

Justices hear telemed-abortion arguments

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(Photo: Tony Leys/The Register)

The Iowa Supreme Court was asked Wednesday to determine whether state regulators were legitimately trying to protect patient safety when they ordered limits on a telemedicine abortion system, or whether they were just trying to restrict access to a legal medical service.

The arguments centered on the Iowa Board of Medicine's 2013 ruling that doctors must perform in-person physical examinations before dispensing abortion pills. The rule would effectively bar use of Planned Parenthood of the Heartland's telemedicine system, which allows urban doctors to offer the service to small-town patients over a computer video linkup.

A state lawyer told the justices that the state board had good reasons to require doctors to do thorough exams before dispensing abortion pills. "This is a unique drug. This is not a typical pharmaceutical," said the lawyer, Solicitor General Jeffrey Thompson. "... It is within the Board of Medicine's authority to do this, and it is absolutely constitutional."

Planned Parenthood of the Heartland, which brought the case before the Supreme Court, contends that the Iowa Board of Medicine's 2013 decision was a blatant attempt to deprive rural women of a convenient way to obtain abortion pills.

Alice Clapman, a lawyer for the Planned Parenthood Federation of America, told the justices that the board's decision-making process was "highly irregular." She noted that Iowa's largest physician association and the nation's largest obstetrician group opposed the rule. "The board had no medical evidence to support its decision," she told the justices.

The case centers on a first-in-the-nation video-conferencing system that Planned Parenthood of the Heartland has used to provide abortion-inducing pills to about 7,000 Iowa women since 2008.



Dr. Jill Meadows, Planned Parenthood medical director, on monitor, demonstrates use of the telemedicine system. The system is used for dispensing abortion pills to patients in outlying clinics. (Photo: Register file photo)

The private agency says the system allows doctors in Des Moines or Iowa City to check test results and visit with patients via secure video, then dispense medication if they decide the patients are eligible for it. Planned Parenthood contends that none of the patients have suffered serious complications from the process, which induces abortions for women early in their pregnancies.

Planned Parenthood supporters note that the Board of Medicine's action came after Gov. Terry Branstad, who opposes abortion, replaced the entire board. Planned Parenthood appealed to the Supreme Court after a Polk County district judge sided with the medical board's ruling.

The case was heard by six justices, all of whom are men.

The justices' questions during Wednesday's hearing indicated some were concerned that abortion had been singled out for special regulation.

Justice David Wiggins asked whether the state board has such specific rules for other areas of medical practice, such as neurology or family medicine. "Is there any other standard of care such as this contained in any rule or regulation of the (Board of Medicine) that you're aware of?" he asked Thompson.

"Not that I'm aware of," the state lawyer answered.

[\(https://www.desmoinesregister.com/story/news/health/2015/03/09/planned-parenthood-telemedicine-abortion-iowa-supreme-court/24655791/\)](https://www.desmoinesregister.com/story/news/health/2015/03/09/planned-parenthood-telemedicine-abortion-iowa-supreme-court/24655791/).

Other questions suggested some justices were hesitant to overrule the medical board, however. Justice Thomas Waterman noted that the medical board is mainly made up of physicians, and he asked Clapman whether the court should second-guess them. "We went to law school, not medical school," he said.

Clapman responded that the court has an important oversight role for state agencies, including the medical board.

Justice Bruce Zager recused himself from the case. Justices don't generally explain the reasons for such decisions.

Court observers believe this is the first time the Iowa Supreme Court has directly considered the issue of abortion in more than 40 years. Most such cases go to federal court, but this one went to state court because it involves a state board.

As part of the case, Planned Parenthood has asked the justices to declare that the Iowa Constitution protects women's right to abortion. Thompson, the state lawyer, said he wouldn't object to them doing so. But he said that if they do, they should follow the U.S. Supreme Court's standard of considering whether regulations impose an "undue burden" on the right to abortion. He said the medical board's ruling does not impose such a burden on Iowa women.

State troopers set up barricades in front of the Supreme Court building Wednesday morning, in preparation for possible demonstrators from both sides of the volatile issue. But only two anti-abortion protesters showed up, with signs showing fetuses and the phrase, "I am a person."

Jenifer Bowen, executive director of Iowa Right to Life, the state's largest anti-abortion group, said that instead of demonstrating outside the courthouse, many of her members held a prayer vigil at a nearby church. After the hearing, Bowen amiably greeted Planned Parenthood of the Heartland President Suzanna de Baca in front of the Supreme Court building, where the two women participated in dueling impromptu news conferences.

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