HB 1488
House Human Services Committee
February 5, 2025

Chair Ruby and members of the House Human Services Committee,

My name is Dr Ana Tobiasz. I am an obstetrician/gynecologist and maternal fetal medicine physician practicing in the state since 2017. My specialty is in caring for high-risk pregnancies. I am one of only five physicians practicing maternal fetal medicine in the entire state. I strongly urge a DO NOT PASS on HB 1488.

While I appreciate that the bill sponsor's intent was to attempt to moderate North Dakota's dangerous abortion laws, including SB 2150 passed last session, I have several concerns about this legislation and oppose its passage. North Dakota's current abortion law was struck down by the Burleigh County District Court and is currently on appeal with the North Dakota Supreme Court. One of the problems that the Courts identified with the previous law is that it failed to provide doctors with enough clarity as to what a "serious health risk" was that would allow a doctor to provide an abortion necessary to save the life or health of the pregnant patient. Because the point at which we can safely intervene to preserve a patient's health or life caused so much confusion, it put pregnant patients at risk and made it impossible for doctors like me to provide the standard of care and comply with North Dakota law at the same time.

HB 1488 does not resolve the vagueness of the serious health risk exception. It contains the same definition that has been successfully challenged in the North Dakota Courts. Instead, it bans abortion at 15 weeks, and permits abortions after 15 weeks only when approved for a medical purpose, including a serious health risk, after approval within 5 days by a panel of doctors, two of which would not be OBGYNs. While I appreciate some of the changes in other parts of this bill that remove unnecessary regulations and terminology, I cannot support this bill as a whole due to the other concerns, in particular the formation of an abortion approval committee.

Bills like this concern me because they promote mistrust in doctors who are well trained to evaluate and assess a patient, and apply their medical training and knowledge to provide a medical judgment, keeping in mind the standard of care. They also ignore the complexity of the situations that OBGYNs and their patients experience, and disregard patient choice. It is unreasonable to expect doctors, who are providing treatment according to the standard of care, to fear criminal legal implications of a recommendation. Doctors are not lawyers, are not trained to interpret vague laws, and should not be asked to delay care because their "reasonable medical judgment" could be called to question. In my case as a consultant, I do not have the legal training to guarantee when my colleagues are calling me for medical advice that this management decision will meet the health exceptions in our law. An abortion approval committee does not offer any legal protection if a health care professional provided an abortion that a prosecutor decides to charge as violating ND century code. The only purpose it serves is to perpetuate the idea that OBGYNs need to be monitored by other doctors when doing their job. In what other area of medicine do we expect doctors to practice this way? Furthermore, how do you think patients who are at risk of sepsis, hemorrhage or other life or health-threatening situations will feel knowing their doctor cannot apparently be trusted to treat them, and must instead wait for other doctors to review the case, often after days of delay? It seems that this type of system will risk malpractice, delay, and invite more legal actions against all of the doctors involved as well as the hospitals we work in.

In other states where such abortion approval committees have been formed, members of those committees have reported on the difficulties of getting a group of physicians to agree that a person's condition meets the laws in question. I have colleagues across the country who have

been involved in such abortion committees. This was also well documented by a physician practicing in Tennessee who was on such an abortion committee (https://www.theatlantic.com/podcasts/archive/2024/03/inside-a-hospitals-abortion-committee/677751/).

I have personally seen in my practice since SB 2150 was passed, how the health exception caused confusion, leading to delays in care. I saw those delays happen even in a patient who was experiencing life threatening bleeding. The doctor caring for that patient knew that the best thing for that patient was to provide abortion care along with other life saving measures, however had been told by a trusted colleague that she didn't think the patient was sick enough to meet the exception. I have also seen other examples of the chilling effect these laws have on health care providers trying to interpret a law that is not rooted in sound medical principles or terminology. This risks the lives of pregnant patients experiencing infections and preeclampsia as well. I have seen the anxiety from my colleagues who have performed abortion care in these circumstances, wondering if they will be charged with a crime for taking care of their patients who have highly desired pregnancies. HB 1488 does not alleviate any of these concerns.

In summary, while HB1488 does improve some aspects of ND's current abortion regulations, it does not clarify the health exception, puts another barrier between a patient and life- or health-saving care, and baselessly sows mistrust in doctors. Doctors trained in providing obstetric and gynecologic care have extensive medical expertise in caring for pregnant individuals experiencing pregnancy complications. Our state laws should not impede their medical judgement.

I urge a DO NOT Pass on HB 1488.

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