



LAWSUIT CHALLENGING ARIZONA'S ABORTION CLINIC REGULATIONS FREQUENTLY ASKED QUESTIONS

What is the background history of this lawsuit?

In 1998, Lou Anne Herron bled to death in an Arizona abortion clinic following a botched abortion. In a bipartisan response, the Arizona Legislature enacted abortion clinic licensing regulations to ensure that all clinics performing abortions would maintain basic health and safety standards.

Those regulations were challenged before they were implemented, and that litigation dragged on for about ten years. In 2004, the Ninth Circuit Court of Appeals ruled that some provisions of the statute were constitutional and others were not.¹ The parties eventually entered into a settlement agreement in 2008, and the Department of Health Services (“DHS”) completed its rulemaking process in 2010, with the rules scheduled to take effect on November 1, 2010.

In October 2010, Planned Parenthood asked the court to also include the abortion clinic regulations in its challenge to the Abortion Consent Act, but the judge denied that request, so Planned Parenthood filed a separate lawsuit over those provisions. They did not ask the judge for an injunction, so the regulations took effect November 1, 2010, and DHS started licensing clinics.

In April 2011, Governor Jan Brewer signed a bill (HB 2416) to update the licensing regulations to include clinics that perform medication abortions. Medication abortions were not approved by the FDA until 2000, so they were not included in the original clinic regulations law. However, now nearly half of all abortions performed in Arizona are medication abortions.

Planned Parenthood filed a motion in June of 2011 to add into their existing lawsuit a challenge to this new application of the clinic licensing standards. They have asked the judge to block the law from taking effect. The law is temporarily on hold while the judge decides this issue. The hearing is scheduled for September 12, 2011.

What provisions of the clinic licensing regulations is Planned Parenthood challenging?

Planned Parenthood's lawsuit claims that the provisions of the clinic regulations that require a doctor to perform surgical abortions and to be involved in the pre-op and post-op care are unconstitutional because Planned Parenthood is using and would like to use non-doctors such as nurse practitioners and physician assistants for these functions.

Planned Parenthood is also claiming that certain provisions of the clinic licensing standards are “medically inappropriate” for a clinic that only administers medication abortions – for example, the requirement that a woman be given a pelvic exam before administering medication abortion and the requirement that the clinic have IV equipment on site for use in an emergency.

¹ *Tucson Women's Clinic v. Eden*, 379 F.3d 531 (9th Cir. 2004).

Who is defending these laws?

The lawsuit is filed against the State of Arizona. Tom Horne, Arizona's Attorney General, defends the state in these types of lawsuits. Mr. Horne has appointed Solicitor General Dave Cole, and attorneys in his office are defending the case.

The Speaker of the Arizona House of Representatives Andy Tobin has intervened in the lawsuit to help defend the laws.

Attorneys from Alliance Defense Fund, Center for Arizona Policy, and Bioethics Defense Fund are offering assistance to the state's attorneys to ensure that the laws are fully defended.

CAP's work in passing family-friendly laws is only part of the work required to protect and defend families. Often, passing the law is the easiest part of the process. Overseeing the law's implementation is the most critical task of all. CAP typically has played a role in any litigation challenging CAP-supported laws. We have an obligation to our constituents, legislators, and most of all to preborn babies and their mothers, to make sure the best legal defense is made for these new laws.

What is the current status of the abortion clinic licensing regulations?

The abortion clinic licensing regulations are fully in place for clinics that perform surgical abortions.

The regulations for clinics that administer medication abortions are on hold only while we wait for a hearing before Maricopa County Superior Court Judge Richard Gama. That hearing is currently scheduled for September 12, 2011.

What kind of rules are in the abortion clinic licensing regulations?

The abortion clinic licensing regulations are basic health and safety regulations, similar to what you would expect of any doctor's office. The rules cover the type of facilities, personnel qualifications, equipment standards, and recordkeeping. Some examples include:

- Ensuring that a patient is monitored following the abortion procedure
- Providing lighting and ventilation to ensure the health and safety of a patient
- Maintaining equipment on site for use in a medical emergency

For more detailed information, you can read the [DHS rules for abortion clinics](#) online.

Is there anything we can do to help?

This will be a large battle that will possibly drag out for many years. CAP continues to ask for your prayers as we work to have this law upheld. As with every project we take on, we need resources to withstand this legal attack. Please consider [making a gift](#) to support our work today.