

Bad Medicine: Admitting Privileges Requirement Undermines Abortion Access in Louisiana

FEBRUARY 2019

Abortion access in Louisiana is hanging by a thread as we anticipate what will happen in the state if an admitting privileges requirement is allowed to go into effect. Though the Supreme Court temporarily blocked the admitting privileges requirement while litigation continues, this does not tell us how the Court will ultimately rule, or whether they will even agree to have a full hearing on the constitutionality of Louisiana's law. Abortion access in Louisiana and the nation remains under severe threat as we wait to see what the Supreme Court will do going forward.

The Louisiana law in question requires abortion providers to maintain admitting privileges with a hospital within 30 miles of where they perform abortions,¹ a medically unnecessary, anti-evidence measure that interferes with a woman's ability to get care. Moreover, this requirement is identical to the law that the Supreme Court struck down as unconstitutional in 2016, in *Whole Woman's Health v. Hellerstedt*, a case brought by the Center for Reproductive Rights. Yet, Louisiana politicians, as well as the federal court that ruled the law should stand, are busy blatantly ignoring constitutional precedent at the expense of women who need care – even though the trial court found that this law would cause clinics to close and erode abortion access.²

We know this law will have the most impact on women of color, rural women and women with low incomes.³ Many Louisiana women already travel long distances to access care, which can mean they must secure child care, time off from work and money for transportation. In part because 45 percent of private sector workers in Louisiana cannot earn a single paid sick day,⁴ many women in Louisiana are already forced to go without pay, and even risk losing their jobs in order to make the trips required to obtain an abortion – and all of this will be worsened by the admitting privileges requirement. This law is unconstitutional, and should not stand.

Why are admitting privileges bad medicine?

Admitting privileges can be difficult or impossible for abortion providers to secure for reasons that have nothing to do with a provider's skills.⁵ Some hospitals only grant admitting privileges to physicians who accept faculty appointments.⁶ Others require physicians to admit a certain number of patients per year before granting admitting privileges, but because abortion is such a safe procedure, abortion providers are unlikely to admit a sufficient number of patients.⁷ Some hospitals only grant privileges to physicians who live within a certain radius of the hospital.⁸ And hospitals that adhere to religious directives that run counter to established medical standards⁹ may refuse to grant privileges to abortion providers.¹⁰ Moreover, admitting privileges requirements for abortion providers ignore the way modern medicine is practiced. Not only are emergency rooms required to admit and treat any patient with an emergent condition, but they rely on in-hospital doctors to provide care on-site – not outside physicians.¹¹

Recently, the well-respected, nonpartisan National Academies of Sciences, Engineering, and Medicine released a definitive report making clear the harms that medically unnecessary abortion restrictions, including admitting privileges requirements, cause for women seeking care.¹² Other major organizations, like the American College of Obstetricians and Gynecologists and the American Medical Association, also oppose these laws.¹³

Even if one of the three remaining clinics in Louisiana is able to survive this admitting privileges law, abortion access in Louisiana will be extremely limited. Women will have to travel longer distances to get care, and wait times for procedures will increase. This could push abortion out of reach entirely for many women in the state.

What can I do?

Health care providers should not be forced to choose between following their medical and ethical obligations to their patients and following the law. However, that is exactly what is happening in Louisiana. Advocates, medical professionals and policymakers should continue to speak out and push back against this interference in health care and the patient-provider relationship. Follow local and national organizations like Lift Louisiana, New Orleans Abortion Fund, Women with a Vision, and Planned Parenthood Gulf Coast, as well as the Center for Reproductive Rights, for more information.

Together, we will keep fighting back until *every* woman in Louisiana is able to access the care she needs with dignity and without barriers.

1 La. Rev. Stat. Ann. § 40:1061.10(A)(2)(a) (2016). This law is currently enjoined. See *June Med. Servs. LLC v. Gee*, 905 F.3d 787, 815 (5th Cir. 2018), application for stay granted, *June Med. Servs. LLC v. Gee*, No. 18A774, 2019 WL 417217, at *1 (U.S. Feb. 7, 2019).

2 See *June Med. Servs. LLC v. Kliebert*, 250 F. Supp. 3d 27, 35, 89 (M.D. La. 2017).

3 See, e.g., Guttmacher Institute. (2018, July). Evidence You Can Use: Waiting Periods for Abortion. Retrieved 8 February 2019, from <https://www.guttmacher.org/evidence-you-can-use/waiting-periods-abortion#harm-in-requiring-two-trips>; cf. Joyce, T., Henshaw, S., Dennis, A., Finer, L., & Blanchard, K. (2009, April). The Impact of State Mandatory Counseling and Waiting Period Laws on Abortion: A Literature Review (p. 4). Guttmacher Institute. Retrieved 8 February 2019, from https://www.guttmacher.org/sites/default/files/report_pdf/mandatorycounseling.pdf (noting that while mandatory delay and counseling laws affect women across economic and age spectrums, women who have resources – that is older, more educated and non-poor women – are better able to access services despite the restrictions); Texas Policy Evaluation Project. (2013, April). Research Brief: Impact of Abortion Restrictions in Texas (p. 1). Retrieved 8 February 2019, from http://www.utexas.edu/cola/orgs/txpep/_files/pdf/TxPEP-ResearchBrief-ImpactofAbortionRestrictions.pdf (“These laws have had the greatest impact on low-income women and women in rural counties.”); American Civil Liberties Union. (n.d.). Government-Mandated Delays Before Abortion. Retrieved 8 February 2019, from <https://www.aclu.org/other/government-mandated-delays-abortion> (describing disproportionate affect on “those with fewest resources”); Koneru, Chavi. National Partnership for Women & Families. (2015, June 17). Lawmakers should take a walk in her shoes [Blog post]. Retrieved 8 February 2019, from <http://www.nationalpartnership.org/our-impact/blog/general/lawmakers-should-take-a-walk-in-her-shoes.html> (“...mandatory delay has a disproportionate impact on low-income women, women of color, immigrant women, and young women.”)

4 Institute for Women’s Policy Research & National Partnership for Women & Families. (2015, May). Workers’ Access to Paid Sick Days in the States (p. 2). Retrieved 8 February 2019, from <http://www.nationalpartnership.org/research-library/work-family/psd/workers-access-to-paid-sick-days-in-the-states.pdf>

5 See, e.g., Brief for Amici Curiae Am. Coll. of Obstetricians & Gynecologists et al. in Support of Petitioners at 4, *Whole Woman’s Health v. Cole*, 136 S. Ct. 499 (2015) (No. 15-274), sub nom. *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016).

6 *Ibid.*, p. 16.

7 *Ibid.*

8 Amici Curiae Brief of Pub. Health Deans et al. in Support of Petitioners at 17, *Whole Woman’s Health v. Cole*, 136 S. Ct. 499 (2015) (No. 15-274), sub nom. *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016).

9 See generally *Catholics for Choice*. (2011, April). The Ethical and Religious Directives for Catholic Health Care Services [Memorandum]. Retrieved 8 February 2019, from <http://www.catholicsforchoice.org/wp-content/uploads/2014/01/CFCMemoontheDirectivesweb.pdf>

10 See, e.g., Brief of Amicus Curiae Am. Pub. Health Ass’n in Support of Petitioners at 15, *Whole Woman’s Health v. Cole*, 136 S. Ct. 499 (2015) (No. 15-274), sub nom. *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016) (Citations omitted).

11 See note 5, pp. 18–19.

12 National Academies of Sciences, Engineering, and Medicine. (2018). The Safety and Quality of Abortion Care in the United States. Washington, DC: The National Academies Press. Retrieved 8 February 2019, from <https://www.nap.edu/24950>

13 See note 5, pp. 16–22 (detailing why amici oppose admitting privileges requirements).

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family. More information is available at NationalPartnership.org.

© 2019 National Partnership for Women & Families. All rights reserved.