

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

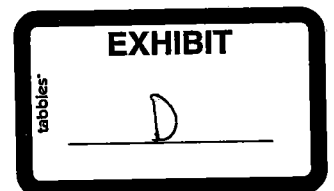
PLANNED PARENTHOOD OF GREATER TEXAS)	
SURGICAL HEALTH SERVICES, and on behalf of)	
its patients and physicians, <i>et al.</i> ,)	
)	
Plaintiffs,)	CIVIL ACTION
v.)	
)	CASE NO. 1:13-cv-862
GREGORY ABBOTT, Attorney General of Texas, in)	
his official capacity, <i>et al.</i> ,)	
)	
Defendants.)	

DECLARATION OF DARREL JORDAN, MD

Darrel Jordan, MD, declares and states the following:

1. I am the Chief Medical Officer of Planned Parenthood of Greater Texas (PPGT). PPGT is the parent corporation to two separate entities that provide reproductive health care services in Austin, Dallas, Fort Worth, Paris, Tyler, Waco, and surrounding communities. One of those entities, Plaintiff Planned Parenthood of Greater Texas Surgical Health Services (PPGTSHS), provides abortion at four locations in Austin, Dallas, Fort Worth, and Waco. If the admitting privileges requirement takes effect on October 29, 2013, all locations except Dallas will be forced to close their doors.

2. I am board-certified in obstetrics and gynecology. I received my medical degree from the University of Texas Health Science Center in San Antonio, and completed my Obstetrics and Gynecology internship and residency at Saint Paul Medical Center in Dallas.



3. I provide the following facts in support of Plaintiffs' Motion for a Preliminary Injunction against enforcement of Texas House Bill 2's requirement that all physicians who perform abortions "have active admitting privileges at a hospital that is located not further than 30 miles from the location at which the abortion is performed or induced [] and provides obstetrical or gynecological health care services."

4. As explained below, this new requirement cannot be satisfied before HB 2 takes effect on October 29, 2013, because most hospitals take several months, at least, to consider an application for privileges. Even if time were not a factor, the requirement will be difficult or impossible to satisfy for some of the health centers where we provide abortions, and therefore will probably force us to cease abortion services at some or all of these centers. Moreover, the requirement forces our providers to apply to multiple hospitals and risk multiple rejections for reasons wholly unrelated to their qualifications or competence, which will seriously and unfairly compromise their career prospects. (Some hospitals require that when a physician applies for future hospital privileges, s/he must disclose all previous denied hospital privilege applications, and previous denied privileges can be treated as a significant adverse factor.)

5. I reside in the Dallas area. I currently am on the active staff, and therefore have admitting privileges, at two hospitals there: Medical City Dallas Hospital and North Central Surgical Center. However, I come up for recertification at both hospitals in 2014, and I may well be unable to continue as an active staff member there, or even continue to have privileges, because I admit so few patients. The Medical City Dallas Hospital requires 18 admissions to be on the active staff and two admissions to maintain courtesy privileges. The North Central Surgical Center requires 24 admissions per year. In previous years, I met these requirements because I maintained a private practice that included performing in-hospital hysterectomies and

other gynecological surgical procedures. However, I had to phase out that practice in November 2012 because of my full-time responsibilities as Chief Medical Officer of PPGT.

6. There are five physicians who currently perform abortions at PPGTSSHS's four centers in Dallas, Fort Worth, Waco and Austin. Three of us have privileges in the Dallas area, but none of us has privileges elsewhere. One provider lives in Austin, but none live in Fort Worth or Waco.

7. As soon as the admitting privileges requirement was enacted—indeed, before that date—we began actively searching for hospitals with obstetrics or gynecological departments that might grant us these privileges in the Fort Worth, Austin, and Waco areas. We have filed several applications, in all three locations. However, because hospital procedures for considering such applications involve multiple levels of review by committees that meet infrequently, the privileging process is lengthy. Thus, it is extremely unlikely that we will have these privileges before the new statutory requirement goes into effect on October 29, 2013.

8. Even after October 29, 2013, it is unlikely that we will be able to obtain the necessary privileges, for a variety of reasons discussed below. Many hospitals have general requirements that we cannot meet. Some require the doctor to live locally, and this is a problem because we cannot find a local provider (particularly in more socially conservative areas, for reasons explained below). Some others require a minimum number of admissions annually, which we often cannot meet because abortion is such a safe procedure, with an extremely low incidence of complications that would require hospitalization.

9. Even if we met these requirements, some hospitals would not grant privileges to any abortion provider because they are affiliated with religious institutions that disapprove of abortion or because their staff or leadership oppose abortion. In fact, the Catholic Church has

issued a directive to health care providers, including its large network of hospitals, barring them from providing abortions or “cooperating” with the provision of abortion and cautioning them “to be concerned about the danger of scandal in any association with abortion providers.” United States Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services* ¶45 (5th ed. 2009).

10. Our Fort Worth center, which is licensed as an ambulatory surgical center (ASC), is just slightly more than 30 miles from the seven Dallas-area hospitals where two of my colleagues and I have privileges. We have applied to multiple hospitals in Fort Worth. One application was denied because of a local residency requirement. Another was denied because the provider for whom we applied is not board-certified in obstetrics and gynecology. (This is often the case for providers who began practicing before board certification became a qualification sought by hospitals and health care plans.) Another hospital has asked us through back channels not to apply for privileges. Similarly, we were informed by a contact at another hospital that, because of anti-abortion sentiment within the governing board, we would have no chance of obtaining privileges there.

11. Hostility to abortion also makes it impossible to hire a new doctor who lives in Fort Worth and has privileges at a local hospital. Because Fort Worth is a small and extremely socially conservative community, any resident who is known to perform abortions faces routine harassment, social and professional ostracism, and even a significant risk of violence (all of which extend to his or her family as well).

12. In Waco, to our knowledge, there are only three hospitals within 30 miles of our health center that have obstetrics or gynecological departments. As in Fort Worth, there is strong anti-abortion sentiment locally in Waco, which makes it virtually impossible to find local

providers and may make it very difficult to obtain local admitting privileges. One of the three in-range hospitals is Catholic, and indicated to us that it would not even consider any application by an abortion provider. (As explained above, Catholic directives oppose any association with abortion providers and this hospital expressly adheres to those directives.) At a second hospital, we were told we must contact a certain staff member before applying; we have placed two calls to that staff member, and to date, he has not returned our multiple messages. I applied to the third of these, which recently rejected my application. The rejection letter was confusing; it stated that I had failed to meet the hospitals qualifications but did not specify which requirement(s), and at the same time requested further information, including a case log of all the medical procedures I have performed at the hospitals where I currently have admitting privileges. I am in the process of reapplying, but am waiting for the case log from North Central Surgical Center, which I requested weeks ago.

13. In Austin, where our health center is also licensed as an ASC, we have several applications for privileges pending, but have not been given any indication of when these might be decided. I am optimistic that one will be granted, although I cannot be certain of that, and as of today, none have been granted.

14. In sum, as things stand today, if the admitting privileges requirement were allowed to take effect on October 29, PPGTSSHS would be able to provide abortion services at only one of its four health centers that currently offer that service – in Dallas. We would have to cease providing those services at our health center in Waco and our two ASCs in Austin and Fort Worth. This would be difficult for the women of Waco because we are the only abortion provider located there. And it would cause particular hardship for our patients with gestational ages at 16 weeks or greater as measured from the first day of their last menstrual period (LMP);

Texas law permits those procedures only in ASC, and PPGTSSHS has the only ASCs in both Austin and Fort Worth, which are two of the only six total ASCs providing abortion in the state.

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

Dated: September 30, 2013



Darrel Jordan, MD