

### **Abortion Controversy Continues; Texas Clinic Stays Open**

#### **News**

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LUBBOCK, Texas (AP) -- The only abortion clinic in a 300-mile swath of West Texas can resume taking appointments Tuesday, after a federal judge struck down new restrictions that would have effectively shuttered it and at least a dozen other clinics across the state.



Lubbock's Planned Parenthood Women's Health Center had stopped making appointments last week, bracing for this week's scheduled enforcement of a new requirement that all doctors performing abortions in the state must have admitting privileges at a hospital less than 30 miles away.

Supporters who sued to block the requirement, part of a broad series of abortion limits the Legislature approved in July, argued it was meant to outlaw abortions, not make them safer as state officials had claimed. The judge agreed, finding that the law imposed an unconstitutional burden on women seeking to terminate a pregnancy.

The admitting privileges provision "does not bear a rational relationship to the legitimate right of the state in preserving and promoting fetal life or a woman's health and, in any event, places a substantial obstacle in the path of a woman seeking an abortion," Judge Lee Yeakel, an appointee of President George W. Bush, a former Texas Republican governor, wrote in his decision.

The non-descript brown Lubbock clinic, often targeted by protesters, performs abortions only on Thursdays, when a doctor flies in from East Texas to perform them. Clinic officials said the 30-mile limit would effectively end abortions at the facility.

Abortion rights supporters argued most hospitals will not grant abortion doctors admitting privileges for religious, business or competitive reasons. As a result, they said, the law would shut down about a third of the 38 clinics in Texas.

"I don't see why local hospitals would give privileges to someone who's not going to admit patients," said Beth Shapiro, chairwoman of the board of directors of Lubbock's center. "I don't see what the business and financial incentive would be."

She said hospitals have to conduct yearly reviews to keep accreditation up to date.

"Why go through those procedures if the providers aren't using the hospital?" Shapiro said.

Texas Attorney General Greg Abbott, whose office argued the law protects women and the life of the fetus, immediately filed an appeal with the conservative 5th Circuit Court of Appeals in New Orleans.

"I have no doubt that this case is going all the way to the United States Supreme Court," Abbott said during a stop in Brownsville, Texas, as part of his campaign to replace retiring Gov. Rick Perry.

Federal judges in Wisconsin, Kansas, Mississippi and Alabama also have found problems with state laws prohibiting doctors from conducting abortions if they don't have hospital admitting privileges.

All the other appeals - including the one from Mississippi, which like Texas is within the 5th Circuit - deal only with whether to lift a temporary injunction preventing the restriction from taking effect. The Texas appeal could be the first that directly addresses the question of whether the provision violates the Supreme Court's *Roe v. Wade* ruling that legalized abortion.

The law also threatened to stop abortions at both clinics in Fort Worth and two of the five clinics in neighboring Dallas County, said Danielle Wells, spokeswoman for Planned Parenthood of Greater Texas. Those clinics had continued to make appointments, but had warned that they might be canceled because of the law.

During the trial, officials for one chain of abortion clinics testified that they've tried to obtain admitting privileges for their doctors at 32 hospitals, but so far only 15 accepted applications and none have announced a decision.

The abortion law will likely take center stage in the Texas gubernatorial campaign. Abbott is adamantly anti-abortion and opposes the procedure even in cases of incest and rape.

Abbott's likely opponent, if he wins the 2014 Republican nomination, is Democrat state Sen. Wendy Davis, who gained national attention for a nearly 13-hour filibuster that temporarily stalled passage of the law in the Republican-controlled Legislature.

"As a mother, I would rather see our tax dollars spent on improving our kid's schools rather than defending this law," she said in a statement following the ruling.

In another part of his ruling, Yeakel partially blocked the provision requiring doctors to follow an 18-year-old U.S. Food and Drug Administration protocol. He found that the state could regulate how a doctor prescribes an abortion-inducing pill, but the law failed to allow for a doctor to adjust treatment in order to best protect the health of the woman taking it.

Abortion rights supporters complained that requiring doctors to follow the FDA's original label for an abortion-inducing drug would deny women the benefit of recent advances in medical science.

Other portions of the law, known as House Bill 2, include a ban on abortions after 20 weeks and a requirement beginning in October 2014 that all abortions take place in a surgical facility. Neither of those sections was part of this lawsuit.

Amy Hagstrom Miller, president of Whole Woman's Health, said the judge did not go far enough.

"Nearly 40 percent of the women we serve at Whole Woman's Health choose medication abortion and now Texas is preventing these women from the advances in medical practice that other women across the United States will be able to access," she said.