

April 9, 2008

Dr. Kenneth Noller, President
American College of Obstetrics and Gynecology
PO Box 96920
Washington, D.C. 20090-6920

Dr. Norman Gant, Executive Director
The American Board of Obstetrics and Gynecology
2915 Vine Street
Dallas, TX 75204

Dear Drs. Noller and Gant,

Thank you for your consideration of views opposing the Committee on Ethics' Opinion #385.

I am writing to both of you since the policies of your two organizations on this topic obviously are closely linked. In light of the concerns raised in the medical community and your expressed commitment to fair consideration of all views, I respectfully suggest you consider action on the following items:

1. We appreciate the view expressed in the letter of March 26 to ACOG fellows, which expressed a respect for conscience rights and a desire to respect what you acknowledge as "a diversity of views" among obstetricians and gynecologists.

Requested action: ACOG can translate this ideal into reality by taking concerted steps to insure a broader diversity of opinions on ethics committees, specifically including physicians who hold what are popularly described as "pro-life" views. When conclusions are not shared unanimously among committee members, you may find it helpful to employ an approach similar to that used by the President's Council on Bioethics and similar bodies, by noting and including minority opinions in the text of the published committee opinion.

2. The March 26 letter to ACOG Fellows noted that "the Opinion does not compel any Fellow to perform any procedure which he or she finds to be in conflict with his or her conscience ..."

This statement only addresses a conscientious refusal to *perform* an abortion—not the conscientious refusal to *refer* a patient for an abortion. Though our members would comply with a request for transfer of a patients

medical record to another licensed medical practitioner, to refer a patient for an abortion involves moral complicity in the death of a human being. As in all referrals, it also implies an endorsement of another physician and that physician's practices. Mandating referrals for abortion is also unnecessary, since abortion facilities are readily located through the phone book, the Internet and other sources.

Requested action: If you also meant to also address the focus of objections by stating that the Opinion does not compel any Fellow to refer patients for any ethically objectionable procedure, a written clarification of this in an official document of the ACOG would be appropriate.

3. The March 26 letter to ACOG Fellows notes, "This Committee Opinion is not part of the 'Code of Professional Ethics of the American College of Obstetricians and Gynecologists.' This Committee Opinion was not intended to be used as a rule of ethical conduct which could be used to affect an individual's initial or continuing Fellowship in ACOG. Similarly, it is not cited in the American Board of Obstetrics and Gynecology's 'Bulletin for 2008' and 'Bulletin for 2008 Maintenance of Certification,' and an obstetrician-gynecologist's board certification is not determined or jeopardized by his or her adherence to this Opinion."

However, we could find no explicit reference to the "Code of Professional Ethics" of ACOG in the ABOG Bulletin for 2008. While it may be cited in other ABOG documents, it would be helpful to have clarification in the ABOG Bulletin of precisely what ethics documents physicians need to comply with. It would also be helpful for ACOG to offer a similar clarification regarding its ethical requirements.

The ABOG Bulletin for 2008 actually states ethical considerations quite broadly: "Cause [for certification revocation] in this case may be due to, but is not limited to, licensure revocation by any State Board of Medical Examiners, violation of ABOG or ACOG rules and/or ethics principles or felony convictions."

The ABOG Bulletin also repeatedly references the requirement for a physician to have good "moral and ethical character." It is unclear, however, on what, if any objective moral or ethical standards this determination is made. It is entirely conceivable that a physician refusing to comply with a published ACOG ethical opinion could be challenged regarding his or her "ethical character." Further, "If a physician is involved in litigation investigation regarding ethical or moral issues, the individual will not be scheduled for examination..."

Requested action: Clarify and provide the written policies that delineate exactly what is and is not "to be used as a rule of ethical conduct" that could impact ACOG Fellowship and/or ABOG board certification.

4. The March 19 ABOG letter to HHS Sec. Leavitt states that ABOG "has taken no stand, pro or con, against individual physicians who choose to or choose not to perform abortions or to refer patients to abortion providers. Moreover, such an issue is not a consideration in the applications or in the examinations administered by the American

Board of Obstetrics and Gynecology in any of its certification or in its Maintenance of Certification requirements or examinations."

The immediate concern is not whether ABOG has in the past taken a stand against physicians objecting to perform or refer for abortions, or whether current applications or examinations reference the issue. The question is whether the new ACOG Committee on Ethics Opinion #385 holds the potential to be used in the future against physicians objecting to perform or refer for abortions or similarly ethically objectionable procedures or prescriptions.

Requested action: Publish a clear and firm written commitment from ABOG—ideally as an official addendum to the Bulletin—clarifying that a physicians' refusal to perform or refer for abortions or similarly ethically objectionable procedures or prescriptions will in no way affect board certification or standing.

Without such clear clarification of written policy (the authority of which arguably supersedes any letter or comments made to the media), the written policies of both ABOG and ACOG would appear to leave the door open to a negative application of Opinion #385 to conscientiously objecting physicians.

I appreciate your consideration of these requested actions and clarifications, which I believe will serve well the interests of ACOG and ABOG and also the interests of physicians who hold strong convictions regarding the protection of early human life. I will be pleased to communicate your responses to our membership.

Sincerely,

A handwritten signature in black ink, appearing to read "David Stevens MD". The signature is fluid and cursive, with the "MD" clearly visible at the end.

David Stevens, MD
Chief Executive Officer