19 Pandemic: Findings from the 2020 Guttmacher Survey of Reproductive Health Experience*, at 4 (Guttmacher Inst. Jun. 2020), https://www.guttmacher.org/report/early-impacts-covid-19-pandemic-findings-2020-guttmacher-survey-reproductive-health. As such, South Carolina's

attempt to exclude PPSAT 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 MEDICAL 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. *See* 42 U.S.C. § 1396a(a)(23). Patients should have the ability to obtain health care from the qualified provider of their own choosing. ACOG, *Protecting and Expanding Medicaid To Improve Women's Health*, Committee Opinion No. 826, at e166, https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2021/06/protecting-and-expanding-medicaid-to-improve-womens-health. Eliminating access to certain health care practitioners is inconsistent with medical ethics and interferes with patient autonomy and the patient-physician relationship. *See* AMA Code of Medical Ethics, Principle IX, https://www.ama-assn.org/about/publications-newsletters/ama-principles-medical-ethics ("A physician shall support access to medical care for all people."). It is "inappropriate, ill-advised, and dangerous for patient health." ACOG, *Protecting*

and Expanding Medicaid to Improve Women's Health, Committee Opinion No. 826, *supra* page 16, at e166.

As this Court recognized, "South Carolina does not contest the fact that [PPSAT] is professionally qualified to deliver . . . services." *Planned Parenthood S. Atl. v. Baker*, 941 F.3d 687, 702 (4th Cir. 2019), *cert. denied*, 141 S. Ct. 550 (2020). Nor has the State provided any medical reason to exclude PPSAT from providing care. Instead, excluding PPSAT from the State's Medicaid program is based on Governor Henry McMaster's desire to eliminate providers that offer abortion care *outside* of the Medicaid program. The Court should again reject this open attempt to politically interfere with the provision of medical care.

III. EXCLUDING PLANNED PARENTHOOD FROM MEDICAID IN SOUTH CAROLINA WOULD BE DETRIMENTAL TO THE PUBLIC HEALTH

South Carolina's attempt to exclude PPSAT from the State's Medicaid program would be detrimental to the public health, depriving an already underserved population of critical care and disproportionately impacting women. As discussed more fully below, the data are clear that other providers cannot fill the void left if PPSAT is excluded from the provider network. The end-result of this exclusion will be to disrupt individuals in seeking medical care that, in many circumstances, is serious and lifesaving. Restrictions on access to contraception methods and counseling, cancer and disease screenings, and other critical

reproductive health services that Planned Parenthood offers Medicaid recipients will likely result in 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 South Carolina health centers cannot fill the void in family planning care if PPSAT loses its status as a qualified Medicaid provider. As previously noted, more than two-thirds of states already report challenges in ensuring enough Medicaid providers to serve beneficiaries. GAO-13-55, *supra* page 13, at 18. For example, as of 2015, in 238 of the 415 counties in which Planned Parenthood clinics operated, Planned Parenthood provided care for at least half of the women who depended on publicly funded family planning services from health care safety-net providers, which deliver contraceptive care at reduced or no cost through federal, state, and local funding. Hasstedt, *Understanding Planned Parenthood's Critical Role*, *supra* page 10, at 13; *see also* Hasstedt, *FQHCs: Vital Sources of Care*, *supra* page 10, at 67.

Without Planned Parenthood, there would be even fewer Medicaid providers, and FQHCs would have to account for the difference. This presents many challenges. First, FQHCs would be overwhelmed by patients seeking specific contraceptive services to which they are neither accustomed to nor able to

provide. Hasstedt, *FQHCs: Vital Sources of Care*, *supra* page 10, at 70. Planned Parenthood clinics 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 but serve only 30% of all safety net family planning clients. *See id.* at 68. South Carolina FQHCs would have a 381% increase in their contraceptive client caseload if 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, Office of the Assistant Secretary for Health, U.S. Dep't of Health & Human Services*, Table 2 (Guttmacher Inst. July 31, 2018), https://www.guttmacher.org/sites/default/files/letters/Guttmacher-Institute-comments-RIN-0973ZA00.pdf. FQHCs would also have to expand their range of contraceptive methods and be prepared to provide same-day services if they aimed to provide services and access comparable to Planned Parenthood. *See* Hasstedt, *FQHCs: Vital Sources of Care*, *supra* page 10, at 70.

Second, without Planned Parenthood, FQHCs are likely to face increased financial difficulties. For example, to address an influx of new patients previously served by Planned Parenthood, FQHCs likely would need to hire additional personnel. FQHCs are typically understaffed in the first place, and almost all

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

Third, FQHCs are designed to provide primary care and preventive services: they are not specialized centers like Planned Parenthood. *See* Letter from Rachel Benson Gold, *supra* page 19, at 12. Because they must address all of their patients' health needs, FQHCs generally rely on referral arrangements with other providers, including for contraceptive services, which creates further barriers to access. *See id. See also* Susan Wood et al., *Health Centers and Family Planning: Results of a Nationwide Study*, George Washington Univ. School of Pub. Health Servs., Dep't of Health Pol'y, at 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).

Fourth, communities losing access to Planned Parenthood may not have an FQHC readily accessible. Under federal law, FQHCs must be located in

communities with few other health care providers. *See* 42 C.F.R. § 491.5 (2021). As a result, communities losing access to Planned Parenthood may not have an FQHC nearby.

Worse, in South Carolina, 30% of the population live in areas in which there is a shortage of primary care, and the two PPSAT clinics in South Carolina are located in areas designated underserved by the U.S. Health Resources and Services Administration. 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., at 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; *see also* Health Resources & Services Administration, *MUA Find*, https://data.hrsa.gov/tools/shortage-area/mua-find, (last visited June 2, 2021). As a 2016 study found, "an increase in distance to the nearest clinic result[ed] in decreased preventive care utilization," such as mammographies, particularly among low-income individuals. Yao Lu & David J.G. Slusky, *The Impact of Women's Health Clinic Closures on Preventive Care*, 8 Am. Econ. J. of App. Econ. 100, 120 (July 2016), available at https://pubs.aeaweb.org/doi/pdfplus/10.1257/app.20140405.

Finally, Planned Parenthood facilities take steps to make health care accessible to people with transportation, work, and schedule limitations.

Excluding PPSAT would remove these unique features that allow individuals to obtain care they otherwise could not.

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

The United States has disproportionately high rates of unintended pregnancy and abortion among low-income women. *See* ACOG, Committee on Health Care for Underserved Women, *Increasing Access to Abortion*, Committee Opinion No. 815 (Dec. 2020), https://www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2020/12/increasing-access-to-abortion.pdf. This is particularly true in South Carolina, where approximately half of all pregnancies are unintended and 5,120 abortions were provided in 2017. *See* Guttmacher Inst., *State Facts About Unintended Pregnancy: South Carolina*, *supra* page 14, at 1; Guttmacher Inst., *State Facts About Abortion: South Carolina* (2021), https://www.guttmacher.org/sites/default/files/factsheet/sfaa-sc.pdf.

Medical literature and evidence-based studies are abundantly clear that reduction in access to effective contraception methods leads to increased rates of unintended pregnancy. *See, e.g.*, ACOG, *Increasing Access to Contraceptive Implants and Intrauterine Devices To Reduce Unintended Pregnancy*, *supra* page 11, at 1. Planned Parenthood plays a crucial role in South Carolina in providing contraceptive counseling and services to a range of individuals, including to those

who rely on Medicaid for care. Eliminating access to these services will result in unintended pregnancies.

The human cost of unintended pregnancy is high: women must either carry an unplanned pregnancy to term and keep the baby, put the child up for adoption, or terminate their pregnancy. Women and their families may struggle with this challenge for medical, ethical, social, legal, and financial reasons. Historically, data has shown a correlation between unintended live births and disproportionately high rates of maternal and infant health problems, low maternal educational attainment, and decreased financial and emotional resources to support existing children. *See* Barry Zuckerman et al., *Preventing Unintended Pregnancy: A Pediatric Opportunity*, 133 Pediatrics 181, 181 (2014); *see also* The Best Intentions: Unintended Pregnancy and the Well-Being of Children and Families 50–90 (Sarah S. Brown & Leon Eisenberg, eds. National Academy Press1995).

Reducing PPSAT's services in South Carolina will have other health consequences beyond unintended pregnancies. Contraception protects those for whom pregnancy can be hazardous or life-threatening, in addition to having scientifically recognized uses and health benefits, including treating menstrual pain, endometriosis, and acne and decreasing the risk of endometrial and ovarian cancer. *See, e.g.*, Megan L. Kavanaugh & Ragnar M. Anderson, *Contraception and Beyond: The Health Benefits of Services Provided at Family Planning*

Centers, at 7, 11–13 (Guttmacher Inst. July 2013), https://www.guttmacher.org/report/contraception-and-beyond-health-benefits-services-provided-family-planning-centers.

As discussed above, Planned Parenthood also provides critical services for cancer and HIV patients, including detection and testing. Early testing and detection are crucial for optimizing treatment for these patients. *See* American Cancer Society, *Cancer Prevention & Early Detection Facts & Figures 2017-2018* (2018), at 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."); *Initiation of antiretroviral therapy in early asymptomatic HIV infection*, 373 New Eng. J. 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 are readily apparent: the longer patients go without knowing they have cancer or HIV, the greater the chance they will be unable to receive effective treatment. Many South Carolinians depend on Planned Parenthood to diagnose these illnesses, and the State's decision to terminate PPSAT as a qualified Medicaid provider may subject them to unnecessary harm.

C. Other States' Exclusion of Planned Parenthood Demonstrates the Harms Women in South Carolina May Face Absent the Injunction

The above-discussed harms are not merely academic speculation or conjecture. Other states such as Texas and Indiana have defunded Planned Parenthood, resulting in negative health outcomes.

Texas has repeatedly sought to defund Planned Parenthood over the last decade. First, a 2011 change in Texas's funding scheme led to eighty-two family-planning clinics in Texas closing, while nearly half of the facilities that remained open and received state funding were forced to make staff cuts. 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*, at 18 (Nov. 2013), http://www.nuestrotexas.org/pdf/NT-spread.pdf. Second, effective January 1, 2013, Texas shifted to a fully state-run family planning program that excluded Planned Parenthood as a provider. *Id.* at 17. Consequently, between 2011 and 2013, there was 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; *see also Final Report of the Former Texas Women's Health Program: Fiscal Year 2015 Savings and Performance*, H.B. 1, 84th Legis. Regular Sess., 2015, at 8

(Mar. 2017), https://hhs.texas.gov/file/57506/download?token=_Ygiwf-0 (reporting a 32% decrease in claims for contraceptive injections, 47% decrease for oral contraceptives, and 59% decrease for condoms between 2011 and 2015). 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: Evidence from a Statewide Representative Survey*, 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.

Moreover, a 2016 study found that excluding Planned Parenthood from Medicaid adversely affected low-income Texan women by reducing their access to highly effective contraceptives, interrupting their use of contraceptive services, and increasing the rate of childbirth covered by Medicaid, many of which were likely the result of unintended pregnancies. Amanda J. Stevenson et al., *Effect of Removal of Planned Parenthood from the Texas Women's Health Program*, 374 New Eng. J. Med. 853, 858–59 (2016). For example, reduced claims for LARC methods in counties with Planned Parenthood affiliates after Planned Parenthood was excluded diverged from the trend toward an increased number of claims in the years preceding the exclusion. *Id.* at 858. Texas's actions directly undercut efforts

to combat a major public health problem in the United States—unintended pregnancy—by reducing barriers to LARC methods. ACOG, *Increasing Access to Contraceptive Implants and Intrauterine Devices to Reduce Unintended Pregnancy*, *supra* page 11, at 1.

Scott County, Indiana offers an analogous cautionary tale in the HIV context. The county had an unprecedented outbreak of HIV infections after the county's sole Planned Parenthood clinic shut down in 2013, following years of budget cuts in the state for public health. Jeffrey S. Crowley & Gregorio A. Millett, *Preventing HIV and Hepatitis Infections Among People Who Inject Drugs: Leveraging an Indiana Outbreak Response to Break the Impasse*, 21 AIDS & Beh. 968 (2017); *see also* Philip J. Peters et al, *HIV Infection Linked to Injection Use of Oxymorphone in Indiana, 2014-2015*, 375 New Eng. J. Med. 229, 230 (2016). 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. Crowley, *supra* page 27, at 969. Notably, before this outbreak, free HIV testing had not been available in Scott County, Indiana after the Planned Parenthood clinic closed in 2013. Peters, *supra* page 27, at 230.

These real life examples illustrate the effect defunding Planned Parenthood has on men and women, especially those who are low-income, and offer a glimpse

into the reality South Carolinians may face if the State is permitted to unduly interfere with access to necessary and quality health care.

CONCLUSION

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

Dated: June 4, 2021

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CERTIFICATE OF COMPLIANCE WITH FED. R. APP. P. 32(A)

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 5263 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.

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Dated: June 4, 2021

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CERTIFICATE OF SERVICE

I hereby certify that on June 4, 2021, I caused the foregoing Brief of *Amici Curiae* American Academy of Family Physicians, American Academy of Pediatrics, American College of Nurse-Midwives, American College of Obstetricians and Gynecologists, American College of Physicians, American Medical Association, American Psychiatric Association, Nurse Practitioners for Women's Health, Society for Maternal-Fetal Medicine, Society of Gynecologic Oncology, and the Society of OB/GYN Hospitalists 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.

Dated: June 4, 2021

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

APPEARANCE OF COUNSEL FORM

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☐ Retained ☐ Court-appointed(CJA) ☐ CJA associate ☐ Court-assigned(non-CJA) ☐ Federal Defender

☑ Pro Bono ☐ Government

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(party name)

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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.

THOMAS CLARK PHILLIP JR., in his official capacity as Acting Director, South Carolina Department of Health and Human Services,

Defendant-Appellant.

Case No. 21-1043

Appearance of Counsel Form Rider

I, Janice M. Mac Avoy, do hereby enter my appearance in Appeal No. 21-1043 as pro bono counsel for the below listed entities, as *amicus curiae*:

1. The American Academy of Family Physicians
2. The American Academy of Pediatrics;
3. The American College of Nurse-Midwives;
4. The American College of Obstetricians and Gynecologists
5. The American College of Physicians;
6. The American Medical Association;
7. The American Psychiatric Association;
8. Nurse Practitioners in Women's Health;
9. The Society for Maternal-Fetal Medicine;
10. The Society of Gynecologic Oncology; and
11. The Society of OB/GYN Hospitalists.

Dated: June 4, 2021

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