

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI

JACKSON WOMEN’S HEALTH)
ORGANIZATION, on behalf of itself and its)
patients,)

and)

WILLIE PARKER, M.D., M.P.H., M.Sc., on)
behalf of himself and his patients,)

Plaintiffs,)

v.)

CIVIL ACTION # _____

DR. MARY CURRIER, in her official)
capacity as State Health Officer of the)
Mississippi Department of Health,)

and)

ROBERT SHULER SMITH, in his official)
capacity as District Attorney for Hinds)
County, Mississippi,)

Defendants.)

**DECLARATION OF SHANNON BREWER-ANDERSON IN SUPPORT OF
PLAINTIFFS’ MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR
PRELIMINARY INJUNCTION**

I, Shannon Brewer-Anderson, declare under penalty of perjury that the following statements are true and correct:

1. I am the Director at Jackson Women’s Health Organization (the “Clinic”) and have been since 2010. The Clinic is a free-standing reproductive health care facility that offers

abortion care through 16 weeks of pregnancy, as calculated by the first day of a woman's last menstrual period. In addition, it provides patients with comprehensive family planning services, such as pregnancy testing and contraception counseling and distribution.

2. As Director, I am responsible for all aspects of the Clinic's operation, including its interactions with the Mississippi Department of Health regarding the Clinic's license. I have been working at the Clinic since 2001. Before becoming Director, I held several different roles, including scrub technician, assisting in the operating room, and serving as the Assistant to the previous Director.
3. When I initially started working at the Clinic, there were three abortion clinics in the State of Mississippi. Over the years, the other two facilities closed. To the best of my knowledge, the Clinic is currently—and for seven years has been—the only option for women seeking abortions in Mississippi. Even if there is any hospital that allows women to obtain an abortion, I believe it is only under extremely limited circumstances such as when the woman's life is at risk. Thus, if the Clinic closed down, I believe its patients would not have anywhere else to go for an abortion in Mississippi.
4. The Clinic provides high quality care to women from around the state and even some from outside Mississippi. The Clinic provided abortions to approximately 2,000 women in 2011. It has provided abortions to approximately 1,100 women so far this year.
5. The Clinic has been continuously licensed by the Department of Health as an abortion care facility ever since Mississippi law first required licensure of health care facilities that provide abortion care. Moreover, the Clinic was found in full compliance with all state

law and regulations during its most recent inspection by the Department of Health on June 18, 2012.

6. While abortions, like all medical procedures, carry risks, the risks associated with abortion are extremely low. Regardless, the Clinic takes exceptional measures to protect the health and safety of its patients in emergency situations. Every patient is given a number to the Clinic and after hour nurses, so they are able to call someone at any time if they experience any complications.
7. The safety record at the Clinic has been impeccable. Indeed, since the most recent owner took over in 2010, the Clinic has had no major incidents, nor has a single patient required admittance to the emergency room after receiving an abortion procedure at the Clinic. Therefore, while the Clinic does, in accordance with Mississippi regulations, have a physician on the Medical Staff with admitting privileges in a local hospital, and an established transfer agreement with a local hospital, it has never been necessary to use either.
8. The Clinic serves woman who reside in the state as well as women who travel from Louisiana, Alabama and Tennessee. Therefore, many of the Clinic's patients travel from more than 3-4 hours away to seek abortion services. Moreover, because of current Mississippi law, they are required to make this trip twice, once to receive counseling and the second for the actual procedure. While some women may be able to stay the night near the Clinic and receive the procedure the following day, the majority of our patients do not have this option, especially if they have to get off work and/or arrange child care. Many of the patients we see only have one day off of work a week. Therefore, their

initial counseling sessions and follow-up appointments usually occur at least a week apart.

9. This week alone the Clinic will counsel over one hundred women who are seeking an abortion. Due to the circumstances mentioned above, many of these women will not be able to return to the Clinic for the abortion procedure until after July 1, 2012, when House Bill 1390 (“H.B. 1390”) is scheduled to go into effect. Based on my experience, I would expect at least 25-30 women to return next week for their procedure.
10. As the only abortion provider in the state, the Clinic and its staff have endured picketing, harassment and veiled threats from those opposed to abortion. Protesters are in front of our doors daily, and our physicians, staff members, and patients must deal with harassment and verbal threats upon entering and leaving the Clinic.
11. When I started the process of applying for privileges for the Clinic’s physicians, there were three physicians working with the Clinic, but only one who regularly provided abortion care to women at the Clinic. The regular physician, Dr. Doe,¹ is not a full-time resident of Mississippi, and so he has to fly in periodically to provide care to women. The other two physicians provide very limited services to the Clinic. One physician travels in from out of state to provide abortion care if Dr. Doe is unavailable, but the Clinic has not required his services recently. The other physician provides extremely limited abortion services to the clinic; he already has privileges at a local hospital.
12. Dr. Doe has recently experienced an increase in harassment by anti-abortion extremists. Specifically, among other things, in the last two years, he has received several threatening

¹ Plaintiffs are using a pseudonym to refer to the physician out of concern for his safety and privacy.

telephone calls to his home and the homes of his family members and has been followed out of the Clinic and to other locations by anti-abortion extremists.

Applying For Admitting Privileges On Behalf of Dr. Doe

13. As Director, I followed H.B. 1390 closely, knowing the drastic effect it could have on the Clinic and the women we serve. Many of the staff members were extremely concerned about the ability of the Clinic to comply with the new requirements. Indeed, Dr. Doe, knowing the long and tedious process involved in obtaining hospital privileges, took the initiative to begin the process of attempting to obtain privileges for himself.
14. In mid to late April, Dr. Doe contacted Central Mississippi Medical Center (“CMMC”) to request an application for privileges. Because of a relationship between a physician working with the Clinic and CMMC, Dr. Doe thought it would be the most amenable to granting him privileges. Amy Brown, Director of Medical Staff Services at CMMC, sent him the application on April 24th and indicated that in order for a physician to obtain what CMMC refers to as “clinical privileges,” he would have to submit a \$250 application fee with the application.
15. I then took over the responsibility for completing the CMMC application process so that Dr. Doe could focus on providing healthcare services to his patients.
16. Just from working on the CMMC application alone, it quickly became apparent how time consuming applying for hospital privileges would be. Because I could not fulfill my duties as Director while also coordinating applications for privileges, the Clinic decided to ask Betty Thompson, former Director and consultant to the Clinic, to spearhead the process. Nonetheless, I still continued to be in charge of Dr. Doe’s CMMC application.

17. The application packet for CMMC does not allow physicians to apply for “admitting” or “staff privileges to replace local hospital on-staff physicians.” Rather, the only type of privileges a physician can apply for is “clinical privileges,” and a physician must request privileges for each procedure he wants to perform at the hospital. The application includes a list, several pages long, of ob/gyn-related procedures that physicians may seek privileges for.
18. Working diligently, including putting in time after hours, I completed the lengthy application, and submitted it on the physicians’ behalf on May 30, 2012. I personally delivered the application to Anne Buss at CMMC, who had taken over for Amy Brown.
19. During the time I was working to complete the application, I was in contact with Ms. Buss, who informed me that the Board was scheduled to meet on June 19, 2012. She informed me that if I submitted a completed application in the near future, it was possible it would be reviewed during that meeting.
20. I contacted Ms. Buss on June 13th to make sure the application was complete and would be considered at the June 19th meeting. Ms. Buss indicated that she was trying to get the application in, but she still had to complete work on her end to have the application ready to be brought before the Board, and could not guarantee that it would be considered on June 19th.
21. On June 19th, the day of the meeting, I followed up with Ms. Buss to check whether the Board had reviewed Dr. Doe’s application. Ms. Buss told me that, despite having the application in its possession for three weeks, the hospital was unable to complete the required tasks before the application could be submitted to the Board. Thus, Dr. Doe’s application would not be considered until the Board’s next meeting in late July.

Contacting the Mississippi Department of Health

22. Early on, after speaking with CMMC, and being informed of Ms. Thompson's conversations with the other hospitals, I became concerned, despite the Clinic's diligent efforts in seeking privileges, that it would be impossible to secure privileges for the Clinic's physicians prior to July 1, 2012 when H.B. 1390 took effect.
23. Therefore, on May 15, 2012 the Clinic's owner, Diane Derzis, wrote to the Mississippi State Department of Health expressing concerns about not being able to obtain the privileges required under H.B. 1390 before the law took effect. A true and correct copy of that letter is attached to this Declaration. In the letter Ms. Derzis requested that the Department of Health agree to suspend enforcement of the privileges requirement in H.B. 1390 and either: (1) permit the Clinic to continue operating, under a renewal license for the usual one-year period, while the clinic completed the process of applying for privileges for its physicians; or, at a minimum, (2) provide the Clinic with the mandated six-month period it would have to comply with any new regulation, which as I understand, is the amount of time the Mississippi law requires the Department of Health to give already established abortion facilities to comply with new regulations.
24. On May 29, 2012, Mary Currier, M.D., State Health Officer at the Department of Health wrote to Ms. Derzis advising her that the Department could not suspend enforcement of the law as requested by the Clinic, but indicated that it would issue a renewal license based on the fact that the Clinic was in full compliance with the State's licensure regulations during the Department's April 12, 2012 survey inspection. Ms. Currier also stated that the Department would be proposing revisions to the Minimum Standards of

Operation for Abortion Facilities at the July 11, 2012 Board of Health Meeting. A true and correct copy of that letter is attached to this Declaration.

25. Therefore, based on this letter, it was my understanding that the Clinic would be issued its renewal license and could continue to operate while it proceeded to secure privileges for its physicians, and that Department would be following its normal process, and not enforcing the new requirements until thirty days after its July 11th meeting.
26. On June 22, 2012, I received a call from a reporter at the Associated Press who provided me with a letter from Representative Sam Mims, sponsor of H.B. 1390, written to the Department of Health urging them to immediately enforce H.B. 1390 on July 1, 2012. Therefore, I immediately called the Department of Health to confirm that the Clinic would still receive its renewal license and that they would proceed in accordance with what they indicated in their May 29, 2012 letter.
27. Later that same day, I spoke with a Department staff member. She told me that the Department of Health had held an emergency meeting that morning to discuss the issue, in which they decided that as of July 2nd, the Department was going to have to make sure the Clinic was in full compliance with the admitting privileges requirements of H.B. 1390. The staff member indicated that the Department felt they had no choice because of the extreme pressure on them from all sides; that “it was out of their hands.”
28. On June 25, 2012 the Clinic received a letter from the Department of Health, directing it that in order to continue operating as an abortion provider, the Clinic was required to submit written proof of compliance with H.B. 1390 to the Department on or before July 1, 2012. A true and correct copy of this letter is attached to this Declaration.

29. The Clinic applied for a renewal license and paid the application fee in May 2012.

However, the Clinic has not yet received its renewal license for the period beginning July 1, 2012.

30. Therefore, based on the June 25th letter from the Department, I understand that the Clinic will not receive its renewal license unless it produces proof on or before July 1, 2012 that its physicians have privileges at a local hospital.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: June 26, 2012


Shannon Brewer-Anderson

**JACKSON WOMEN'S HEALTH ORGANIZATION
2903 NORTH STATE STREET
JACKSON, MISSISSIPPI 39216
PHONE(601) 366-2262 FAX:(601)362-5973**

By U.S. Mail and Fax

Mary Currier, M.D.
State Health Officer
Mississippi State Department of Health
Post Office Box 1700
Jackson, MS 39215-1700
Fax: (601) 576-7931

May 15, 2012

Dear Dr. Currier,

I am writing on behalf of the Jackson Women's Health Organization (the "Clinic") regarding the Clinic's upcoming license renewal and Mississippi House Bill 1390, which amends the law that governs licensure for health care facilities that provide abortion care to women in Mississippi.

The Clinic's current license will expire on June 30, 2012. We continue to be in compliance with existing Mississippi laws and regulations and look forward to receiving our renewal license for the one year period from July 1, 2012 through June 30, 2013.

House Bill 1390 (the "Act") is currently scheduled to go into effect on July 1, 2012. It defines an "abortion facility" as one in which all "associated" physicians have "admitting privileges at a local hospital and staff privileges to replace local hospital on-staff physicians."

The Clinic's staff members have been working diligently to try to secure privileges for the physicians who are currently providing abortions at the Clinic. However, we have been told by the hospitals that we have contacted that it will not be possible for our physicians to have completed the application process such that they could have any kind of privileges by July 1, 2012, when the Act goes into effect.

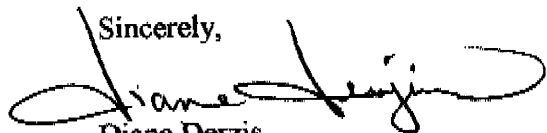
I am very concerned about what will happen if the Clinic does not meet the definition of an "abortion facility" as of July 1, 2012. If the Clinic is not permitted to continue operating, it will not be able to offer abortion care, which means that the Act will effectively ban abortions. This would obviously be quite harmful to the women who seek care at the Clinic, who would no longer have us as a safe, accessible option for health care.

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I am therefore writing to request respectfully that the Department of Health permit the Clinic to continue operating, under a renewal license for the usual one year period, while the Clinic completes the process of applying for privileges for our physicians. In the alternative, I request that the Department permits the Clinic to operate under a renewal license for a period of six months, which is the amount of time that the Clinic would have to comply with a new regulation. In either case, I respectfully request that the Department of Health agrees to suspend enforcement of the privileges requirement in the Act during the renewal license period, to allow us time to make our best efforts to comply with that requirement.

Given the very short time until the Act goes into effect, I would greatly appreciate a response within a week. Please do not hesitate to contact me with any questions or if I can provide further information. Thank you very much for your attention to this important matter.

Sincerely,



Diane Derzis
Jackson Women's Health Organization
2903 North State Street
Jackson, MS 39216
Phone: (601) 366-2261
Fax: (601) 362-5973



MISSISSIPPI STATE DEPARTMENT OF HEALTH

May 29, 2012

Ms. Diane Derzis
Jackson Women's Health Organization
2903 North State Street
Jackson, MS 39216

Dear Ms. Derzis:

I received your letter, dated May 15, 2012, requesting that the Department of Health suspend enforcement of the privileges requirement, as outlined in House Bill 1390, during the license renewal period, or for a period of one year, while the Clinic makes efforts to comply with the requirement. Jackson Women's Health Organization's current license expires June 30, 2012. Review of the Department's records reflect that this licensed entity reached compliance with the State's licensure regulations as evidenced by findings of the last survey visit on April 12, 2012; therefore, a renewal license may be issued.

House Bill 1390 does not contain a provision that will allow the Department to suspend enforcement of the law. This new law requiring that each physician have "admitting privileges in a local hospital and staff privileges to replace local hospital on-staff physicians" does go into effect July 1, 2012. The Department will propose revisions to the *Minimum Standards of Operation of Abortion Facilities* and the *Minimum Standards of Operation of Ambulatory Surgical Facilities* that reference this law for approval at the upcoming July 11, 2012 Board of Health meeting.

The Department does appreciate your interest in assuring that the clinic physicians are credentialed in a local hospital and that your clinic meets the statutory requirements of the new law. We also understand the difficult task of this undertaking. However, without having a legal option allowing such suspension, the Department will review for Jackson Women's Health's compliance, to include compliance with this new law, as part of Jackson Women's Health next annual survey.

Sincerely,

A handwritten signature in black ink that reads "Mary Currier".

Mary Currier, MD, MPH
State Health Officer

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MISSISSIPPI STATE DEPARTMENT OF HEALTH

June 25, 2012

VIA HAND DELIVERY

Diane Derzis, Owner
Jackson Women's Health Organization
2903 North State Street
Jackson, MS 39215

**Re: Enforcement of House Bill 1390
Notice of Statutory Requirement**

Dear Ms. Derzis:

During the 2012 Mississippi Legislative Session, the Legislature adopted House Bill 1390 which states in pertinent part, "All physicians associated with the abortion facility must have admitting privileges at a local hospital and staff privileges to replace local hospital on-staff physicians. All physicians associated with an abortion facility must be board certified or eligible in obstetrics and gynecology, and a staff member trained in CPR shall always be present at the abortion facility when it is open." This law becomes effective July 1, 2012.

As the Mississippi State Department of Health (MSDH) is the licensing agency responsible for regulation and enforcement duties, please be advised that compliance with this new law on or by the effective date of July 1, 2012, as well as compliance with all other components of the *Minimum Standards of Operation for Abortion Facilities*, is imperative should you wish to remain licensed and operate an abortion facility in the State of Mississippi. Please provide MSDH documentation reflective of Jackson Women's Health Organization's full compliance with the new law on or before the July 1, 2012 effective date. Such information may be mailed to Mary Gervin, Director of Health Facilities, Non-Long Term Care, Post Office Box 1700, Jackson, MS 39215 or faxed to 601-364-5055.

570 East Woodrow Wilson Post Office Box 1700 Jackson, MS 39215-1700
1-866-HLTHY4U www.HealthyMS.com
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MSDH appreciates your efforts to comply with the new law and your cooperation in providing us evidence of your compliance. Should you have questions, please do not hesitate to contact our office at 601-364-1100.

Sincerely,

A handwritten signature in black ink that reads "Vickey Berryman". The signature is written in a cursive style with a large, looping initial "V".

Vickey Berryman, Director
Office of Licensure

cc: Mary Carrier, MD, MPH
State Health Officer