

Restricting Abortion: Texas¹

In far too many places throughout this country, it has become extremely difficult for women to safely and legally end a pregnancy. In too many states, politicians have enacted laws that single out the provision of abortion services for restrictions that are more burdensome than those imposed on medically comparable procedures, do not significantly advance women's health or the safety of abortion services, and make abortion services more difficult to access. It's time for politicians to stop interfering with women's personal decision-making. We need a federal law that puts women's health, safety, and rights first. The Women's Health Protection Act does just that.

In Texas, the following restrictions are among those that would be unlawful under the Women's Health Protection Act once enacted:

- **BAN** on abortion after 20 weeks of pregnancy (an unconstitutional pre-viability ban) with unconstitutionally narrow exceptions for when the life or health of a woman is endangered.²
- **REQUIREMENT** that clinics meet the same strict structural and other regulatory standards as ambulatory surgical facilities, essentially becoming "small hospitals," despite those standards being completely unrelated to ensuring patient safety.³
- **REQUIREMENT** that abortion providers have admitting privileges at a local hospital, a medically unnecessary requirement that is designed to prevent qualified, experienced physicians from providing care to their patients.⁴
- **RESTRICTIONS** on medication abortion that could prohibit physicians from providing individualized, patient-specific care based on their best medical judgment.⁵
- **BAN** on the use of telemedicine to provide medication abortion, reducing the potential for access to safe, nonsurgical abortion services and eliminating an important way to expand access to many low-income and rural women.⁶
- **BAN** on abortion after viability without constitutionally adequate exceptions for the woman's life or health.⁷
- **REQUIREMENT** for most patients that prior to providing an abortion the provider perform an ultrasound and simultaneously place the image in the woman's line of sight and provide a verbal description of the image, irrespective of the woman's circumstances, her wishes, and the provider's medical judgment and ethical obligations. This provision requires two separate trips unless a woman can certify that she lives 100 miles or more from a clinic, in which case the ultrasound may be performed 2 hours before the abortion.⁸

"I had to endure some of the most invasive procedures I had ever encountered. An ultrasound that felt so uncomfortable and shameful is embedded in my memory and the mandatory viewing of said ultrasound screen made me question so much about what I had control over in my decision. That is to say, I had no choice but to see it. It was unnecessary and disrespectful."

- Araceli, a patient in Texas, testifying at a human rights hearing about the ultrasound that she was forced to undergo in order to obtain an abortion

(Endnotes)

- ¹ The restrictions highlighted herein are examples of the types of restrictions that the **Women's Health Protection Act** seeks to invalidate. This fact sheet is not intended as a comprehensive guide to abortion restrictions in Texas.
- ² TEX. HEALTH & SAFETY CODE ANN. § 171.044 (20-week ban); TEX. HEALTH & SAFETY CODE ANN. § 171.046 (describing life and physical health exceptions).
- ³ Texas law previously required facilities that perform abortions after 16 weeks to be performed in an ambulatory surgical center. TEX. HEALTH & SAFETY CODE ANN. § 171.004. A more recent law, which went into effect in September 2014, requires *all* facilities that provide abortions to conform to ambulatory surgical center requirements. TEX. HEALTH & SAFETY CODE ANN. § 245.010, *invalidated by* Whole Woman's Health v. Lakey, 46 F. Supp. 3d 673, 687-88 (W.D. Tex. 2014) (striking down Texas law that would have, *inter alia*, required licensed abortion facilities to meet construction standards intended for newly built ambulatory surgical centers as an undue burden on women's constitutional right to abortion), *vacated in part, rev'd in part, aff'd in part sub nom*, Whole Women's Health v. Hellerstedt, 790 F.3d 563 (5th Cir. 2015), *cert. granted*, 136 S. Ct. 499 (2015). This law is currently blocked pending a decision on the law's constitutionality at the Supreme Court.
- ⁴ TEX. HEALTH & SAFETY CODE ANN. § 171.0031, *unconstitutional as applied*, Whole Woman's Health v. Lakey, 46 F. Supp. 3d 673, 687-88 (W.D. Tex. 2014) (striking down Texas law requiring admitting privileges as applied to two abortion facilities), *vacated in part, rev'd in part, aff'd in part sub nom*, Whole Woman's Health v. Cole, 790 F.3d 563 (5th Cir. 2015), *cert. granted*, 136 S. Ct. 499 (2015). This law is currently partially enforced pending a decision on the law's constitutionality at the Supreme Court.
- ⁵ TEX. HEALTH & SAFETY CODE ANN. § 171.063(b).
- ⁶ TEX. HEALTH & SAFETY CODE ANN. § 171.063(c).
- ⁷ TEX. HEALTH & SAFETY CODE ANN. § 170.002.
- ⁸ TEX. HEALTH & SAFETY CODE ANN. § 171.012(4)-(5).