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3 Arkansas clinics found to break law by charging during abortion wait period

by [Andy Davis](#) | October 26, 2018 at 4:30 a.m.



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Three Arkansas clinics violated a law barring them from collecting money from a patient seeking an abortion during a 48-hour "reflection period" before the procedure, the state Board of Health found.

In an 11-2 vote, the board upheld findings issued by the Department of Health in March after inspections of Little Rock Family Planning Services and Planned Parenthood clinics in Little Rock and Fayetteville.

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The board agreed with the department that the clinics had been violating a 2015 state law, which was amended last year to apply to any "facility, employee or volunteer of a facility" as well as to physicians.

While the board didn't impose a fine or other penalty, the finding keeps in place a restriction that the clinics say has caused them to lose thousands of dollars.

The clinics' attorney, Bettina Brownstein of Little Rock, said the law violates the federal and state

constitutions by requiring the clinics to provide certain services to women at least 48 hours before an abortion while prohibiting them from charging for those services at the time.

Many women never return to the clinic after their initial visits and, as a result, don't end up paying their bills, she said.

"No medical professional in the history of this state has been required to provide mandated medical services for free, and that's what [state health officials are] doing," Brownstein said.

She said she will appeal the board's findings to Pulaski County Circuit Court.

Before 2015, a state law required a woman to wait 24 hours after an initial consultation before having an abortion.

Act 1086 of that year doubled the waiting time, to 48 hours, and prohibited doctors from charging for abortion-related services until the waiting period expires.

Before the start of the waiting period, the law requires the doctor to explain the potential risks associated with the procedure, estimate the gestational age of the fetus and describe the "probable anatomical and physiological characteristics of the unborn child."

In filings with the board, the three clinics said they perform an ultrasound during the initial visit to determine the location and age of the fetus and whether it has a heartbeat -- something required to be determined under a 2013 state law.

After the 2015 law was passed, Little Rock Family Planning Services continued charging for the ultrasound and other services at the time they were provided, resulting in a Health Department citation in 2016.

But Brownstein said the department dropped that citation after Robert Brech, the general counsel at the time, agreed with her that the department does not have the authority to regulate physicians and the board had not issued regulations implementing the law.

Although Act 383 of 2017 extended the law to apply to any "facility, employee or volunteer of a facility," the board still has never issued regulations implementing it, she said.

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Health Department Deputy Director Ann Purvis said in a board filing that the department can enforce the law regardless of whether a regulation has been passed.

The Planned Parenthood clinics initially stopped charging patients during their first visits after the 2015 law took effect.

After unpaid bills began to mount, the clinics in February 2017 started collecting credit-card information from patients during the initial visits, then charging the cards after the 48-hour waiting period.

Even then, however, in "the overwhelming majority of cases, the credit card charges did not go through," and the clinic ended up mailing a bill, Melany Helinski, regional director of health services for Planned Parenthood of Arkansas and Eastern Oklahoma, said in an affidavit.

The clinics stopped collecting the credit-card information during the initial visit after the department determined in March that the practice was equivalent to collecting payment.

Both the Planned Parenthood clinics and Little Rock Family Planning now collect the payment for the services provided during the initial visit when the woman returns for an abortion. If the woman doesn't return, they mail her a bill.

From Feb. 1, 2017, to March 22, 57 women who had ultrasounds during their initial visits to a Planned Parenthood clinic, but didn't return for abortions, had not paid their bills, resulting in \$10,961.66 in lost revenue to the clinics, Nathan Johnson, the clinics' chief financial officer said in an affidavit. The clinics lost an additional \$2,957 on services provided from March 23, when it stopped collecting credit-card numbers, through July 10.

At Little Rock Family Planning, only 10 out of 108 patients who had ultrasounds during their initial visits, but didn't return for abortions, had paid their bills as of August, while \$19,600 worth of bills remained unpaid, said Lori Williams, director of Little Rock Family Planning.

Rep. Robin Lundstrum, R-Elm Springs, who sponsored the 2015 and 2017 laws, said in a letter to the board that the restriction on collecting money is meant to "ensure no woman feels obligated to have an abortion even if she determines abortion may not be the best choice for her."

But Brownstein said the restriction on collecting money doesn't further the law's goal because the money is owed to the clinics regardless of whether the clinics must wait to collect it.

Mailing bills to the patients, rather than allowing them to pay during their initial visits, also puts their privacy at risk, she said.

She said the law violates the U.S. Constitution's Fifth and 14th Amendment protections against taking

property without compensation and discriminates against abortion providers in violation of the 14th Amendment's guarantee of equal protection under the law.

The law also violates Article 1 of the Constitution, which prohibits states from interfering with contracts, she said in a board filing.

Three members of the 23-member board, which has two vacancies, abstained and five were not at the meeting.

Board member Susan Weinstein of Little Rock, who voted against upholding the department's finding, said she disagrees with the department's position that the law prohibits providers from collecting payment for services associated with the initial visit.

Robbie Thomas Knight of Little Rock, the other member who voted against the finding, said the department's interpretation of the law unfairly punishes abortion providers.

"I felt like I was being asked to take a stand for agreeing with the Health Department about the issue, and I don't," she said.

Metro on 10/26/2018

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SARAHBEE OCTOBER 26, 2018 AT 9:13 A.M.

Thank you, Susan Weinstein and Robbie Thomas Knight for your NO SUPPORT votes. At any other health care provider, payment is due at the time of the services. If patient receives exam, ultrasound, and consultation at first visit, patient should pay for said services at time of first visit. Period! To expect health care centers to waive payment is discriminatory.

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MRCHARLES OCTOBER 26, 2018 AT 10:13 A.M.

During this period, the women should be able to recite the entire bible in Aramaic with a South Carolina accent. Clearly like in the days of old southern heritage with real biblical values , voting was allowed but of course the blacks had a small difficulty, everything in the world put in front of them to prevent them from voting.

Hopefully the agenda against birth control, and the agenda of once a child being born the gop plans for it to either starve, have no medical care or just be abandoned to the mercy of the deity [plenty of mercy in the ancient book towards babies, sucklings, toddlers, etc] . Yes sir that will instill real values of the Reich wing. Words do have consequences .

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GENERALMAC OCTOBER 26, 2018 AT 10:27 A.M.

"Planned Parenthood"

mentioned ...5...times in this article

Pro-abortion folk keep saying Planned Parenthood .." is NOT about abortions"

Sure, sure,

I have ocean front property in Harrison Arkansas to sell people gullible enough to believe that pro-abortion rhetoric.

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LRCROOKATTORNEY OCTOBER 26, 2018 AT 11:53 A.M.

MC...That is insane. Just don't have children out of wedlock, get a job and graduate high school and you will end up in the middle class.

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MRCHARLES OCTOBER 26, 2018 AT 1:40 P.M.

Did Mary have a child out of wedlock or graduate high school? Did her boy graduate high school. Neither had a job and somehow the western civilization spends as much time on related items to them as the rest

of their time spent on everything. King David didnt worry about wedlock.

I do agree just say no works. And as I know from friends and relatives throughout my time after that there high school that pure luck occurs a lot on that failure to say No.

Insane is relative to an independent like some. Perhaps you can grow up in govt housing and become a neurosurgeon, but perhaps not. that high school dipoma use to give a chance to middle class, but perhaps it doesnt now.

I believe we either channel Jesus or ask the deity to make us better than it made us in the first place. As a lawyer is the statute of limitations yet run on its product liability defects?

Again , reality is real, and to hope for Utopia of talking primates appears to be a hallucination or just plain wrong. Yet those with abilities to get a d in their position over estimate their understanding of those who do not have their abilities of understanding. Perhaps if you just had a high school education you could not be in the middle class.

Finally I would submit for your consideration that if the deity sanctions abortions and death of children, then how can we, who are made in its image interfere with medical abortions a matter between doctors and their patients?

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GENERALMAC OCTOBER 26, 2018 AT 2:37 P.M.

Mr Coward....." the diety" also sanctions dying so why should we have laws against murder?
Your analogies are getting as absurd as PopMom's.

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GENERALMAC OCTOBER 26, 2018 AT 2:39 P.M.

MrCoward knows there are MANY laws that govern what a doctor can do to their patient even with the patient's consent.

(yet he posted that BS anyway)

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