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Targeted Regulation of Abortion Providers

Background

In the years immediately following the Supreme Court decision in *Roe v. Wade*, several states moved to impose strict regulations on abortion clinics, beyond what is necessary to ensure patients' safety. Since many of these requirements were struck down by lower federal courts starting in the early 1980s, states moved on to other ways to restrict access to abortion, such as limitations on public funding. Efforts to use clinic regulation to limit access to abortion, rather than to make its provision safer resurfaced in the 1990s and have gained steam since 2010. However, in June 2016, the U.S. Supreme Court struck down some of the most burdensome of these restrictions that had been enacted in Texas, paving the way to challenge other states' overly burdensome regulations that target abortion providers.

While all abortion regulations apply to abortion clinics, some go so far as to apply to physicians' offices where abortions are performed or even to sites where only medication abortion is administered. Most requirements apply states' standards for ambulatory surgical centers to abortion clinics, even though surgical centers tend to provide more invasive and risky procedures and use higher levels of sedation. These standards often include requirements for the physical plant, such as room size and corridor width, beyond what is necessary to ensure patient safety in the event of an emergency. State standards, however, do vary, with the most burdensome standards in place in states such as Michigan and Pennsylvania.

They also often require that facilities maintain relationships with hospitals, provisions that add nothing to existing patient protections while granting hospitals effective veto power over whether an abortion provider can exist. Several states mandate that clinicians performing abortions have relationships with local hospitals, requirements that do little to improve patient care but that set standards that may be impossible for providers to meet.

Highlights

- 23 states have laws or policies that regulate abortion providers and go beyond what is necessary to ensure patients' safety; all apply to clinics that perform surgical abortion.
    - 13 states' regulations apply to physicians' offices where abortions are performed.
    - 18 states' regulations apply to sites where medication abortion is provided, even if surgical abortion procedures are not.

- 17 states have onerous licensing standards many of which are comparable or equivalent to the state's licensing standards for ambulatory surgical centers.
- 18 states have specific requirements for procedure rooms and corridors, as well as requiring facilities be near and have relationships with local hospitals.
    - 9 states specify the size of the procedure rooms.
    - 8 states specify corridor width.
    - 8 states require abortion facilities to be within a set distance from a hospital.
    - 6 states require each abortion facility to have an agreement with a local hospital in order to transfer patients in the event complications arise. (Including requirements on clinicians a total of 21 states require a provider to have a relationship with a hospital.)
- 11 states place unnecessary requirements on clinicians that perform abortions.
    - 11 states require abortion providers to have some affiliation with a local hospital.
        - 2 states require that providers have admitting privileges.
        - 9 states require providers to have either admitting privileges or an alternative arrangement, such as an agreement with another physician who has admitting privileges.
    - 1 state requires the clinician to be either a board-certified obstetrician-gynecologist or eligible for certification.

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STATE	REGULATIONS APPLY TO SITES WHERE:*			FACILITY REQUIREMENTS:					CLINICIAN REQUIRE	
	Surgical Abortion Is Provided		Medication Abortion Is Provided	Structural Standards Comparable to Those for Surgical Centers	Procedure Room Size Specified	Corridor Width Specified	Maximum Distance to Hospital Specified	Transfer Agreement with Hospital	Requires:	C o
	Outpatient Clinics	Private Doctor Offices							Hospital Privileges	Hospital Privileges or Alternative Agreement
Alabama	X	X	X	X		X	§		▼	X
Arizona	X	X	X	X			30 miles*			X
Arkansas	X	X	X	X	X		30 miles			XΩ
Connecticut	X									
Florida	X		X				nearby	X		X
Indiana	X	X	X	X	X	X	adjacent county			X‡
Kansas	§	§	§	§			§		§	
Kentucky	X		X	X				▼		
Louisiana	X	X	X	X	X		§		▼	
Maryland	X									
Michigan	X		X	X	X	X	30 minutes	X		
Mississippi	X	X	X	X	X	X	▼		▼	X
Missouri	X			X		X	X		X	
Nebraska	X	X	X		X					
North Carolina	X		X	X				X		
North Dakota							30 miles		X	
Ohio	X			X			30 miles	X		
Oklahoma	X		X	X	X		§		§	X
Pennsylvania	X	X		X	X	X		X		
Rhode Island	X	X	X	X						
South Carolina	X	X	X	X		X				X
South Dakota	X	X	X	X		X				
Tennessee				▼			▼		▼	
Texas	X	X	X	▼			▼		▼	X
Utah	X	X	X	X	X					
Wisconsin	X		X				§	X	§	
TOTAL	23	13	18	17	9	8	8	6	2	9

§ This law is temporarily enjoined pending a final decision in the courts.
▼ This law is permanently enjoined and is not in effect.
* Applies only to surgical abortions.
‡ Indiana law requires an abortion provider to either have admitting privileges or an agreement with another physician who has admittir
privileges at a local hospital. A court has blocked a requirement that would have required the agreement with another physician who has
to be renewed annually and filed in every hospital in the local area.
θ Only an obstetrician/gynecologist may provide abortions after 14 weeks of pregnancy.
Ω A medication abortion provider must have an agreement with another provider who has hospital admitting privileges. This law is tempo
enjoined pending a final decision in the courts.

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