

The Columbus Dispatch

Capitol Insider: Yost orders clinics to stop 'non-essential and elective' surgical abortions

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Despite a state health order banning non-essential medical procedures during the coronavirus health emergency, Ohio abortion clinics remained open last week.

But after receiving complaints, Ohio Attorney General Dave Yost ordered two of them to follow Ohio Health Director Amy Acton's mandate. Yost's warning applies to all such clinics in the state.

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However, operators of at least one of the clinics responded that they would both comply with Acton's order and continue to provide abortions.

"Under that order, Planned Parenthood can still continue providing essential procedures, including surgical abortion, and our health centers continue to offer other health care services that our patients depend on. Our doors remain open for this care," said a joint statement from Iris E. Harvey and Kersha Deibel, respectively presidents and CEO of Planned Parenthood of Greater Ohio and Planned Parenthood Southwest Ohio Region. The latter runs an abortion clinic in Cincinnati.

In his letter to abortion providers, Yost said, “You and your facility are ordered to immediately stop performing non-essential and elective surgical abortions. Non-essential surgical abortions are those that can be delayed without undue risk to the current or future health of a patient.

“If you or your facility do not immediately stop performing non-essential or elective surgical abortions in compliance with the (health director’s) order, the Department of Health will take all appropriate measures.”

On Wednesday, Acton issued an order saying “all non-essential or elective surgeries and procedures that utilized (personal protective equipment) should not be conducted.” The state is attempting preserve supplies of equipment needed in combating the virus.

But the reply from Planned Parenthood implies there is no such thing as a “non-essential” abortion.

“Abortion is an essential, time-sensitive medical procedure, as medical experts like the American College of Obstetricians and Gynecologists and the American Board of Obstetrics & Gynecology have recognized,” Harvey and Deibel said.

After The Dispatch reported Yost’s action Saturday morning, a political firestorm quickly developed. Gov. Mike DeWine and Acton were peppered with questions during their daily press conference, but mostly deflected inquiries to Yost and referred to the order itself.

“I am the doctor for 11.7 million people and all women no matter where they fall on this. ... We cannot allow the politics of things to get in the way of doing what we have to do in a state of emergency,” Acton said.

NARAL Pro-Choice Ohio Executive Director Kellie Copeland called abortion “an essential health service” and said state officials “should not be exploiting the COVID-19 crisis to further their agenda to close Ohio’s abortion clinics.”

In a tweet, the ACLU of Ohio made much the same point: “This is an unprecedented time & people’s health & safety must be protected; but the gov’t shouldn’t use this crisis as an excuse to target clinics & try to take away the ability of Ohioans to access abortion, which is time-sensitive, essential health care.”

Columbus Democratic state Rep. Kristen Boggs, the No. 2 Democratic leader in the House, called Yost’s move an “epic failure in judgment and leadership.”

She added in her tweet, “Using this emergency to advance his political agenda is shameful. Forcing women to travel to fulfill their constitutional rights, when all other leaders are advising no travel, is just stupid stupid!”

Sen. Nickie Antonio, D-Lakewood, said in a release, “Every woman who seeks an abortion knows it’s an essential, time sensitive procedure — especially in states like Ohio, which has drastically limited the window when abortions are allowed. It is inexcusable that our state’s attorney would play politics with a global pandemic.”

Democratic Columbus City Attorney Zack Klein called the attorney general’s action “a political stunt in the middle of a crisis.”

Yost was defended by Aaron Baer, president of Citizens for Community Values, who said in an emailed statement: “Abortion is not health care, and abortionists shouldn’t be using valuable life-saving medical equipment to destroy life. Attorney General Yost is standing up for our most vulnerable during this crisis and saving countless lives.”

On Friday, a spokeswoman for one of Ohio’s abortion clinics wouldn’t comment when contacted by The Dispatch but pointed to a [statement](#) from a consortium of gynecological groups saying clinics should remain open.

The groups said that if limits on medical practices are imposed during the COVID-19 crisis, “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."

Various Ohio groups opposed to abortion rights questioned the clinics' actions; one even recorded video of people going in and out to prove it was open.

Michael Gonidakis, president of Ohio Right to Life, wrote Friday to Harvey, accusing Planned Parenthood of violating the state order.

"By performing surgical abortions, your company is putting the health and safety of all Ohioans in danger," Gonidakis said. "Your current noncompliance will undoubtedly contribute to the spread of COVID-19 and put the lives of first responders, nurses and doctors in danger."

Although Yost's letters went only to Women's Med Center in Dayton and Planned Parenthood of Southwest Ohio's Cincinnati Surgery Center, the two about which Yost's office received complaints, Bethany McCorkle, Yost's communication director, said the order to stop all non-essential or elective surgeries and procedures that require personal protective equipment applies to all clinics.

Later Saturday, Yost wrote a similar letter to The Urology Group in Cincinnati, asking them to stop violating Acton's order.

Judge blocks slam dunk

It seemed a foregone conclusion.

As Gov. Mike DeWine and Secretary of State Frank LaRose laid out their plan Monday to postpone Tuesday's Ohio primary and reschedule it for June 2, the arrangements seemed neat and complete.

They explained everything from their legal reasoning to the health threat from the coronavirus outbreak to the fact that, conveniently, they knew a pair of plaintiffs were going to sue the state over holding the

primary Tuesday. And since LaRose and DeWine are the state ... well, they would simply instruct their lawyer a.k.a. Attorney General Dave Yost not to oppose the lawsuit.

Slam dunk, right?

The state even distributed to the news media a copy of the order they had helpfully prepared for the judge to sign.

One reporter was bold enough to ask what would happen if the Franklin County judge didn't go along with the state's carefully laid plans

DeWine acknowledged, "I learned as a young assistant prosecutor to not guess what judges are going to do."

LaRose added, "Hypotheticals and trying to predict what the judge is going to do is not something I'm going to get into."

Despite this seeming acknowledgment that nothing was a certainty, they scrambled for a good three hours on election eve after Judge Richard A. Frye rejected the request to postpone the primary.

Finally, Acton declared the polls couldn't open Tuesday under her authority in a health emergency. LaRose quickly followed with a directive extending the primary to June 2 although that's being challenged in the Ohio Supreme Court.

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