

# Defending access to reproductive health care

*If precedents set in Roe v Wade are overturned, ObGyns have several immediate and long-term challenges*

Robert L. Barbieri, MD; Barbara Levy, MD; Andrew M. Kaunitz, MD; David G. Mutch, MD; James Simon, MD; Amy Garcia, MD; Cheryl Iglesia, MD; Errol Norwitz, MD, PhD, MBA; Jaimey Pauli, MD; David Jaspan, DO; Iris Krishna, MD, MPH; Mark Trolice, MD; Lubna Pal, MBBS, MS; Jan Leslie Shifren, MD; Sarah Prager, MD, MS; Charles Miller, MD; Eve Espey, MD, MPH; Constance Bohon, MD; Melissa Kottke, MD, MPH, MBA; Sinha Sangeeta, MD; and Patrick Woodman, DO

*The authors are Editorial Board members of OBG Management and Ob.Gyn. News.*

The 1973 Supreme Court of the United States (SCOTUS) decision in *Roe v Wade* was a landmark ruling,<sup>1</sup> establishing that the United States Constitution provides a fundamental “right to privacy,” protecting pregnant people’s freedom to access all available reproductive health care options. Recognizing that the right to abortion was not absolute, the majority of justices supported a trimester system. In the first trimester, decisions about abortion care are fully controlled by patients and clinicians, and no government could place restrictions on access to abortion. In the second trimester, SCOTUS ruled that states may choose to regulate abortion to protect maternal health. (As an example of such state restrictions, in Massachusetts, for many years, but no longer, the state required that abortions occur in a hospital when the patient was between 18 and 24 weeks’ gestation in order to facilitate comprehensive emergency care for complications.)

Beginning in the third trimester, a point at which a fetus could be viable, the Court ruled that a government could prohibit abortion except when an abortion was necessary to protect the life or health of the pregnant person. In 1992, the SCOTUS decision in *Planned Parenthood v Casey*<sup>2</sup> rejected the trimester system, reaffirming the right to an abortion before fetal viability, and adopting a new standard that states may not create an undue burden on a person seeking an abortion before fetal viability. SCOTUS ruled that an undue burden exists if the purpose of a regulation is to place substantial obstacles in the path of a person seeking an abortion.

If, as anticipated, the 2022 SCOTUS decision in *Dobbs v Jackson Women’s Health Organization*<sup>3</sup> overturns the precedents set in *Roe v Wade* and *Planned Parenthood v Casey*, decisions on abortion law will be relegated to elected legislators and state courts.<sup>4</sup> It is expected that at least 26 state legislatures and governors will enact stringent new restrictions on access to abortion. This cataclysmic reversal of judicial opinion creates a historic challenge to

obstetrician-gynecologists and their patients and could threaten access to other vital reproductive services beyond abortion, like contraception. We will be fighting, state by state, for people’s right to access all available reproductive health procedures. This will also significantly affect the ability for providers in women’s reproductive health to obtain appropriate and necessary education and training in a critical skills. If access to safe abortion is restricted, we fear patients may be forced to consider unsafe abortion, raising the specter of a return to the 1960s, when an epidemic of unsafe abortion caused countless injuries and deaths.<sup>5,6</sup>

How do we best prepare for these challenges?

- We will need to be flexible and continually evolve our clinical practices to be adherent with state and local legislation and regulation.
- To reduce unintended pregnancies, we need to strengthen our efforts to ensure that every patient has ready access to all available contraceptive options with no out-of-pocket cost.
- When a contraceptive is desired, we will focus on educating people

For all author disclosures, see the online version of this editorial at [mdedge.com/obgyn](https://mdedge.com/obgyn).

doi: 10.12788/obgm.0201

about effectiveness, and offering them highly reliable contraception, such as the implant or intra-uterine devices.

- We need to ensure timely access to abortion if state-based laws permit abortion before 6 or 7 weeks' gestation. Providing medication abortion without an in-person visit using a telehealth option would be one option to expand rapid access to early first trimester abortion.
- Clinicians in states with access to abortion services will need to collaborate with colleagues in states with restrictions on abortion services to improve patient access across state borders.

On a national level, advancing our effective advocacy in Congress may lead to national legislation passed and signed by the President. This could supersede most state laws prohibiting access to comprehensive women's reproductive health and create a unified, national approach to abortion care, allowing for the appropriate training of all obstetrician-gynecologists. We will also need to develop teams in every state capable of advocating for laws that ensure access to all reproductive health care options. The American College of Obstetricians and Gynecologists has leaders trained and tasked with legislative advocacy in every state.<sup>7</sup> This network will be a foundation upon which to build additional advocacy efforts.

As women's health care professionals, our responsibility to our patients, is to work to ensure universal access to safe and effective comprehensive reproductive options, and to ensure that our workforce is prepared to meet the needs of our patients by defending the patient-clinician relationship. Abortion care saves lives of pregnant patients and reduces

maternal morbidity.<sup>8</sup> Access to safe abortion care as part of comprehensive

reproductive services is an important component of health care. ●

---

#### References

1. *Roe v Wade*, 410 U.S. 113 (1973).
2. *Planned Parenthood v Casey*, 505 U.S. 833 (1992).
3. *Dobbs v Jackson Women's Health Organization*, 19-1392. <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/19-1392.html>. Accessed May 18, 2022.
4. Gerstein J, Ward A. Supreme Court has voted to overturn abortion rights, draft opinion shows. *Politico*. May 5, 2022. Updated May 3, 2022.
5. Gold RB. Lessons from before *Roe*: will past be prologue? Guttmacher Institute. March 1, 2003. <https://www.guttmacher.org/gpr/2003/03/lessons-roe-will-past-be-prologue>. Accessed May 18, 2022.
6. Edelin KC. *Broken Justice: A True Story of Race, Sex and Revenge in a Boston Courtroom*. Pond View Press; 2007.
7. The American College of Obstetricians and Gynecologists. Get involved in your state. ACOG web site. <https://www.acog.org/advocacy/get-involved/get-involved-in-your-state>. Accessed May 18, 2022.
8. Institute of Medicine (US) Committee on Improving Birth Outcomes. Bale JR, Stoll BJ, Lucas AO, eds. Reducing maternal mortality and morbidity. In: *Improving Birth Outcomes: Meeting the Challenge in the Developing World*. Washington, DC: National Academies Press (US); 2003.