national partnership for women & families

FACT SHEET

Abortion Access in Jeopardy: *June Medical Services v. Gee*

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Abortion access in the nation is yet again under severe threat as the Supreme Court considers a challenge to a Louisiana admitting privileges law known as Act 620.[1] Act 620 requires physicians who provide abortion to maintain admitting privileges with a hospital within 30 miles of their office or clinic.[2] Admitting privileges essentially treat doctors as a staff member of the hospital where they hold privileges, meaning they can admit patients as they see fit. Requiring abortion providers to have admitting privileges is a medically unnecessary measure that interferes with a person's ability to access care. Act 620 is identical to the law that was struck down three years ago in the Supreme Court case *Whole Woman's Health v. Hellerstedt*. In that case, the Court declared a Texas law requiring physicians who perform abortion to have admitting privileges unconstitutional because it was medically unnecessary and it imposed an undue burden on women seeking abortion care.[3]

Current status of *June Medical Services v. Gee*

The Center for Reproductive Rights, on behalf of abortion providers in the state of Louisiana, is leading the challenge against Act 620. As decided by the lower court, Act 620 violates the constitutional rights of women in Louisiana because the law imposes significant burdens on abortion access without providing any benefit to women's health or safety.[4] However, the Fifth Circuit overturned this ruling and declared Act 620 constitutional, openly defying the Supreme Court's decision in *Whole Woman's Health*.[5] Today, the Supreme Court granted cert, meaning the Court will hold oral arguments on the case in the next few months.

Why are admitting privileges a barrier for abortion access?

Requiring admitting privileges does not make patients safer. Instead, it reduces access and creates barriers because:

- Admitting privileges are difficult or impossible for abortion providers to secure for reasons that have nothing to do with a provider's skills.[6]

- Some hospitals only grant admitting privileges to physicians who accept faculty appointments.[7]
- Some hospitals 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.[8]
- Some hospitals only grant privileges to physicians who live within a certain radius of the hospital.[9]
- Hospitals that adhere to religious directives that run counter to established medical standards[10] may refuse to grant privileges to abortion providers.[11]

What happens if Act 620 is ruled constitutional?

This case is a straightforward opportunity for the Supreme Court to apply its precedent in *Whole Woman's Health v. Hellerstedt*. If the Supreme Court fails to apply the same analysis to this identical law, the already limited availability of abortion access in Louisiana will get much worse. Currently, only three clinics in the state provide abortion services.[12] If Act 620 stands, it will reduce the number of open clinics and physicians to only *one* — making it almost impossible for Louisianans and people in surrounding states to access the care they need.[13] This law would cause the most harm to women of color, rural women and women with low incomes, as many already have to travel long distances to access care. Reducing the number of clinics would mean they must travel even further — and could completely prevent access for some since accessing abortion care can involve securing child care, taking time off from work and coming up with money for transportation.[14] If the Supreme Court fails to apply precedent, this law will inevitably result in more states passing similar admitting privileges laws and other burdensome regulations that will consequently make it more difficult for people across the country to access abortion care.

Admitting privileges requirements inhibit the fundamental right to abortion services. Louisiana's Act 620 is unconstitutional and identical to the law struck down in *Whole Woman's Health*, and should not stand.

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[1] La. Rev. Stat. Ann. § 40:1061.10(A)(2)(a) (2016).

[2] 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).

[3] Whole Woman's Health v. Hellerstedt, 136 S. Ct. 2292 (2016).

[4] Center for Reproductive Rights. (2019, September). *June Medical Services LLC v. Gee Backgrounder.* Retrieved 25 September 2019, from https://reproductiverights.org/sites/default/files/2019-09/June%20Medical%20Services%20Backgrounder_September%202019.pdf ; June Med. Servs. LLC v. Kliebert, 250 F. Supp. 3d 27 (M.D. La. 2017).

[5] June Med. Servs. LLC v. Gee, 905 F.3d 787, 815 (5th Cir. 2018).

[6] 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).

[7] Ibid. p. 16.

[8] Ibid.

[9] 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).

[10] 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

[11] 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.).

[12] See June Med. Servs. LLC v. Kliebert, 250 F. Supp. 3d 27 (M.D. La. 2017).

[13] See June Med. Servs. LLC v. Gee, 905 F.3d 787, 814 (5th Cir. 2018).

[14] 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.")

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