EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

LITTLE ROCK FAMILY PLANNING SERVICES et al., Plaintiffs, v. LESLIE RUTLEDGE, et al., Defendants.	CIVIL ACTION Case No. 4:19-cv-00449-KGB

DECLARATION OF LORI WILLIAMS, M.S.N, A.P.R.N., IN SUPPORT OF PLAINTIFFS' MOTION FOR AN EX PARTE TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION

I, Lori Williams, M.S.N., A.P.R.N., declare under 28 U.S.C. § 1746 and penalty of perjury that the following is true and correct:

1. I am a nurse practitioner and the Clinical Director of Plaintiff Little Rock Family Planning Services ("LRFP").

2. I submit this Declaration in support of Plaintiffs' Motion for a Temporary Restraining Order and/or Preliminary Injunction relating to the State's enforcement of Executive Order 20-13 and the April 3, 2020 Arkansas Department of Health Directive on Elective Surgeries to bar all surgical abortion "except where immediately necessary to protect the life or health of the patient" (the "COVID-19 Abortion Ban").

Background and Education

3. I received my bachelor's degree from the University of Arkansas at Fayetteville in 1998, and a Master's degree in science and nursing from Vanderbilt University in 1999.

4. From 2000 to 2004, I worked as a nurse practitioner at Women's Community Health in Little Rock, a clinic that previously provided abortion care in the State. I have worked at LRFP since 2004, and have been the Clinical Director since 2007.

5. As LRFP's current Clinical Director, I am responsible for all aspects of our day-to-day operations, including overseeing patient care in coordination with the physicians and other health-care professionals, supervising the staff, maintaining policies and procedures, interacting with Arkansas Department of Health licensing personnel when they visit to inspect or request information, and ensuring that LRFP complies with all laws and regulations.

6. In 2010, I purchased an ownership interest in LRFP, which I currently share with LRFP Medical Director Dr. Thomas Tvedten and his wife, Natalie Tvedten.

7. I am also currently the National Abortion Federation's ("NAF") Board Chair, and have been on the Board of Directors since 2012. NAF is a professional association of abortion providers including individuals, public and non-profit clinics, Planned Parenthood affiliates, women's health centers, physicians' offices and hospitals. Among other things, NAF provides accredited continuing medical education exclusively in abortion care to advance the clinical skills and update the medical techniques of abortion providers. I previously served on the NAF committee that is responsible for drafting, reviewing, and updating all clinical-policy guidelines, and routinely attend NAF conferences and communicate with NAF members regarding the standards of and developments regarding abortion care.

Abortion Care at LRFP

8. LRFP has operated an abortion clinic in Little Rock since 1973, and has been licensed by the State as an abortion provider since licensing began in the mid-1980s. LRFP also offers procedures that are similar to abortion care for patients whose pregnancies end in

miscarriage, as well as basic gynecological care, including pap smears, STD testing, and contraceptive counseling and services.

9. Abortion is one of the safest medical procedures currently available to women in the United States. It is substantially safer than giving birth, and a host of other common medical procedures, including a tonsillectomy and numerous dental procedures.[1] Complications from abortion are extremely rare, and when they occur they can usually be managed in an outpatient clinic setting, either at the time of the abortion or in a follow-up visit.

10. LRFP's patients seek abortions for a variety of personal, medical, financial, and family reasons. Many of our patients already have at least one child and have decided they cannot parent another. Some are young women who feel they are not ready to carry a pregnancy or become a parent. Others are pursuing school or career opportunities and/or they lack the necessary financial resources or a sufficient level of partner or familial support or stability. Other patients seek abortions because continuing with the pregnancy could pose a particular risk to their health, especially if their past pregnancies have been high risk, while others have received a diagnosis of a fetal anomaly. LRFP also provides care for patients who are in abusive relationships, or are pregnant as a result of rape or sexual assault.

11. LRFP provides both medication abortion and surgical abortion. Both methods are safe, effective means to terminate a pregnancy.

12. LRFP offers medication abortion from the point in pregnancy when an intrauterine pregnancy can be confirmed (typically 5-6 weeks from the first day of the patient's last menstrual period ("LMP")) and up to 70 days or 10 weeks LMP. Medication abortion

[1] The Safety and Quality of Abortion Care in the United States, THE NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, MEDICINE, at 74–75 (2018), *available at* https://www.nap.edu/read/24950.

involves taking a combination of two pills, mifepristone and misoprostol, after which the patient expels the contents of the pregnancy in a manner similar to a miscarriage.

13. Despite the name, surgical abortions do not involve what is commonly understood to be "surgery." There are no incisions, and no need for general anesthesia. LRFP provides two types of surgical abortion: (1) aspiration abortion (which primarily involves the use of gentle suction to safely empty the contents of the uterus) from approximately 3-4 weeks LMP through approximately 13 weeks LMP, and (2) a dilation and evacuation ("D&E") procedure typically beginning around 14 weeks LMP through 21.6 weeks LMP, which is the legal limit in Arkansas. A D&E procedure involves the use of surgical instruments in addition to gentle suction, and typically takes longer to perform and requires more time in a recovery room than an aspiration abortion procedure. In addition, D&E procedures performed after 18 weeks LMP at LRFP typically require an additional visit to the clinic to dilate the cervix the day before the procedure is performed.

14. Under current Arkansas law, and the State-mandated abortion-delay requirement, women who seek either medication or surgical abortion care at LRFP must visit the clinic to receive an ultrasound and State-mandated options counseling at least 72 hours before the procedure (LRFP provides additional, non-directive counseling before the procedure itself).

15. In 2019, LRFP provided approximately 1,950 abortions, 1,725 of which were surgical procedures. Of those, nearly half were provided to women beyond 10 weeks LMP for whom medication abortion would not have been an option. From January through March 2020, LRFP provided 526 abortions, 478 of which were surgical procedures, 226 of which were beyond the 10-week cut off for medication abortion care.

16. It is common for a woman who can choose between a medication and surgical abortion (i.e., a woman who is less than 10 weeks LMP) to have a strong preference for a surgical abortion. Although there are many reasons for this (and other women have a strong preference for medication abortion), many women prefer the surgical option because it is shorter in duration, and women are generally able to return to work and other responsibilities shortly afterwards. Other women may have a pre-existing medical condition (e.g., anemia, low hemoglobin or blood-clotting disorders) that makes having a medication abortion contraindicated.

17. LRFP is the only abortion clinic in Arkansas that offers surgical abortions.

18. Surgical abortion does not require extensive personal protective equipment ("PPE"). For the State-mandated ultrasound that must be performed before every abortion, we use only non-sterile gloves. For the procedure itself, the physician uses sterile gloves (one pair per procedure), and a surgical mask (worn throughout the day); the assistant uses only a surgical mask (also worn throughout the day) and gloves. When necessary, LRFP uses reusable gowns and reusable eyewear.

19. While LRFP's patients generally seek abortion as soon as they are able to, a multitude of logistical obstacles cause many of our patients to experience delay in their ability to access abortion care. For example, a substantial percentage of our patients are poor or have low-incomes, and struggle to raise the finances needed to obtain abortion care. Moreover, as the patient's gestational age increases, so does the cost of getting an abortion, which can further prolong her access to care. Some of our patients face issues with unsupportive or abusive partners, or a lack of access to medical care to confirm the pregnancy. Some patients, particularly those who are younger or have irregular periods, may not recognize that they are

pregnant right away. Others may experience difficulties navigating the medical system, including finding a provider and scheduling an appointment.

20. Based on my counseling conversations with patients, I know that the time, money and effort required to make the necessary plans to come to LRFP cause anxiety and stress, which would only be exacerbated by further travel and logistical arrangements. The need to arrange for time off work on multiple days can be very challenging, and many LRFP patients are in low-wage jobs where they likely do not receive vacation or sick days. Taking time off means less pay, which is extremely burdensome for many lower-income women who struggle to raise the funds for abortion care. These women also routinely report that they risk their employment and confidentiality by asking for time off. Patients who already have children must typically arrange and potentially pay for childcare during the time they are traveling to the clinic and receiving care. Patients must also arrange and pay for transportation, which presents a major challenge in rural Arkansas. There are few public-transportation options, and rural residents often live far away from health-care providers.

21. The mandated delays imposed by Arkansas law compound the challenges that women face in obtaining abortion care. Arkansas law forces patients to delay their abortions for at least 72 hours after receiving State-mandated in-person counseling. Similarly, Arkansas law requires that an unemancipated minor patient obtain either parental consent or a judicial order excusing them of that requirement before they can receive abortion care. For those that choose to involve a parent, negotiating a time when a parent (who may have work and other obligations) can accompany them to the clinic may delay them from accessing care. And for those who cannot involve a parent, navigating the judicial system in order to obtain the required order waiving Arkansas's consent requirement likewise causes them to delay their abortion.

22. Every day that one of our patients remains pregnant, she experiences additional financial, emotional, and physical consequences. For example, as a pregnancy progresses, the costs associated with abortion care increase. An abortion performed prior to 11 weeks LMP typically costs around $700, whereas abortion care nearing 21 weeks LMP can cost nearly three times that much in view of the relative complexity of the procedure. Thus, forcing a woman to delay her abortion may push a patient past the point at which she is able to afford care. And while abortion is one of the safest medical procedures currently available, the risks associated with the procedure increase as the pregnancy progresses. Delay may also worsen any health conditions that either pre-exist the pregnancy or are brought on by the pregnancy. Delay can likewise affect the type of abortion a patient can receive, such as by forcing a patient who would have received an aspiration abortion (available up to approximately 13 weeks LMP) to undergo a D&E abortion (available up to 21.6 weeks LMP). If pushed past 18 weeks LMP, delay will also likely require a patient to visit the clinic an additional time on the day before the procedure to dilate her cervix, further exacerbating the challenges discussed above. And delay can push a patient beyond the point at which abortion is available in the State (i.e., 21.6 weeks LMP), and prevent her from accessing abortion care at all, thereby forcing her to carry to term against her will.

Arkansas's COVID-19-Related Actions
With Regard To Abortion Care, and LRFP's Response

23. In recent months, governments around the world have implemented orders and directives relating to the public-health crisis arising from the spread of COVID-19. In Arkansas, the Arkansas Department of Health ("ADH") issued a guidance letter on March 21, 2020 relating

to elective surgeries.[2] The stated goals were to "preserve staff, personal protective equipment (PPE), and patient care supplies; ensure staff and patient safety; and expand available hospital capacity during the COVID-19 pandemic."[3] The ADH's guidance letter recommended that "[p]rocedures … that can be safely postponed shall be rescheduled to an appropriate future date" but stated that "time-sensitive care will continue."[4] The ADH's guidance exempted "small rural hospitals under 60 beds," and circumstances that would increase the "threat to the patient's life if the procedure is not performed," risk of "progression of staging of a disease or condition if surgery is not performed," or "there is a risk that the patient's condition will rapidly deteriorate if surgery is not done."[5]

24. The ADH's guidance was reiterated in another letter issued on March 30, 2020.[6]

25. In the meantime, beginning in mid-March 2020, LRFP began to put in place measures to protect its patients and staff by reducing the spread of infection while ensuring that patients in need of time-sensitive abortion care could continue to access our services. LRFP determined that it would cease providing basic gynecological care—i.e., pap smears, STD testing, and contraceptive counseling and services—and that, where possible and permitted by law, prescriptions would be administered over the phone. LRFP also began performing enhanced telephonic and in-person screening of patients for COVID-19 symptoms, and

[2] A copy of the ADH's March 21, 2020 guidance letter is accessible at https://www.healthy.arkansas.gov/images/uploads/pdf/Elective_Surgery_Guidance_3.21.20final.pdf

[3] *Id.*

[4] *Id.*

[5] *Id.*

[6] A copy of the ADH's March 30, 2020 guidance letter is accessible at https://www.healthy.arkansas.gov/images/uploads/pdf/ADH_elective_procedures_letter.pdf

staggering patient appointment times to reduce the number of patients at the facility at any given time, minimizing possibilities for exposure.

26. LRFP then expanded upon and formalized these precautions in its April 2, 2020 COVID-19 Response Protocol ("LRFP Protocol").[7] That protocol sets forth detailed information about (1) postponement of LRFP services for which delay would not risk harm to the patient (i.e., certain gynecological care); (2) screening patients for symptoms of infection, both telephonically and on site; (3) staggering appointment times in order to minimize in-person contact and shorten the time patients spend in clinical space; (4) spacing individuals at least 6 feet apart in waiting areas to comply with the State's and CDC's "social distancing" guidelines; (5) limiting visitors and support people by requiring that they sit in cars or return home until patients are ready to be picked up; (6) performing temperature checks on all individuals entering the building (including staff); and (7) enhancing infection control protocols with frequent clinic sanitization and education of patient etiquette.[8] Given these changes, LRFP has only 6-8 patients in the waiting area at any given time, patients undergoing treatment are in individual rooms, and patients are never within 6 feet of each other, including during recovery. In addition, and where applicable, LRFP counsels its patients to seek care at a clinic closer to their home in order to minimize the patient's travel and risk of exposure during the COVID-19 pandemic.

27. The LRFP Protocol also states that "LRFP is aware of the PPE shortage our healthcare system is currently facing," and "is committed to using only the PPE that is necessary to protect [its] patients and staff."[9] As explained above, neither LRFP, nor abortion care in

[7] Ex. 1.

[8] *Id.*

[9] *Id.*

general, requires extensive PPE. LRFP is self-sustaining in terms of PPE for the next several months, and is prepared to switch to cloth/reusable masks should it become necessary. LRFP placed an order for additional PPE through NAF earlier this month, but that order has not yet been filled. LRFP has no intention of utilizing any State PPE stockpiles or resources.

28. At LRFP, the use of N-95 masks, the PPE that appears to be in shortest supply in battling the COVID-19 pandemic, is limited to two staff members who self-sourced their masks and have underlying conditions or live with someone who does. Likewise, because all our procedures are performed in our own outpatient facility, we are not using any hospital resources that may be needed for COVID-19 response—no hospital staff or supplies, no hospital beds (let alone ICU beds), and no ventilators.

29. LRFP is adhering rigorously to the LRFP Protocol in order to protect its patients and staff, and to aid in decreasing the spread of COVID-19.

30. On April 1, 2020, representatives from the ADH twice called LRFP to inquire about what the clinic was doing to reduce non-essential services, preserve PPE, and protect against the spread of COVID-19. On both occasions, I summarized the practices outlined in the LRFP Protocol discussed above. At no point during either conversation did the ADH representatives suggest that LRFP was not complying with the State's elective-surgery guidance, and on April 1, 2020, LRFP received a letter confirming our compliance with "applicable provisions of the Rules and Regulations for Licensure."[10]

31. On April 3, 2020, the ADH issued a Directive reiterating the goals and instructions from the ADH's March 21, 2020 guidance (the "April 3 ADH Directive").[11] When

[10] Ex. 2.

[11] A copy of the April 3 ADH Directive is available at www.healthy.arkansas.gov/images/uploads/pdf/Elective_Procedure_Directive_April_3.pdf.

Governor Asa Hutchinson was asked about the April 3 Directive during an April 6, 2020 press conference, State Health Director Dr. Nate Smith explained that it is "not intended to replace a physician's judgment," and reiterated that the April 3 Directive encompasses only procedures that can "be safely deferred."[12] At no point during the conference did the Governor or Dr. Smith suggest that surgical abortion is not permissible under the April 3 Directive.

32. On April 4, 2020, by Executive Order 20-13, Governor Asa Hutchinson declared the State of Arkansas "a disaster area."[13] He declined, however, to issue a stay-home order to all Arkansas residents,[14] and all businesses, manufacturers, construction companies, and places of worship in the State are open and operational so long as they adhere to certain social-distancing guidelines.[15] The Executive Order also states that a violation of a directive from the Secretary of Health "is a misdemeanor offense, and upon conviction thereof is punishable by a fine of not less than one hundred ($100) nor more than five hundred dollars ($500) or by imprisonment not exceeding one (1) month, or both."[16]

33. There are on-site protestors at LRFP nearly every day that we provide women with care. Between April 4 and 10, 2020, however, the harassment and intimidation from on-site

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[12] Channel for Gov. Asa Hutchinson, *Governor Hutchinson Provides COVID-19 Update*, YouTube (Apr. 6, 2020), https://www.youtube.com/watch?v=KS2Kb4V8U3I.

[13] *See* Executive Order To Amend Executive Order 20-03 Regarding The Public Health Emergency Concerning COVID-19 For The Purpose Of Imposing Further Restrictions To Prevent The Spread Of COVID-19 ("EO 20-13"), *available at* https://governor.arkansas.gov/images/uploads/executiveOrders/EO_20-13._.pdf. EO 20-13 supersedes the Directives set out in two prior Executive Orders: EO 20-03, issued March 11, 2020, and EO 20-10, issued March 26, 2020.

[14] *Arkansas Gov. Asa Hutchinson on why he hasn't issued a stay-at-home order* (Apr. 8, 2020) *available at* https://www.pbs.org/newshour/show/arkansas-gov-asa-hutchinson-on-why-he-hasnt-issued-a-stay-at-home-order.

[15] *See* EO 20-13.

[16] *Id.*

protestors significantly increased. During that period, protestors summoned the police to the clinic on two occasions. And on Friday, April 10, 2020, a crowd of roughly 15 protestors gathered outside LRFP—none of whom abided by the State's social-distancing guidelines—to harass the clinic's staff and patients, and post pictures of their cars and license plates online. I am also aware of social-media complaints directed at the clinic beginning in March 2020, including some specifically requesting action by the Governor and state legislators to stop the provision of abortion care. For example, on March 29, 2020, state senator Trent Garner announced in a tweet that he had "asked the Governor to [ban abortions] in Arkansas …. We shouldn't expose women to the risk of the Wuhan COVID-19 virus for an unnecessary elective procedure, and we could save the unborn babies."[17]

34. On April 7, 2020, ADH inspectors performed an unannounced in-person inspection at LRFP. At no point during the inspection, which occurred on a day during which both surgical and medication abortions were provided, did the ADH representatives suggest that LRFP was not complying with the State's April 3 Directive.

35. On April 8, 2020, the Governor gave an interview to PBS during which he discussed Arkansas's "targeted" approach to managing risks relating to COVID-19. When asked whether he thinks "that by not requiring or ordering people to stay home, unless they have to be out, is not putting other people at risk," the Governor responded "No."[18] He elaborated that "as long as they do what they're supposed to do, which is social distance, wear a mask when

[17] *E.g.*, Ex. 3.

[18] *Arkansas Gov. Asa Hutchinson on why he hasn't issued a stay-at-home order* (Apr. 8, 2020) *available at* https://www.pbs.org/newshour/show/arkansas-gov-asa-hutchinson-on-why-he-hasnt-issued-a-stay-at-home-order.

you're out, this accomplishes the purpose."[19] The Governor further said that currently in the State, there are "a lot of hospitals that are empty right now and health care workers that are empty," presumably meaning that they are available to provide care.[20]

36. On April 9, 2020, the Governor and Dr. Smith were asked at a press conference if "elective surgeries" are still permitted in the State, and Dr. Smith responded that judgments at surgical centers would be left primarily to the providers.[21] At no point during the conference did the Governor or Dr. Smith suggest that surgical abortion care is not permissible under the April 3 Directive.[22]

37. Around 10am CST, on April 10, ADH inspectors hand delivered a cease-and-desist order to LRFP (the "C&D Order").[23] It stated that the April 7 inspection "did not reveal any deficiencies with respect to the rules for abortion facilities in Arkansas," but that LRFP was "in violation of the April 3, 2020 Arkansas Department of Health Directive on Elective Surgeries."[24] The C&D Order stated that the April 3 Directive "mandates the postponement of all procedures that are not immediately medically necessary during the COVID-19 emergency," and thus, according to ADH, the "prohibition applies to surgical abortions that are not immediately necessary to protect the life or health of the patient."[25] The C&D Order ordered LRFP to "immediately cease and desist the performance of surgical abortions, except where

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[19] *Id.*

[20] *Id.*

[21] Channel for Gov. Asa Hutchinson, *Governor Hutchinson Provides COVID-19 Update*, YouTube (Apr. 9, 2020), https://www.youtube.com/watch?v=Kg-qMqmycAM.

[22] *Id.*

[23] Ex. 4.

[24] *Id.*

[25] *Id.*

immediately necessary to protect the life or health of the patient."[26] The C&D Order also stated that "[a]ny further violations of the April 3 Directive will result in an immediate suspension of [LRFP's] license."[27]

38. On April 10, LRFP was scheduled to provide surgical-abortion care to 8 patients whom LRFP had to turn away, including one patient at 17 weeks LMP. These patients were devastated and extremely frightened about what the C&D Order meant for their ability to access care.

39. Later on April 10, the Governor and Dr. Smith held a press conference regarding COVID-19.[28] Dr. Smith admitted that he "can't say with certainty" how long the C&D Order against LRFP will be in place, and when a reporter pressed a question regarding whether the C&D Order means that "some of [the women who would otherwise visit LRFP] are going to have a baby," the Governor responded by asking "Is there a question remotely"?[29]

40. LRFP has 26 patients scheduled to receive surgical abortion care the week of April 13, 2020, including:

- 12 who are more than 10 weeks LMP (i.e., patients who are not candidates for a medication abortion, assuming it is not contraindicated);
- 8 who are more than 12 weeks LMP, and will soon require a D&E instead of an aspiration abortion to terminate their pregnancy if their abortion is delayed; and
- 3 who are more than 17 weeks LMP, and will soon require a two-day procedure

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[26] *Id.*

[27] *Id.*

[28] Channel for Gov. Asa Hutchinson, *Governor Hutchinson Provides COVID-19 Update*, YouTube (Apr. 10, 2020), https://www.youtube.com/watch?v=X2v1SIesdyc.

[29] *Id*.

instead of a one-day procedure, and in short order be past Arkansas's legal limit for abortion care.

COVID-19 And The Abortion-Care Recommendations Of Leading Medical Organizations

41. The continuation of abortion care—including surgical abortion care—alongside measures to protect patients and the public in view of COVID-19—is consistent with the recommendations of leading medical organizations. As ACOG and other well-respected medical professional organizations have observed, abortion "is an essential component of comprehensive health care" and "a time-sensitive service for which a delay of several weeks, or in some cases days, may increase the risks [to patients] or potentially make it completely inaccessible." ACOG et al., *Joint Statement on Abortion Access During the COVID-19 Outbreak* ("ACOG Statement").[30]

42. The conclusion of these leading health care authorities is that abortion cannot be classified as non-urgent or non-essential care during the COVID-19 outbreak:

> To the extent that hospital systems or ambulatory surgical facilities are categorizing procedures that can be delayed during the COVID-19 pandemic, *abortion should not be categorized as such a procedure*. Abortion is an essential component of comprehensive health care. It is also a *time-sensitive service for which a delay of several weeks, or in some cases days, may increase the risks or potentially make it completely inaccessible*. The consequences of being unable to obtain an abortion profoundly impact a person's life, health, and well-being.[31]

43. On April 4, 2020, the World Health Organization ("WHO") issued a similar statement concluding that "[a]bortion is considered an essential service during the coronavirus

[30] Ex. 5. *Available at* https://www.acog.org/news/news-releases/2020/03/joint-statement-on-abortion-access-during-the-covid-19-outbreak.

[31] *Id*.

pandemic" and that "services related to reproductive health are considered to be part of essential services during the COVID-19 outbreak."[32]

44. The American Medical Association ("AMA")—the country's largest medical organization and one of its foremost authorities on medical and public health matters—concurs with this conclusion. The AMA's March 30, 2020 *Statement on Government Interference in Reproductive Health Care* disapproves of efforts "to ban or dramatically limit women's reproductive health care" during the COVID-19 outbreak by "labeling procedures as 'non-urgent.'"[33]

45. The national Ambulatory Surgical Center Association similarly issued guidance on March 19, 2020, which states that consideration of whether delay of a surgery is appropriate must account for the risk to the patient of delay, which in the context of the current pandemic includes "the expectation that a delay of 6-8 weeks or more may be required to emerge" into an environment with less COVID-19 prevalence.[34] A delay of 6-8 weeks (and in many instances a far shorter delay) would prevent many of our patients from obtaining abortions altogether, and would subject others to enhanced medical risk. For example, in the first three months of 2020, LRFP has provided abortion care to approximately 59 patients at and after 16 weeks LMP. A delay of 6 weeks would have pushed all of them past the point when abortion is legal in Arkansas, blocking all of them from being able to obtain an abortion here at all. And there is, of course, as Dr. Smith noted during the April 10, 2020 press conference, no assurance that the COVID-19 Abortion Ban will be lifted within a 6- to 8-week period.

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[32] A summary of the WHO's statement is accessible at https://dailycaller.com/2020/04/04/who-abortion-essential-coronavirus-covid-19/.

[33] Ex. 6.

[34] Ex. 7.

The Effect of the COVID-19 Abortion Ban On LRFP and Its Patients

46. COVID-19 only exacerbates the above-described challenges that women already face in obtaining abortion care in this State. As a result of COVID-19, patients have been laid off work or furloughed, rendering the financial costs of accessing and paying for abortion care even more daunting. Because the outbreak has also led to school closures throughout Arkansas, patients with childcare obligations face even greater obstacles in accessing care. And due to the limited number of persons able to congregate in one place, public transit companies like Ozark have capped the number of people on any bus to 10—i.e., 9 passengers and the driver.[35] Restrictions like these further intensify the struggle of accessing care for all patients.

47. Many women therefore may not be able to make the logistical and financial arrangements necessary to arrive at LRFP for care before 10 weeks LMP and obtain a medication abortion (assuming that the procedure is not contraindicated). Those women will be forced to attempt to travel substantial distances amid a public health crisis to attempt to obtain care. This is no small feat. For example, on Friday, April 10, 2020, LRFP was forced to turn away a surgical abortion patient at 17 weeks LMP. To the best of my knowledge, the next-nearest clinic currently providing care up to 21.6 weeks LMP is in Granite City, Illinois, which is more than 700 miles (roundtrip) from Little Rock, Arkansas. To the best of my knowledge, a clinic in Shreveport, Louisiana (a 420-mile roundtrip drive from Little Rock, Arkansas, and more than 600-miles roundtrip from Fayetteville, Arkansas, where many of our patients live) is continuing to provide care up to 16.6 weeks LMP. I am, however, aware of continuing threats against Louisiana abortion providers, and the clinic may not continue to provide care long

[35] *See* Ozark Regional Transit, *available at* https://www.ozark.org/.

term.[36] Given the substantial distances one must travel from Arkansas to obtain surgical abortion care, some women will be unable to obtain care outside Arkansas at all, and will be forced to carry to term against their will.

48. Without knowing how long the COVID-19 Abortion Ban will last, it is impossible to estimate how many women will lose their ability to abortion care as a result. As stated, women whose pregnancies exceed 21.6 weeks LMP during the ban will necessarily lose their right to access care under Arkansas law. Additionally, women who do not exceed 21.6 weeks LMP during the Ban's pendency may nonetheless lose access to abortion care as a result of a backlog in abortion procedures not performed while the Ban is in place. LRFP's capacity to see surgical abortion patients is approximately 20 to 25 patients per day. Thus, for each day that the COVID-19 Abortion Ban remains in effect, roughly two dozen women that would have otherwise received care are added to an ever-growing "waitlist" that will far exceed LRFP's immediate capacity.

49. Providing pregnant women with immediate access to abortion care is more critical now in the face of this pandemic. Every day that one of our patients remains pregnant, she not only experiences emotional and physical consequences, but also risks contracting the COVID-19 virus, jeopardizing her ability to visit a clinic and receive time-sensitive care. In addition, the longer a woman is forced to remain pregnant—and especially if forced to carry a pregnancy to term—the heavier a burden she becomes on an already threatened healthcare system. Pregnant women need continuing prenatal care consisting of regular hospital visits, medical attention, and increased use of PPE, all of which increase her exposure to COVID-19 and contradict social

[36] Gov. Edwards Confirms Investigation of Louisiana Abortion Clinics For Coronavirus Shutdown Violations (Apr. 9, 2020), *available at* https://www.wwno.org/post/gov-edwards-confirms-investigation-louisiana-abortion-clinics-coronavirus-shutdown-violation.

distancing guidelines. Eventually, these patients will go into labor and give birth, requiring hospital rooms, hospital beds, more attention from medical professionals, and of course, *more* PPE.

50. In short, enforcement of the COVID-19 Abortion Ban would be devastating, with life-altering consequences for the women and families who come to us in a time of need (e.g., forcing a woman to carry an unwanted pregnancy to term). It would also be an untenable situation for the physicians and staff at LRFP, including myself, who are dedicated to providing compassionate and nonjudgmental health care to our patients.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of April, 2020.

Lori Williams, M.S.N., A.P.R.N.

EXHIBIT 1

LRFP's Precautions and Protocols in Response to COVID-19 Pandemic[1]

LRFP's patients, visitors, and staff are our highest priority. We are working hard to reduce and prevent the spread of COVID-19 and protect the health and safety of our patients and staff by implementing the following protective measures consistent with the recommendations set forth by the CDC, Arkansas Department of Health and other professional medical organizations and public health authorities:

Patient and Staff Screening:

Prior to scheduling an appointment and upon arrival at LRFP, all individuals are asked the following screening questions:

- Do you have a fever (99.5 degrees or greater), cough, shortness of breath, sore throat, nausea, diarrhea, or fatigue not associated with pregnancy?
- Have you been in contact with someone who has these symptoms or has tested positive for COVID-19?
- Have you traveled outside the United States in the last 21 days?

Patients who answer YES to any of the above questions are instructed to return to their car and call the front desk. A member of the LRFP staff will then provide each such patient with individualized instructions based on their needs and circumstances.

Staff are also required to report any contact with an individual known or suspected to have COVID-19, and must immediately report to the MD or APRN if they experience a cough or any combination of symptoms listed above. Any staff member with suspected symptoms will be referred to the University of Akansas for Medical Sciences (UAMS) for screening. If tested, they will not be permitted to work until a negative test is confirmed. If the staff member tests positive, they will not be permitted to return to LRFP until 2 negative tests are confirmed, or at least 72 hours after resolution of symptoms.

[1] The precautions and protocols described herein are not intended to be exhaustive and are consistently changing in order to best respond to the evolving COVID-19 pandemic.

Temperature Check:

Every individual (including staff) entering LRFP must undergo a temperature check upon arrival. If an individual's temperature is confirmed to be greater than 99.5, an MD or APRN will be immediately notified.

Postponement of Services:

We have evaluated the services and procedures offered by LRFP and have postponed any that are not time-sensitive and for which delay would not risk harm to the patient.

Social Distancing:

The CDC recommends that individuals "socially distance" themselves, which is defined as 6 feet distance from other individuals. As a result, patient appointments will be staggered to decrease the number of persons in the clinic and waiting area at any given time. Patients will also be spaced at least 6 feet from one another while seated in the waiting area. In addition, all LRFP staff and healthcare professionals will work efficiently to discharge patients as soon as medically appropriate to shorten the overall time patients spend in our clinic.

Visitor Policy:

LRFP is limiting the visitors/support people that may accompany patients. Only patients will be admitted into the building at this time. Support people may wait outside, sit in their cars, or return home until patients are ready for pickup. Essential support people (e.g., parents of minors) are permitted but must follow "social distancing" practices in the waiting area. Should it become necessary, LRFP may ask patients to wait in their cars until they can be seen by a healthcare professional.

Cleaning and Infection Control:

- Consultation rooms are thoroughly cleaned and disinfected between each patient.
- Bathrooms, waiting areas, and "high-touch" surfaces (door handles, counseling pages, pens, chairs, tables, etc.) are thoroughly cleaned and sanitized frequently.
- Chairs are spread out to ensure patients can appropriately socially distance themselves in the waiting area.

- All books, magazines, toys, and other items regularly displayed in the waiting areas have been removed.
- All persons entering the building are required to hand sanitize.
- Hand sanitizer is accessible to all patients for use while at the clinic and upon departure.
- Patients are encouraged to practice appropriate cough and tissue disposal etiquette.

Preservation of Personal Protective Equipment (PPE):

LRFP is aware of the PPE shortage our healthcare system is currently facing. In order to aid in combatting this shortage, LRFP is committed to using only the PPE that is necessary to protect our patients and staff. LRFP does not utilize the N-95 respirators (masks) that are critical for first responders fighting COVID-19.

We are all in this together. LRFP is in close communication with various agencies and organizations to stay on top of the evolving COVID-19 situation. For more information on how to protect yourself, please visit the CDC website: https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html

EXHIBIT 2

Arkansas Department of Health

5800 West Tenth St. Suite 400 • Little Rock, Arkansas 72204 • Telephone (501) 661-2201
Governor Asa Hutchinson
Nathaniel Smith, MD, MPH, Secretary of Health

April 1, 2020

Lori Williams, Administrator
Little Rock Family Planning Services, PLLC
#4 Office Park Drive
Little Rock, AR 72211

RE: Licensure Abortion Clinic Complaint Survey
Conducted 04/01/2020

Dear Ms. Williams:

Little Rock Family Planning Services, PLLC is considered to be in compliance with applicable provisions of the Rules and Regulations for Licensure. We appreciate the cooperation of the facility staff during the survey.

If you have any questions, please call (501) 661-2201.

If we may be of assistance at any time, please call (501) 661-2201.

Sincerely,

Becky Bennett

Becky Bennett, Section Chief
Health Facility Services
Arkansas Department of Health

/LS

EXHIBIT 3

Trent Garner For Senate
@Garner4Senate

I asked the Governor to do this in Arkansas last week. We shouldn't expose women to the risk of the Wuhan COVID-19 virus for an unnecessary elective procedure, and we could save the unborn babies lives. #arpx #arleg #ARNews lifenews.com/2020/03/27/okl…

Oklahoma Gov Orders Abortion Businesses…
Add Oklahoma to the list of states where the governor has made it clear that abortion businesses must stop kiling babies in abortions
lifenews.com

♡ 8 9:28 AM - Mar 29, 2020

See Trent Garner For Senate's other Tweets

EXHIBIT 4

Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000
Governor Asa Hutchinson
Nathaniel Smith, MD, MPH, Secretary of Health

April 10, 2020

Little Rock Family Planning
4 Office Park Dr.
Little Rock, AR 72211

RE: Healthcare Facility Complaint Survey
Conducted April 7, 2020

Dear Administrator:

We recently completed an unannounced investigation of your facility following the receipt of a complaint. The investigation was conducted on April 7, 2020, by personnel from Health Facility Services and included a review of medical records and facility staff interviews.

That investigation did not reveal any deficiencies with respect to the rules for abortion facilities in Arkansas.

However, your facility is in violation of the April 3, 2020 Arkansas Department of Health Directive on Elective Surgeries. That directive was posted on the ADH's website on April 3, 2020, and a copy was mailed to your facility on Monday, April 6, 2020. The April 3 Directive mandates the postponement of all procedures that are not immediately medically necessary during the COVID-19 emergency. That prohibition applies to surgical abortions that are not immediately necessary to protect the life or health of the patient.

Your facility was found to be performing surgical abortions that are not immediately necessary to protect the life or health of the patient, and your facility is therefore in violation of the April 3 Directive. Your facility is required to postpone such procedures until after the COVID-19 emergency has ended and the April 3 Directive is withdrawn.

Accordingly, your facility is ordered to immediately cease and desist the performance of surgical abortions, except where immediately necessary to protect the life or health of the patient. Any further violations of the April 3 Directive will result in an immediate suspension of your facility's license.

Sincerely,

Becky Bennett

Becky Bennett
Section Chief, Health Facility Services

EXHIBIT 5

Categories

Clinical
Medical Education News
Membership and Fellowship
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Sources

News Releases
President's Blog

Clinical | Mar 18, 2020

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Joint Statement on Abortion Access During the COVID-19 Outbreak

The American College of Obstetricians and Gynecologists and the American Board of Obstetrics & Gynecology, together with the American Association of Gynecologic Laparoscopists, the American Gynecological & Obstetrical Society, the American Society for Reproductive Medicine, the Society for Academic Specialists in General Obstetrics and Gynecology, the Society of Family Planning, and the Society for Maternal-Fetal Medicine, released the following statement:

"As hospital systems, clinics, and communities prepare to meet anticipated increases in demand for the care of people with COVID-19, strategies to mitigate spread of the virus and to maximize health care resources are evolving. Some health systems, at the guidance of the CDC, are implementing plans to cancel elective and non-urgent procedures to expand hospitals' capacity to provide critical care.

"While most abortion care is delivered in outpatient settings, in some cases care may be delivered in hospital-based settings or surgical facilities. To the extent that hospital systems or ambulatory surgical facilities are categorizing procedures that can be delayed during the COVID-19 pandemic, abortion should not be categorized as such a procedure. Abortion is an essential component of comprehensive health care. It is also a time-sensitive service for which a delay of several weeks, or in some cases days, may increase the risks or potentially make it completely inaccessible. The consequences of being unable to obtain an abortion profoundly impact a person's life, health, and well-being.

"The American College of Obstetricians and Gynecologists and the American Board of Obstetrics & Gynecology, together with the American Association of Gynecologic Laparoscopists, the American Gynecological & Obstetrical Society, the American Society for Reproductive Medicine, the Society for Academic Specialists in General Obstetrics and Gynecology, the Society of Family Planning, and the Society for Maternal-Fetal Medicine, do not support COVID-19 responses that cancel or delay abortion procedures. Community-based and hospital-based clinicians should consider collaboration to ensure abortion access is not compromised during this time."

Topics: Coronavirus | COVID-19 | Delivery of health care | Health services accessibility | Induced abortion | Medical societies | Obstetric surgical procedures | Organizations | Virus diseases | Women's health services

Latest Clinical News

ACOG Releases Updated Guidance on Exercise in Pregnancy and Postpartum, Includes Recommendations for Athletes
Mar 26, 2020

Joint Statement on Elective Surgeries
Mar 16, 2020

ACOG Updates on Novel Coronavirus Disease 2019 (COVID-19)
Mar 6, 2020

ACOG Statement on "Virginity Testing"
Nov 7, 2019

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EXHIBIT 6

AMA STATEMENTS

AMA statement on government interference in reproductive health care

MAR 30, 2020

Statement attributed To:
Patrice A. Harris, M.D., M.A.
President, American Medical Association

"While many physicians and health care workers are on the front lines in the COVID-19 pandemic, it is unfortunate that elected officials in some states are exploiting this moment to ban or dramatically limit women's reproductive health care, labeling procedures as 'non-urgent.'

"The AMA will always defend shared decision making and open conversations between patients and physicians, and fight government intrusion in medical care. At this critical moment and every moment, physicians – not politicians – should be the ones deciding which procedures are urgent-emergent and need to be performed, and which ones can wait, in partnership with our patients."

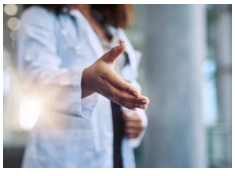
Media Contact:

AMA Media & Editorial
ph: (312) 464-4430
media@ama-assn.org

About the American Medical Association

The American Medical Association is the physicians' powerful ally in patient care. As the only medical association that convenes 190+ state and specialty medical societies and other critical stakeholders, the AMA represents physicians with a unified voice to all key players in health care. The AMA leverages its strength by removing the obstacles that interfere with patient care, leading the charge to prevent chronic disease and confront public health crises and, driving the future of medicine to tackle the biggest challenges in health care.

AMA Press Center | Coronavirus (COVID-19) | Female Population Care



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COVID-19 front line: Mount Sinai keeps physician well-being in focus

PUBLIC HEALTH

COVID-19: Rebalancing your staff workload to meet care needs

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EXHIBIT 7

COVID-19: Guidance for ASCs on Necessary Surgeries

Updated March 19, 2020

In response to government guidance that hospitals and ambulatory surgery centers postpone elective surgeries during the COVID-19 pandemic, the Ambulatory Surgery Center Association (ASCA) has consulted with clinical leaders to solicit recommendations on how and when facilities should proceed with cases that, for clinical reasons, should not be postponed. A surgery may be deemed urgent and necessary if the treating physician decides that a months-long delay would increase the likelihood of significantly worse morbidity or prognosis for the patient.

First and foremost, if a procedure can be safely postponed without additional significant risk to the patient, it should be delayed until after the pandemic. The current and ongoing efforts to isolate our population and create social distancing are essential steps in saving lives by shortening and ultimately ending the COVID-19 pandemic. The health and safety of patients, along with preventing the spread of COVID-19, must be our highest priority. We concur with the American College of Surgeons that “the risk to the patient should include an aggregate assessment of the real risk of proceeding and the real risk of delay, including the expectation that a delay of 6–8 weeks or more may be required to emerge from an environment in which COVID-19 is less prevalent.”

Physicians should engage with patients and families to make care decisions that minimize potential risks to patients while ensuring they receive necessary care that cannot be safely delayed. Physicians should consider the potential of post-surgical complications that could place stress on the local hospital that may lack capacity for transfers. To that end, facilities should reach out to local hospitals to establish a line of communication that ensures coordination in managing care during the pandemic.

In addition, ASCs should develop explicit controls on how to manage the infection risks of all non-patient visitors (patient caregivers, vendors, contractors, etc.) who present themselves inside the facility and should strictly prohibit all non-essential visitors. Additional social distancing policies should be employed.

Examples of cases that might still need to proceed with surgery at this time include:

- Acute infection
- Acute trauma that would significantly worsen without surgery
- Potential malignancy
- Uncontrollable pain that would otherwise require a hospital admission
- A condition where prognosis would significantly worsen with a delay in treatment

Also, ambulatory surgery centers need to be prepared for the possibility that the pandemic may proceed to a point that strains the system such that hospitals will need to shift necessary surgeries to ASCs and/or ASCs and their resources will be required to serve the communities and the healthcare system in a different capacity. Additional guidance from regulatory agencies would govern those situations.

Finally, facilities need to recognize that the pandemic and its impact could create situations when ASCs may need to temporarily suspend services, such as:

- When a patient, staff or physician who has been in the ASC is suspected or subsequently diagnosed with COVID-19
- When there is a significant shortage of PPE (masks, gowns, gloves, etc.) that prevents safe practice of surgical cases

Clearly, this is an evolving situation and the coming days and weeks will present different challenges for healthcare facilities, such as ASCs, to grapple with as the COVID-19 pandemic runs its course. As they occur, the ambulatory surgery community will continue to work with federal, state and local health policy leaders to protect and preserve the health of the public during this crisis.