

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

PLANNED PARENTHOOD CENTER	§	
FOR CHOICE, et al.,	§	
	§	
Plaintiffs,	§	
	§	Civil Action No. 1:20-cv-00323-LY
v.	§	
	§	
GREG ABBOTT, et al.,	§	
	§	
Defendants.	§	
	§	

**STATE DEFENDANTS’¹ SUPPLEMENTAL RESPONSE TO
PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION**

¹ Defendants Greg Abbott, in his official capacity as Governor of Texas, Ken Paxton, in his official capacity as Attorney General of Texas, Phil Wilson, in his official capacity as Acting Executive Commissioner of the Texas Health and Human Services Commission, Stephen Brint Carlton, in his official capacity as Executive Director of the Texas Medical Board, and Katherine A. Thomas, in her official capacity as the Executive Director of the Texas Board of Nursing (collectively “State Defendants”).

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INTRODUCTION

Plaintiffs may no longer obtain injunctive relief as to GA-09, as that executive order and the corresponding TMB emergency rule have been supplanted as of last night, April 21, 2020. The new executive order addressing elective surgeries and procedures, GA-15, went into effect this morning, April 22, 2020. Should Plaintiffs challenge GA-15 and continue to seek injunctive relief, as this Court stated it would allow them to do, there is no legal basis for relief for multiple reasons. First, this Court lacks jurisdiction to grant such relief because there is no case or controversy remaining, as Plaintiffs have already certified they are in compliance with an exception to GA-15, one that was not included in GA-09. Second, because Plaintiffs admit that the exemption now applies to them based on their certification, Plaintiffs are not being injured and can show no burden on the rights of their patients. Third, even if GA-15 was identical to GA-09—and it clearly is not—the Fifth Circuit has already held that Plaintiffs lack evidence to show they are entitled to injunctive relief. Plaintiffs’ new evidence is either cumulative to evidence already before the Court or irrelevant. This Court should deny the motion for preliminary injunction.

STATEMENT OF FACTS

The spread of COVID-19, the disease caused by the novel coronavirus known as SARS-CoV-2, is a global pandemic. Thompson Decl. ¶ 3 (DX-8). Since the last time State Defendants filed a brief in this Court, the number of COVID-19 cases in Texas has grown from around 2,500 cases to nearly 22,000. DX-3.²

Texas law makes the Governor “responsible for meeting the dangers to the state

² See also Tex. Dep’t of State Health Servs., *COVID-19 Texas Case Counts*, <https://txdshs.maps.arcgis.com/apps/opsdashboard/index.html#/ed483ecd702b4298ab01e8b9cafc8b83> (accessed Apr. 22, 2020).

and people presented by disasters.” Tex. Gov’t Code § 418.011. The Governor declared a statewide disaster on March 13, 2020 pursuant to Texas Government Code section 418.014. DX-1. The Government Code grants the Governor broad authority once he has declared a disaster. *Id.* §§ 418.016, 418.017(c). These powers are exercised by the Governor through the issuance of executive orders, proclamations, and regulations, which the Governor also has the power to amend or rescind. *Id.* at § 418.012. Executive orders, proclamations, and regulations “have the force and effect of law.” *Id.* On March 19, 2020, Dr. John Hellerstedt, Commissioner of the Department of State Health Services, declared a public health disaster under Texas Health and Safety Code section 81.082 because the virus “poses a high risk of death to a large number of people and creates a substantial risk of public exposure because of the disease’s method of transmission and evidence that there is community spread in Texas.” DX-2.

On March 22, 2020, the Governor issued an executive order designed to increase the capacity of Texas’s healthcare system to absorb a surge of COVID-19 patients and address the severe shortage of PPE. DX-4 (GA-09). Shortly thereafter, the Texas Medical Board (TMB) issued an Emergency Rule, 22 Tex. Admin. Code § 187.55, providing a mechanism for enforcement. GA-09 applied to all licensed health care professionals and all licensed health care facilities in the State. It required that they “postpone all surgeries and procedures that are not immediately necessary to correct a serious medical condition of, or to preserve the life of, a patient who without immediate performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient’s physician.” *Id.* It did not apply

to “any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID-19 disaster.” *Id.* GA-09 expired on its own terms on April 21, 2020. *Id.*

At 11:59pm on April 21, 2020, a new Executive Order pertaining to elective surgeries and procedures took the place of GA-09. GA-15 also applies to all licensed health care professionals and all licensed health care facilities in the State. DX-11. It requires that they “postpone all surgeries and procedures that are not medically necessary to diagnose or correct a serious medical condition of, or to preserve the life of, a patient who without timely performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient’s physician.” *Id.* It also does not apply to “any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID-19 disaster.” *Id.*

Significantly, GA-15 provides an additional exception for “any surgery or procedure performed in a licensed health care facility that has certified in writing to the Texas Health and Human Services Commission both: (1) that it will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and (2) that it will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID-19 disaster.” *Id.* GA-15 expires on May 8, 2020. *Id.*

Under the text of GA-15, providers are responsible for certifying that they meet the conditions of the new exception. *Id.* Both HHSC and the Texas Medical Board

(TMB) agree that HHSC's role is limited to receiving certifications from facilities and acknowledging receipt. *Id.*; DX-13, DX-14. TMB issued an emergency rule, which went into effect at midnight on April 22, 2020 along with GA-15, and replaces 22 Tex. Admin. Code § 187.55, the previous Emergency Rule that corresponded with GA-09. DX-12. The New Emergency Rule tracks the language of GA-15, including the new exception, and provides a mechanism for enforcement.

Every Plaintiff clinic has certified to HHSC that it meets the requirements of the new exception in GA-15. DX-15.

LEGAL STANDARD

A preliminary injunction is “an extraordinary remedy that should only issue if the movant shows: (1) a substantial likelihood of prevailing on the merits; (2) a substantial threat of irreparable injury if the injunction is not granted; (3) the threatened injury outweighs any harm that will result to the non-movant if the injunction is granted; and (4) the injunction will not disserve the public interest.” *Ridgely v. Fed. Emergency Mgmt. Agency*, 512 F.3d 727, 734 (5th Cir. 2008). At the preliminary injunction stage, Plaintiffs “bear the burden to prove, by a ‘clear showing’ that they are entitled to relief.” *In re Abbott*, No. 20-50264, 2020 WL 1685929, at *12 (5th Cir. Apr. 7, 2020) (*Abbott I*) (citation omitted).

ARGUMENT

I. The Court Should Deny the Motion for Preliminary Injunction Because Plaintiffs Have No Likelihood of Success on the Merits.

Plaintiffs cannot show an entitlement to injunctive relief as to GA-09 because it is no longer effective. DX-4. To the extent Plaintiffs may yet raise challenges to GA-15 and the New Emergency Rule (and they have not done so) and to the extent the

Court entertains those challenges under this motion,³ the Court lacks jurisdiction because Plaintiffs lack standing to obtain any relief and there is no case or controversy between the parties.

“A district court’s obligation to consider a challenge to its jurisdiction is non-discretionary.” *In re Gee*, 941 F.3d 153, 159 (5th Cir. 2019). “When the defendant ‘challenge[s] the jurisdiction of the district court in an appropriate manner,’ that court has a ‘duty of making further inquiry as to its own jurisdiction.’ *Id.* (quoting *Opelika Nursing Home, Inc. v. Richardson*, 448 F.2d 658, 666 (5th Cir. 1971)).

A. The Court lacks jurisdiction to grant prospective injunctive relief as to the enforcement of GA-09 and the corresponding Emergency Rule because GA-09 and the Emergency Rule are no longer in effect.

The “frequently reiterated standard requires plaintiffs seeking preliminary relief to demonstrate that irreparable injury is likely in the absence of an injunction.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). Plaintiffs cannot show that they will “likely” suffer irreparable injury with respect to GA-09 because it is no longer effective and no longer being enforced. DX-4. The Fifth Circuit recently confirmed that this Court lacks jurisdiction to order prospective relief against officials who do not enforce an executive order. *In re Abbott*, No. 20-50296, 2020 WL 1911216, at *6-7 (5th Cir. Apr. 20, 2020) (*Abbott II*). No one is enforcing GA-09 or the Emergency Rule because neither remains operative. *In re Abbott* thus forecloses any relief as to GA-09 and the Emergency Rule.

³ The Court indicated at the telephone conference of April 20, 2020 that despite GA-15 not being part of the current lawsuit, the Court would entertain a challenge to GA-15 as part of the already-pending motion for preliminary injunction.

B. This Court lacks jurisdiction over any GA-15 claims.

Plaintiffs state that they include GA-15 in their request for preliminary injunctive relief (despite it not being included in the operative complaint) “[t]o the extent Defendants intend to interpret and enforce the rule consistent with their interpretation of GA-09 and inconsistent with GA-15’s new exception.” Suppl. Mem. Supp. Mot. 1 n.1. As explained above, GA-15 and GA-09 are not the same, and GA-15 contains an exception GA-09 lacked and that Plaintiffs certify they meet, so it is unclear how they would be applied the same way. Thus, according to their own motion, Plaintiffs have no basis for preliminary injunctive relief against GA-15. But even if the Court entertained a claim for relief related to GA-15, the Court lacks jurisdiction over any putative claims related to GA-15 because there is no case or controversy and Plaintiffs lack standing.

1. Plaintiffs may not sue the Governor and Attorney General for injunctive relief.

As the Fifth Circuit already held, “the Governor lacks the required enforcement connection to GA-09 and may not be sued for injunctive relief under the Eleventh Amendment.” *Abbott II*, 2020 WL 1911216, at *6. The Fifth Circuit also settled the question as to the Attorney General: “The Attorney General also lacks the required enforcement connection to GA-09 and may not be sued for injunctive relief under the Eleventh Amendment.” *Id.* Like GA-09, GA-15 provides no enforcement connection to these state officials. DX-11. The Governor and the Attorney General therefore are not proper parties to any suit challenging GA-15, and the Court lacks jurisdiction to enter injunctive relief against them. *Abbott II*, 2020 WL 1911216, at *7.

2. There is no case or controversy regarding GA-15.

“The exercise of judicial power under Article III of the United States Constitution depends upon the existence of a case or controversy. Without an actual case or controversy, a federal court has no jurisdiction.” *John Doe #1 v. Veneman*, 380 F.3d 807, 814 (5th Cir. 2004). “‘There must be a case or controversy through all stages of a case’—not just when a suit comes *into* existence but *throughout* its existence.” *Yarls v. Bunton*, 905 F.3d 905, 909 (5th Cir. 2018) (quoting *K.P. v. LeBlanc*, 729 F.3d 427, 438 (5th Cir. 2013)). For about two weeks, GA-15 delays surgeries or procedures that are not medically necessary, but provides an exception for procedures performed in facilities that make the specified certification to HHSC. DX-11. Plaintiffs state that they can truthfully certify that they qualify for the exception. Suppl. Mem. Supp. for Prelim. Inj. at 1. Plaintiffs in fact *have* made those certifications and received acknowledgment from HHSC. DX-15. Having done so, Plaintiffs admit the exemption applies to them. There is no controversy between the parties, and the Court therefore lacks jurisdiction.⁴

3. Plaintiffs lack standing to challenge GA-15.

Closely related to the above is Plaintiffs’ lack of standing to challenge GA-15.

⁴ As the Fifth Circuit just cautioned, were the Court to find that the plain text of GA-15 is ambiguous or disagree with state officials’ interpretation of it, “any relief ordering a state official to comply with state law would be barred by the *Pennhurst* doctrine. *Abbott II*, 2020 WL 1911216, at *15 (citing *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 106 (1984)). Moreover, the Supreme Court has long held that district courts must abstain from deciding cases where a state-law question—like the proper interpretation of state law—would “avoid or significantly modify” the federal analysis. *Lake Carriers Ass’n v. MacMullan*, 406 U.S. 498, 512 (1972); see *R.R. Comm’n v. Pullman Co.*, 312 U.S. 496, 500 (1941).

“‘[F]ederal courts are under an independent obligation to examine their own jurisdiction, and standing ‘is perhaps the most important of [the jurisdictional] doctrines.’” *In re Gee*, 941 F.3d at 159 (quoting *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 231 (1990) (citation omitted)). Plaintiffs cannot show they are being injured by any State Defendant and lack standing to pursue relief from GA-15 or the New Emergency Rule. This Court therefore lacks jurisdiction over any future challenge by Plaintiffs as to those provisions.

a. A plaintiff seeking relief in federal court must first plausibly allege “an injury in fact—an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical.” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992) (internal citations and quotation marks omitted). The “threatened injury must be certainly impending to constitute injury in fact, and . . . allegations of possible future injury are not sufficient.” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 410 (2013) (quotations and brackets omitted). “By ensuring a future injury is not ‘too speculative,’ the imminence requirement [of article III standing] ‘reduce[s] the possibility of deciding a case in which no injury would have occurred at all.’” *Ctr. for Biological Diversity v. United States Env’tl Prot. Agency*, 937 F.3d 533, 537 (5th Cir. 2019) (quoting *Lujan*, 504 U.S. at 564 n.2).

Because GA-15 is not addressed in the operative complaint, there are no allegations of injury. 2d Am. Compl. 2-27. But assuming Plaintiffs will make allegations regarding GA-15 like those they made for GA-09, there is no injury in fact traceable to the State Defendants. All the Plaintiff abortion clinics have submitted certifications, and HHSC has acknowledged receipt of those certifications. DX-15. According to the text of GA-15 and HHSC, that is the extent of HHSC’s role under GA-15. DX-

11; *see also* DX-13, DX-14. TMB will enforce GA-15 only if it receives a complaint of non-compliance and verifies the allegation through investigation. DX-14.⁵ Because Plaintiffs have now certified to HHSC that they qualify for the exemption, neither HHSC nor TMB will take any unilateral enforcement action against them.

If Plaintiffs choose not to perform abortions despite making the certification to qualify for the exemption, that does not give them standing. “A plaintiff’s decision to forego action based on speculation is not an injury sufficient to confer standing.” *Zimmerman v. City of Austin*, 881 F.3d 378, 389-90 (5th Cir. 2018); *see also Ctr. for Biological Diversity*, 937 F.3d at 540-42. “Parties ‘cannot manufacture standing merely by inflicting harm on themselves based on their fears of hypothetical future harm that is not certainly impending.’” *Glass v. Paxton*, 900 F.3d 233, 239 (5th Cir. 2018) (quoting *Clapper*, 568 U.S. at 416).

b. Next, the plaintiff must show it is “likely,” as opposed to merely “speculative,” that the claimed injury will be “redressed by a favorable decision.” *Lujan*, 504 U.S. at 561 (quoting *Simon v. Eastern Ky. Welfare Rights Org.*, 426 U.S. 26, 41-42 (1976)). Plaintiffs’ GA-15 claims against the State Defendants do not meet that standard. Assuming Plaintiffs would seek an order enjoining State Defendants from enforcing GA-15 and the New Emergency Rule as applied to abortions like they did with GA-09, Plaintiffs cannot show any likelihood of enforcement if they have certified that

⁵ Plaintiffs have never articulated what their theory of injury is with respect to the Texas Nursing Board. TNB, unlike TMB, has not passed any emergency rules providing for enforcement for non-compliance with either GA-09 or GA-15, and the disciplinary code section cited by Plaintiffs in the Complaint does not mention anything about compliance with Executive Orders. *See* 2d Am. Compl. ¶ 28; Tex. Occ. Code. § 301.452. In light of the absence of any allegations, let alone evidence, this Court cannot enter relief against TNB.

they meet GA-15's exemption. Standing to seek prospective relief against the enforcement of state law requires "a credible threat of prosecution." *Cruz v. Abbott*, 849 F.3d 594, 602 (5th Cir. 2017). Any prosecution based on the Executive Order would be pursued by the District Attorney Defendants, and there is no allegation that these Defendants are at all likely to pursue prosecution, let alone under GA-15. *See* 2d Am. Compl. 2-27. Before any Plaintiff could suffer injury, the relevant District Attorney would have to find that Plaintiffs are in violation of GA-15 despite their certifications and decide to pursue prosecution. And as to TMB, it will issue sanctions for violation of GA-15 only if it first (1) receives a complaint of non-compliance, (2) the complaint contains sufficient evidence to prompt an investigation; and (3) verifies the allegation through investigation. DX-14. Injury that relies on such an "attenuated chain of inferences" does not suffice for standing. *Clapper*, 568 U.S. at 414 n.5.

A mere fear of prosecution absent any indication it will occur is not enough to establish standing. Hypothetical injuries are insufficient to establish Article III jurisdiction. *Moore v. Bryant*, 853 F.3d 245, 248 (5th Cir. 2017), *cert. denied*, 138 S. Ct. 468 (2017). The Fifth Circuit, in upholding this Court's standing conclusion in *Glass*, held that "[b]y adjudicating claims for which the alleged harm is not certainly impending, federal courts risk disregarding their constitutional mandate to limit their jurisdiction to actual cases and controversies and thereby avoid the issuance of advisory opinions." 900 F.3d at 242. GA-15 causes no harm to Plaintiffs, nor is any "certainly impending." Plaintiffs therefore lack standing, and this Court lacks jurisdiction to enter injunctive relief.

II. If the Court considers the merits of Plaintiffs’ motion, it should deny relief because Plaintiffs fail to show a constitutional violation “beyond question.”

Jacobson v. Commonwealth of Massachusetts, 197 U.S. 11, 35 (1905), “prohibits courts from ‘usurp[ing] the state’s authority to craft measures responsive to a public health emergency.’” *Abbott II*, 2020 WL 1911216, at *12 (citing *Abbott I*, 2020 WL 1685929, at *12). “Courts have no authority to ask whether a ‘particular method [is]—perhaps, or possibly—not the best.’” *Id.* (quoting *Jacobson*, 197 U.S. at 35). “Instead, courts may ask only whether the state has acted in an ‘arbitrary, unreasonable manner.’” *Id.* (quoting *Jacobson*, 197 U.S. at 28). In the context presented here, where Plaintiffs claim a burden on the right to abortion, “a court should ‘ask[] whether GA-09 imposes burdens on abortion that ‘beyond question’ exceed its benefits in combating the epidemic Texas now faces.’” *Id.* (quoting *Abbott I*, 2020 WL 1685929, at *11 (quoting *Jacobson*, 197 U.S. at 31)). The Fifth Circuit emphasized that this “delicate inquiry” requires ‘careful parsing of the evidence.’” *Id.* at *13 (quoting *Abbott I*, 2020 WL 1685929 at *11). Evaluating the evidence under the prescribed standard shows that Plaintiffs are not entitled to injunctive relief.

A. Plaintiffs cannot show any burden on abortion rights because GA-15 does not require certifying facilities to postpone procedures.

As stated above, on its face, GA-15 does not require facilities to postpone procedures if the facility has certified it meets the exception. DX-11. Thus, all of Plaintiffs’ arguments about burdens caused by GA-09’s postponements are irrelevant. Plaintiffs cannot show any entitlement to injunctive relief because no patients’ rights are being burdened.

B. Following the mandate rule, as the Court must, provides no means for Plaintiffs to obtain relief because their evidence is still insufficient.

Even if GA-15 were identical to GA-09—it’s not—and this Court had jurisdiction to grant relief—it doesn’t—Plaintiffs’ evidence is insufficient to show a likelihood of success on the merits, as the Fifth Circuit has already determined twice. This Court must follow the mandate rule, “a particular manifestation of the law-of-the-case doctrine barring reexamination of issues already decided by an appellate court.” *Abbott II*, 2020 WL 1911216, at *7 (citing *United States v. Smith*, 814 F.3d 268, 273 (5th Cir. 2016)). “Under the mandate rule, a district court ‘must implement both the letter and the spirit of the appellate court’s mandate and may not disregard the explicit directives of that court.’” *Id.* (citing *United States v. Lee*, 358 F.3d 315, 321 (5th Cir. 2004) (quoting *United States v. Matthews*, 312 F.3d 652, 657 (5th Cir. 2002))).

The Fifth Circuit has twice found that the record before it “failed to support the conclusion that GA-09 violates *Jacobson* [*v. Commonwealth of Massachusetts*] and [*Planned Parenthood of Southeastern Pennsylvania v.*] *Casey*.” *Id.* at *9. Thus, in evaluating Plaintiffs’ claim for relief, the Court should look beyond evidence “already found wanting.” *Id.* Instead, the Court must consider whether Plaintiffs’ new evidence—Exhibits 21-40—addresses the deficiencies identified by the Fifth Circuit. If it does not, the mandate rule bars relief.

In its most recent opinion, the Fifth Circuit identified examples of areas where additional evidence might help Plaintiffs meet their heavy burden to show a constitutional violation “beyond question” under *Jacobson*:

1. Evidence showing how much PPE should be used and/or is being used for abortion procedures *during the current pandemic*, not under normal circumstances. *Abbott II*, 2020 WL 1911216, at *10.

2. Evidence showing how any increase in travel for some patients compares to the amount of travel GA-09 has reduced. *Id.* at *13.
3. Evidence showing how often medication abortions require follow-up surgical aspiration, not just hospitalization. *Id.* at *14.
4. Evidence of “discrete and well-defined instances” of a woman over 18 weeks LMP who would suffer a specific burden on abortion access to support an as-applied challenge. *Id.* at *16.
5. Direct, not “secondhand, and thus weak,” evidence of specific patients who will be 22 weeks LMP before expiration of GA-09 and for whom GA-09 operates as a permanent ban. *Id.* at *17.⁶

Plaintiffs’ evidence is still deficient. At best, it is merely cumulative of the evidence already rejected twice by the Fifth Circuit. At worst, it is irrelevant given the Fifth Circuit’s legal conclusions. Each of the five categories will be addressed in turn below.

1. Plaintiffs lack evidence showing how much PPE should be used and is being used for abortion procedures during the COVID-19 pandemic.

To start, GA-15 does not require any facility that certifies compliance with the exception to postpone any procedure. DX-11. But even if it somehow did despite GA-15’s plain text, Plaintiffs have failed to proffer evidence justifying injunctive relief. In the second mandamus opinion, the Fifth Circuit held that the record contained insuf-

⁶ While the Fifth Circuit concluded that this was the only part of the second TRO that it could not conclude was a “clear abuse of discretion” “at this early stage,” it also stated that “given the weak evidence, we are not fully satisfied with this [Court’s] cursory conclusion” as to women exceeding the legal limit.” *Id.*

ficient evidence to support “the conclusion that merely postponing medication abortions ‘beyond question’ violates the right to abortion.” *Id.* at *10. As part of that conclusion, the Court observed that there was no evidence showing how abortion providers are using PPE during the pandemic: “Scour the twenty declarations [Plaintiffs] submitted to support their claim. Does any testify that *during the current pandemic*, abortion providers are not wearing masks? No. Nor would one expect such a statement when everyday life now presents ... grocery store cashiers, gas station attendants, and retail clerks wearing them every day.” *Id.* (footnote omitted).⁷ “Scour” the new declarations, and there is again a lack of evidence on this point, and only more of the same—PPE usage under normal circumstances. *See* Roe Decl. ¶ 9⁸ (opinion on general PPE usage not specific to pandemic); ¶ 14 (seeing pregnant patients during pandemic requires extra PPE to prevent transmission of virus); Schutt-Aine 2d Decl. ¶¶ 15, 22 (PPE use for pregnant patients during pandemic); ¶¶ 38, 40, 43 (general assertions on PPE usage not specific to pandemic); *see also generally* Pls.’ Exs. 23-39. Plaintiffs have once again failed to support the conclusion that merely postponing medication abortions—or any type of abortion—“‘beyond question’ violates the right to abortion.” *Abbott II*, 2020 WL 1911216, at *10.

⁷ At least one plaintiff—Planned Parenthood of Greater Texas—is requiring all patients to wear a “face covering” because of COVID-19. <https://perma.cc/4SKV-Y7KD>.

⁸ State Defendants vehemently object to Plaintiffs’ use of declarations from anonymous purported experts and anonymous non-essential fact witnesses, especially given that these witnesses are not even identified to counsel and the parties will have no opportunity to cross-examine these supposed witnesses. State Defendants soon intend to file a motion for reconsideration of the Court’s order granting the protective order and allowing these witnesses to not identify themselves, since they were not given time to respond under the Local Rules of this Court.

2. Plaintiffs lack evidence showing how an increase in travel for abortion patients compares to the decrease in travel for many patients across the state.

The Fifth Circuit held that this Court “usurp[ed] state authority to create public-health measures” when it previously concluded that GA-09 did not serve the public interest. The Court had relied on hearsay evidence previously submitted by Plaintiffs to show that some women were choosing to travel out of state to receive an abortion rather than wait until GA-09 expired. *Id.* at *13. Again, the plain text of GA-15 does not require any facility that certifies compliance with the exception to postpone procedures, so it follows that any continued traveling out of state for procedures is not attributable to GA-15. DX-11. But even if it did, the Fifth Circuit held that “evidence that some women travel to other states to receive an abortion does not demonstrate that GA-09 increases the risk of COVID-19 transmission. Such a claim would require comparing the amount of travel that GA-09 has increased with the amount of travel it has reduced.” *Id.* It pointed out Plaintiffs’ admissions that women normally travel all over Texas to receive abortions. *Id.* In other words, it is unclear that some women choosing to travel out of state creates more risk of the spread of COVID-19 than is being reduced by delaying abortion procedures. Plaintiffs submitted no evidence on this point. *See generally* Pls.’ Exs. 21-40.

3. Plaintiffs lack evidence showing how often medication abortions require follow-up surgical aspiration, not just hospitalization.

The Fifth Circuit determined that the Court’s previous conclusion that the number of medication abortions that require a follow-up surgical procedure “is exceedingly small” was unsupported by the record. *Abbott II*, 2020 WL 1911216, at *14. The Fifth Circuit explained that Plaintiffs’ evidence did not support that statement, as it referred only to hospitalization, and that State Defendants submitted evidence showing

the opposite was true. *Id.* Plaintiffs have now submitted a second declaration from Dr. Schutt-Aine, which admits that the FDA states that the surgical aspiration follow-up rate is 2.6%. Schutt-Aine 2d Decl. ¶ 45. First, that number is not “exceedingly small.” *Abbott II*, 2020 WL 1911216, at *14. According to 2017 figures, that would be 443 surgical follow-ups per year, or more than eight per week. DX-5. But it also fails to clarify much according to Plaintiffs’ own arguments. Plaintiffs argued that State Defendants’ evidence— an ACOG practice bulletin reaffirmed in 2016⁹--was “outdated.” *Id.* But Dr. Schutt-Aine’s evidence is also from 2016. *See* Schutt-Aine 2d Decl. ¶ 45 n. 22. None of Plaintiffs’ other evidence addresses this. *See generally* Exs. 21-36, 38-40.

4. Plaintiffs lack evidence of specific patients who are approaching 18 weeks LMP and would suffer a specific burden on abortion access.

The Fifth Circuit held that delaying an abortion procedure for a woman who was approaching 18 weeks LMP is not an absolute ban on abortion and surmised that this Court instead “had in mind an as-applied challenge to GA-09 on behalf of a woman facing this particular combination of circumstances.” *Id.* at 16. But the Fifth Circuit held that such relief “would require evidence of ‘discrete and well-defined instances’ sufficient to support such a challenge . . . but the district court cited none and we can find none in the record.” *Id.* at *16 (citation omitted). Nor is there any now. Like the

⁹ *See* TRO Resp. 18 n. 41 (citing Am. Coll. of Obstetricians and Gynecologists, *Medical Management of First-Trimester Abortion, Practice Bulletin 143* (2016), <https://www.acog.org/clinical/clinicalguidance/practice-bulletin/articles/2014/03/medical-management-of-first-trimester-abortion>); Reply in Support of Petition for Writ of Mandamus 5 n. 6, *Abbott II*, 2020 WL 1911216 (5th Cir. filed Apr. 15, 2020).

declaration of the abortion-hotline coordinator Rashae Ward (Ex. 21), which was rejected by the Fifth Circuit as insufficient, *id.*, Plaintiffs’ new declarations only provide more of the same non-specific evidence. *Compare* Ward Decl. ¶¶ 13, 16 *with* Bennett Decl. ¶ 24, Hagstrom-Miller 2d Decl. ¶ 5, Sanford Decl. ¶ 17, Moe Decl. ¶¶ 18-19.

5. Plaintiffs lack evidence of specific patients who would be over 22 weeks LMP before expiration of GA-15 and would suffer a complete deprivation of abortion access.

The Fifth Circuit found that this Court’s TRO as to women who would exceed the gestational limit for abortion in Texas before GA-09 expired was not “so patently erroneous that mandamus is appropriate,” but expressed serious reservations about the sufficiency of Plaintiffs’ evidence past the TRO stage. *Abbott II*, 2020 WL 1911216, at *17. In particular, the Court pointed out that the only evidence was “secondhand” and therefore “weak.” *Id.* That is still true of Plaintiffs’ new evidence. *See* Moe Decl. ¶19; Nguyen 2d Decl. ¶ 5. Further, the Fifth Circuit pointed out that it is unknown whether “GA-09’s exception for ‘patient[s] who without immediate performance of the surgery or procedure would be at risk for serious adverse medical consequences ... as determined by the patient’s physician,’” already covers women in these circumstances.” *Id.* (quoting *Abbott I*, 2020 WL 1685929, at *3). Plaintiffs have submitted no evidence on that point, and to the extent that question is a matter of interpretation of state law, the proper forum for answering that question is state court. *See Reetz v. Bozanich*, 397 U.S. 82, 86 (1970); *Pullman*, 312 U.S. at 511.

* * *

Plaintiffs have failed to meet the exacting burden required to merit the extraordinary remedy of a preliminary injunction. Plaintiffs cannot show any burden because the text of GA-15 does not require facilities that have certified compliance with

the exception to postpone procedures. Even if it did, Plaintiffs' evidence is still insufficient to warrant injunctive relief according to the Fifth Circuit because it fails to establish that the right to abortion has been violated "beyond question."

III. Plaintiffs Cannot Satisfy The Remaining Factors For Preliminary Injunctive Relief.

Plaintiffs cannot show irreparable harm because they cannot show that they are being prohibited from doing anything by GA-15. *See Ridgely*, 512 F.3d at 734; Parts I.B.2, II.A *supra*. Conversely, the State will be harmed if the Court exempts Plaintiffs from compliance with a law that every other medical provider must follow, so the balance of equities weighs decisively in the State's favor. *See Ridgely*, 512 F.3d at 734. Moreover, COVID-19 is a serious and imminent threat to public health. Abraham Decl. ¶ 3 (DX-6). GA-15 is a necessary but temporary measure to protect the public. As the Fifth Circuit held, when it comes to determining what serves the public interest, "a court must assume that the public health experts at the Texas Department of State Health Services—not to mention the CDC, the U.S. Surgeon General, and the Centers for Medicare and Medicaid Services—weighed these difficult trade-offs between medical care and public health. Federal judges get no vote on the matter." *Abbott II*, 2020 WL 1911216, at *13 (citing *Jacobson*, 197 U.S. at 35).

CONCLUSION

For the foregoing reasons, the State Defendants respectfully request that the Court deny the motion for a preliminary injunction.

Respectfully submitted.

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I certify that on April 22, 2020, this document was served through the Court's CM/ECF Document Filing System or through electronic mail, upon the following counsel of record:

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DX-11

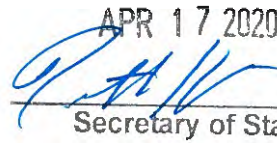


GOVERNOR GREG ABBOTT

April 17, 2020

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:40AM O'CLOCK

The Honorable Ruth R. Hughs
Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

APR 17 2020

Secretary of State

Dear Secretary Hughs:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-15 relating to hospital capacity during the COVID-19 disaster.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,



Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
April 17, 2020

EXECUTIVE ORDER GA 15

Relating to hospital capacity during the COVID-19 disaster.

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, on April 12, 2020, I issued a proclamation renewing the disaster declaration for all counties in Texas; and

WHEREAS, the Commissioner of the Texas Department of State Health Services, Dr. John Hellerstedt, has determined that COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, I have issued numerous executive orders and suspensions of Texas laws in response to COVID-19, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, a shortage of hospital capacity or personal protective equipment would hinder efforts to cope with the COVID-19 disaster; and

WHEREAS, hospital capacity and personal protective equipment were being depleted by surgeries and procedures that were not medically necessary to correct a serious medical condition or to preserve the life of a patient, contrary to recommendations from the President's Coronavirus Task Force, the Centers for Disease Control and Prevention, the U.S. Surgeon General, and the Centers for Medicare and Medicaid Services; and

WHEREAS, various hospital licensing requirements would stand in the way of implementing increased occupancy in the event of surge needs for hospital capacity due to COVID-19; and

WHEREAS, I issued Executive Order GA-09 on March 22, 2020, in an effort to avoid a shortage of hospital capacity or personal protective equipment, and it is subject to expiration at 11:59 p.m. on April 21, 2020, absent further action by the governor; and

WHEREAS, the "governor is responsible for meeting ... the dangers to the state and people presented by disasters" under Section 418.011 of the Texas Government Code, and the legislature has given the governor broad authority to fulfill that responsibility; and

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SECRETARY OF STATE
11:40 AM O'CLOCK

APR 17 2020

Governor Greg Abbott
April 17, 2020

Executive Order GA-15
Page 2

WHEREAS, under Section 418.012, the “governor may issue executive orders ... hav[ing] the force and effect of law;” and

WHEREAS, under Section 418.016(a), the “governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster;” and

WHEREAS, under Section 418.173, failure to comply with any executive order issued during the COVID-19 disaster is an offense punishable by a fine not to exceed \$1,000, confinement in jail for a term not to exceed 180 days, or both fine and confinement.

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis beginning at 11:59 p.m. on April 21, 2020, and continuing until 11:59 p.m. on May 8, 2020:

All licensed health care professionals and all licensed health care facilities shall postpone all surgeries and procedures that are not medically necessary to diagnose or correct a serious medical condition of, or to preserve the life of, a patient who without timely performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient’s physician; provided, however, that this prohibition shall not apply to either of the following:

- any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID-19 disaster; or
- any surgery or procedure performed in a licensed health care facility that has certified in writing to the Texas Health and Human Services Commission both: (1) that it will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and (2) that it will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID-19 disaster.

I hereby continue the suspension of the following provisions to the extent necessary to implement increased occupancy in the event of surge needs for hospital capacity due to COVID-19:

25 TAC Sec. 133.162(d)(4)(A)(iii)(I);
25 TAC Sec. 133.163(f)(1)(A)(i)(II)–(III);
25 TAC Sec. 133.163(f)(1)(B)(i)(III)–(IV);
25 TAC Sec. 133.163(m)(1)(B)(ii);
25 TAC Sec. 133.163(t)(1)(B)(iii)–(iv);
25 TAC Sec. 133.163(t)(1)(C);
25 TAC Sec. 133.163(t)(5)(B)–(C); and

Any other pertinent regulations or statutes, upon written approval of the Office of the Governor.

This executive order shall remain in effect and in full force until 11:59 p.m. on May 8, 2020, unless it is modified, amended, rescinded, or superseded by the governor.

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:40 AM O'CLOCK

APR 17 2020

Governor Greg Abbott
April 17, 2020

Executive Order GA-15
Page 3



Given under my hand this the 17th
day of April, 2020.

A handwritten signature in black ink that reads "Greg Abbott".

GREG ABBOTT
Governor

ATTESTED BY:

A handwritten signature in blue ink that reads "Ruth R. Hughes".

RUTH R. HUGHES
Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:40 AM O'CLOCK

APR 17 2020

DX-12

Texas Medical Board Press Release

FOR IMMEDIATE RELEASE

April 21, 2020

Media contact: Jarrett Schneider, 512-305-7018

Customer service: 512-305-7030 or 800-248-4062

TMB Adopts Emergency Rule to Enforce Gov. Abbott's Executive Order GA-15

Following Governor Greg Abbott's issuance of [Executive Order GA-15](#), the Texas Medical Board's Executive Committee today adopted rules on an emergency basis to enforce the Governor's Executive Order which continues the postponement of certain surgeries and procedures as outlined in the order.

The adopted rule amends 22 TAC Chapter 190.8 Violation Guidelines, and adds to the definition of "Unprofessional and Dishonorable Conduct" under 22 TAC §190.8(2)(U). The adopted emergency rule goes into effect later today at 11:59 p.m. when GA-15 goes into effect.

The rule adds to the definition to include the following:

(U) a violation of Texas Executive Order GA-15, issued April 17, 2020, which states: "All licensed health care professionals and all licensed health care facilities shall postpone all surgeries and procedures that are not medically necessary to diagnose or correct a serious medical condition of, or to preserve the life of, a patient who without timely performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient's physician; provided, however, that this prohibition shall not apply to either of the following:

(i) any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID-19 disaster; or

(ii) any surgery or procedure performed in a licensed health care facility that has certified in writing to the Texas Health and Human Services Commission both:

(1) that it will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and

(2) that it will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID-19 disaster."

The Executive Committee also withdrew emergency rules related to Executive Order GA-09 effective today at 11:59 p.m.

The Board has published updated FAQs on the TMB website at www.tmb.state.tx.us/page/coronavirus.

For the latest COVID-19 information for health providers and the public, visit the Department of State Health Services (DSHS) COVID-19 web page at dshs.texas.gov/coronavirus/.

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DX-13



Texas Health and Human Services Commission

Phil Wilson
Executive Commissioner

Health Facility Licensing Guidance Letter

Number: GL 20-1007
Title: Executive Order GA-15 Licensed Health Care Facilities Certification
Provider Types: Licensed Health Care Facilities
Date Issued: April 17, 2020

1.0 Subject and Purpose

Governor Greg Abbott issued Executive Order GA-09 on March 22, 2020, concerning the postponement of surgeries and procedures in certain circumstances, in response to the state of disaster declared in Texas and the United States of America relating to COVID-19. That order remains in effect and in full force until 11:59 p.m. on April 21, 2020.

Governor Abbott issued Executive Order GA-15 on April 17, 2020, also concerning the postponement of surgeries and procedures in certain circumstances. This letter describes the requirements set forth in Executive Order GA-15, and the responsibilities of licensed health care facilities.

2.0 Executive Order GA-15 Details

Beginning at 11:59 p.m. on April 21, 2020, and continuing until 11:59 p.m. on May 8, 2020, all licensed health care facilities are ordered to postpone all surgeries and procedures that are not medically necessary to diagnose or correct a serious medical condition of, or to preserve the life of, a patient who without timely performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient's physician.

By its terms, this prohibition in GA-15 does not apply to any surgery or procedure performed in a licensed health care facility that has certified in writing to the Texas Health and Human Services Commission both:

- (1) that it will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) that it will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID-19 disaster.

2.1 Health Care Facility Certification Submission Requirements:

A licensed health care facility's certification, under GA-15, must be submitted to the Health and Human Services Commission in the form of a letter. The certification letter must:

- Be on the licensed health care facility's letterhead;
- Be addressed to:

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347
- Reference the facility's name, license type, and license number in the subject line;
- Identify by name the facility's administrator, director, or other individual with authority to bind the facility;
- Include the following language:
 - I certify, on behalf of *[name of licensed health care facility]*, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
 - I certify, on behalf of *[name of licensed health care facility]*, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID-19 disaster.
- Not limit or qualify the required certification language in any way;

- Be signed by the facility's administrator, director, or other individual with authority to bind the facility, as identified above; and
- Be submitted to the Health and Human Services Commission via e-mail to HFLCertificationCoordinator@hhsc.state.tx.us.

A licensed health care facility that submits a certification with the required elements, as described above, will receive an acknowledgement via e-mail from the Health and Human Services Commission

3.0 Background/History

Chapter 418 of the Texas Government Code, Emergency Management, authorizes the Governor to declare a state of disaster if a disaster has occurred or the threat or occurrence of a disaster is imminent. See Tex. Gov't Code §418.014. Chapter 418 also authorizes the Governor to issue executive orders and establishes that those orders have the force and effect of law. See Tex. Gov't Code §418.012.

4.0 Resources

Executive Order GA-15: https://gov.texas.gov/uploads/files/press/EO-GA-15_hospital_capacity_COVID-19_TRANS_04-17-2020.pdf

5.0 Contact Information

If you have any questions about this letter, please contact the Policy, Rules and Training Unit by email at HCO_PRT@hhsc.state.tx.us.

If you have any questions about the certification process, please contact HFLCertificationCoordinator@hhsc.state.tx.us.

DX-14

Updated
Texas Medical Board (TMB) Frequently Asked Questions (FAQs)
Regarding Non-Urgent, Elective Surgeries and Procedures During
Texas Disaster Declaration for COVID-19 Pandemic

April 21, 2020

***Disclaimer – The COVID-19 Disaster is a fluid and rapidly evolving situation. Please check these FAQs often as, events may warrant frequent updates.**

On April 17, 2020, Governor Abbott issued Executive Order GA-15, which will replace Executive Order GA-09 at 11:59 pm on April 21, 2020. The new executive order will be in effect from 11:59 pm on April 21, 2020 until 11:59 pm on May 8, 2020, unless terminated, modified, or extended by the governor.

1. What will happen to Executive Order GA-09 and the two Texas Medical Board emergency rules associated with it?

Executive Order GA-09 will expire on April 21, 2020 at 11:59 pm. When it expires, it will also end the need for the two TMB emergency rules associated with it. The two emergency rules will no longer be effective and will be withdrawn from the Texas Register.

2. What is the effect of Executive Order GA-15?

[Executive Order \(EO\) GA-15](#) loosens restrictions placed on surgeries and procedures set forth by Governor Abbott. The loosening of the restrictions is now possible due to actions that resulted in increased hospital bed availability, increased supply of personal protective equipment (PPE), and enhanced supply chains for vital medical resources to address COVID-19.

Executive Order GA-15 continues to focus on preservation of hospital capacity and PPE. GA-15 recognizes and continues to remind physicians to be mindful of their obligations for the safety of patients, fellow healthcare providers, providing quality

care, and ensuring best possible outcomes for their patients. This obligation is always at the forefront of medical care. But given the unique situation created by the COVID-19 pandemic, these obligations are more critical than ever before.

GA-15 states that all licensed healthcare professionals and facilities must postpone all surgeries and procedures not medically necessary to diagnose or correct a serious medical condition or to preserve the life of a patient who without timely performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient's physician.

There are two exceptions to this restriction. If one of the following conditions is met, then the surgery or procedure **can** go forward even if it does not meet the restriction above. The exceptions are:

- Any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the PPE needed to cope with COVID-19, or
- Any surgery or procedure performed in a licensed health care facility that has certified in writing to Texas HHSC both (1) that it will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients, and (2) that it will not request any PPE from any public source—whether federal, state, or local—for the duration of the COVID-19 disaster.

3. What does the first exception about PPE mean?

If the procedure is performed in accordance with the commonly accepted standards of clinical practice and would not potentially deplete the hospital capacity or the PPE needed to cope with the COVID-19 disaster, then the procedure may go forward. However, if the procedure could deplete hospital capacity or the PPE needed to cope with the COVID-19 disaster, then the procedure may not go forward, unless the second exception applies, as discussed above.

4. What does this second exception about facility certification mean?

The healthcare providers must continue to determine if they have to postpone all non-urgent elective surgeries or procedures, unless the surgery or procedure will be performed in a licensed healthcare facility that has completed a written certification submitted to the Texas HHSC. The certification must state both that:

1. The facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
2. The facility will not request any PPE from any public source, whether federal, state, or local, for the duration of the COVID-19 disaster.

5. How do I know if the licensed healthcare facility where the surgery or procedure would be completed is one that qualifies for the second exception?

The Texas HHSC is the agency that is receiving certifications from healthcare facilities. The physician performing the surgery or procedure must verify with Texas HHSC that the facility where the surgery or procedure will be held has submitted a written certification to the Texas HHSC. This verification must be documented in the medical record.

Information from Texas HHSC about how to submit certification for a facility under EO GA-15 can be found [here](#).

6. Should I reschedule non-urgent elective in-patient, out-patient, and office-based surgeries and procedures?

Yes, unless the physician determines, that the surgery or procedure cannot be postponed, or that the surgery or procedure meets one of the exceptions in GA-15.

7. What is the effect of emergency rule 22 Texas Administrative Code (TAC) §190.8(2)(U)?

The Texas Medical Board (TMB) Executive Committee, during an emergency meeting on April 21, 2020, adopted an emergency rule amendment to 22 TAC §190.8(2)(U). This emergency amendment adds language clarifying that a violation of Executive Order GA-15 related to the practice of medicine will be considered as potential unprofessional conduct.

8. Is there a mandatory reporting requirement for TMB licensees when the TMB licensee knows or suspects another TMB licensee of violating EO GA-15 like there was EO GA-09?

No. TMB did not pass an emergency rule that included a violation of EO GA-15 to be defined as a “continuing threat” to the public as was done with EO GA-09. Because a violation of EO GA-15 is not defined as a continuing threat, there was no need for an emergency rule amending the pre-COVID-19 mandatory reporting requirement for TMB licensees when the licensee knows or suspects another TMB licensee of being a continuing threat. These measures were not taken for EO GA-15 because of the availability of hospital capacity and PPE and a flattened curve that did not exist or was unknown at the time EO GA-09 became effective.

However, the duty to report continuing threats as defined in TMB rules prior to the COVID-19 outbreak still remains.

9. Can I still schedule and perform office-based visits for my patients?

Office-based visits that do not include surgeries or procedures may continue without prohibition. However, the office-based visits should be conducted in accordance with standard protocols, including safety measures that prevent the spread of COVID-19.

10. What is not included in the term “procedure”?

A “procedure” does not include physical examinations, non-invasive diagnostic tests, the performing of lab tests, or obtaining specimens to perform laboratory tests.

11. If I report a violation, will it be confidential?

Yes. While the law does not allow for the TMB to accept *anonymous* complaints, a complainant’s identity will remain confidential. This means that the TMB will know the complainant’s identity, but no one else will.

12. Can I be sued, fired, or otherwise retaliated against for filing a complaint?

Texas law prohibits retaliation against any complainant, regardless of the complainant’s identity as a physician, patient, family member or concerned citizen.

All complaints to TMB are confidential and your identity will not be disclosed to the individual against whom the complaint is made.

13. How long will this prohibition on non-urgent elective surgeries last?

Until [Executive Order GA-15](#) expires on May 8, 2020, unless terminated, modified, or extended by the Governor.

14. What are some sources that might help a physician in deciding whether to proceed with a procedure or surgery?

The following sources would be helpful:

- CDC [guidelines](#)
- CMS [guidelines](#)

- American College of Surgeons, American Society of Anesthesiologists, Association of Perioperative Registered Nurses and American Hospital Association - Joint Statement: Roadmap for Resuming Elective Surgery after COVID-19 Pandemic, <https://www.asahq.org/about-asa/newsroom/news-releases/2020/04/joint-statement-on-elective-surgery-after-covid-19-pandemic>
- Specialty Society Guidance
- Recognized scientific or medical journals, research, or other literature

15. Why does the TMB use the phrase “non-urgent elective surgery or procedure”?

Facilities have different levels of need for “elective” surgeries. These levels are often distinguished by the terms “urgent” or “emergent” by facilities. Some facilities or providers may use the term “acuity.” Regardless, the **physician must determine** whether, if any medically necessary surgeries or procedures are delayed or canceled, the patient will be at risk for serious adverse medical consequences or death.

“Elective, Non-urgent” cases are defined as cases where there is no anticipated short-term or long-term negative impact as a result of delaying a procedure or surgery. Examples include screening for a nonlife-threatening chronic condition or most cosmetic procedures.

“Urgent or Elective Urgent” means a surgery or procedure where there is a risk of patient deterioration or disease progression that is likely to occur if the procedure or surgery is not timely undertaken and/or the surgery or procedure is significantly delayed. The resulting decline in the patient’s health could make them more vulnerable to COVID-19 and other issues.

“Emergent” means a life-threatening condition in which the surgery or procedure must be undertaken and/or cannot be safely delayed for any significant period of time.

16. What should I do if I determine a surgery or procedure is necessary and will not violate Executive Order GA-15?

Documentation is key. EO GA-15 expressly states what is needed when a procedure or surgery is done in a facility that has made the requisite certifications to Texas HHSC.

In the context of the clinical practice exception, it is very important that the medical record clearly reflects why the physicians determined a surgery or procedure was urgent and necessary to prevent serious adverse medical consequences or death, as well as the impact on hospital bed availability and usage of PPE. This documentation could include information on the patient's medical history, prescriptions, lab results, imaging, or other relevant factors used to make the determination of the urgent necessity of the surgery or procedure.

17. If a complaint is received, how will the TMB determine if the surgery or procedure met the requirements of Executive Order GA 15?

The TMB can only act on a valid written complaint. Complaints can be filed confidentially, but not anonymously. The complainant's identity will remain confidential with TMB. If a complaint is received, then TMB will begin by reviewing the complaint. If there is enough information in the complaint to proceed with an investigation, including requesting medical records for review.

When reviewing the medical records, TMB will determine, based on the medical record documentation, if the surgery or procedure complied with the requirements of EO GA-15. Further, TMB will determine whether or not the standard of care (SOC) was met by, in part, consulting applicable guidelines such as the Centers for Disease Control and Prevention (CDC), Centers of Medical and Medicaid Services (CMS), or other medical or specialty guidelines and literature. These guidelines and the medical records will help determine if the SOC was met and if the surgery or procedure was appropriate and consistent under EO GA-15.

If it appears there was a violation of EO GA-15, TMB will follow all statutes, rules, and standard processes when proceeding with an investigation.

18. What are the benefits resulting from GA-15?

This Order continues to focus on several key benefits, including:

1. It preserves resources such as, Personal Protective Equipment (PPE), ventilators, and creates a general reduction in the overall use of critical medical resources;
2. It keeps beds available for treatment of COVID-19 patients, especially intensive care unit (ICU) beds; and
3. It preserves significant healthcare practitioner time and availability which can be devoted to COVID-19 patients.

19. What can help me make decisions on whether I should perform a surgery or procedure?

The Texas Medical Board has developed the following questions to help.

1. Does this prohibition apply to me or my practice location?

The prohibition applies to ALL licensed healthcare providers and their delegates. It also applies to all licensed healthcare facilities. If you are a licensed healthcare professional or delegate, or performing the medical act in a licensed healthcare facility, proceed to #2.

If you are practicing in a non-licensed healthcare facility, then please be aware that the following exception to the prohibition does not apply:

Any surgery or procedure performed in a licensed health care facility that has certified in writing to Texas HHSC both (1) that it will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients, and (2) that it will

not request any PPE from any public source—whether federal, state, or local—for the duration of the COVID-19 disaster.

However, the following exception to the prohibition may apply:

Any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the PPE needed to cope with COVID-19.

If you are practicing in an unlicensed healthcare facility that meets this exception, then proceed to #2.

2. Is the medical act a surgery or procedure?

- Yes, proceed to #3.
- No, I am performing another medical act, such as a history, physical exam, non-invasive diagnostics, or a lab test.

If your answer is no, you may proceed with the medical act.

3. If the medical act is a surgery or procedure, then you must ask the following questions:

- Is this medically necessary to diagnose or correct a serious medical condition of or to preserve the life of a patient who without timely performance of the surgery or procedure would be at risk for serious adverse medical consequences or death?
- Would this patient, without performance of the surgery or procedure, be at risk for serious adverse medical consequences or death?

If you answer yes to this question, you can proceed with the medical act. You should document the medical necessity and serious risk in the patient's medical record.

If you answer no to this question, then proceed to #4.

4. Could the surgery or procedure deplete hospital capacity or the supply of personal protective equipment needed to cope with the COVID-19 disaster?

If your answer is yes regarding the first exception to the prohibition, then you need to determine if the procedure or surgery can proceed under the second exception in EO GA-15. Under the second exception, you may proceed if the surgery or procedure is being performed in a licensed health care facility that has certified in writing to the Texas Health and Human Services Commission both:

- that it will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- that it will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID-19 disaster.

20. I have read everything, and I am still confused. In plain English, what I am supposed to do?

Unfortunately, TMB cannot tell you exactly what to do. TMB understands these are very difficult times for everyone around the world. While TMB has a duty to enforce the law, TMB also wants to help patients and licensees navigate providing care as much as possible. TMB cannot provide an exhaustive list of approved or prohibited surgeries and procedures during this time. Nor can TMB answer specific questions about whether or not to provide certain care.

However, TMB can provide these **10 Tips**:

1. GA 15 and the TMB rules allow providers to use their judgment in determining whether timely performance of a surgery or procedure is needed to prevent serious adverse medical consequences or death;
2. If you normally could or would wait a few weeks to provide the surgery or procedure being considered for a specific patient based on the patient's unique circumstances, then that might help you decide what to do;

3. If you normally could not or would not wait a few weeks to provide the surgery or procedure being considered for a specific patient based on the patient's unique circumstances, then that might help you decide what to do;
4. If you do proceed with a surgery or procedure during this time, then be sure to clearly document why you made that decision;
5. Referencing legitimate literature and guidelines, such as from the CDC, CMS, the Joint Statement from ACS, ASA, APRN, and AHA, or other specialty guidelines will be very helpful;
6. TMB cannot put anyone in jail;
7. The decision to hold a temporary suspension or restriction hearing will meet the same standard as before the COVID-19 disaster;
8. TMB understands the importance of having as many safe licensees available as possible during this time;
9. The TMB Board Members include 12 physicians that also must navigate these times, the Executive Order, and the rules while providing safe patient care; and
10. TMB is and will continue to be understanding that these are unprecedented times.

DX-15

From: [HHSC HFL Certification Coordinator](#)
To: [Polin Barraza](#)
Subject: RE: Scanned AB Facility Letters _ ASC #130241; and ABO #140015 & #140016
Attachments: [image001.jpg](#)
[HHSC - Facility Licensing .pdf](#)

Good evening,

The health care facility's certifications, under Executive Order GA-15, have been received for the licensed health care facilities listed below/attached.

Thank you,

Lisa

From: Polin Barraza <polin.barraza@ppsouthtexas.org>
Sent: Monday, April 20, 2020 4:39 PM
To: HHSC HFL Certification Coordinator <HFLCertificationCoordinator@hhsc.state.tx.us>
Subject: Scanned AB Facility Letters

WARNING: This email is from outside the HHS system. Do not click on links or attachments unless you expect them from the sender and know the content is safe.

Dear Certificate Coordinator,

Attached please find certifications pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007.

These certifications apply to:

2140 Babcock Road, Suite 100, San Antonio, Texas 78229, Ambulatory Surgical Center License, License #130241

2140 Babcock Road, Suite 200, San Antonio, Texas 78229, Abortion Facility License, License, #140015

920 San Pedro Avenue, Suite 150, San Antonio, Texas 78212, Abortion Facility License, License, #140016

Thank you for your time. We look forward to your response.

Polin C Barraza

In This Together.

President

2140 Babcock Road | San Antonio, TX 78229

P: (210) 736-2244 Ext. 334 | F: (210) 736-0011

C3 BOM Logo South Texas Surgical Center Horz PP Primary Blue.jpg



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Planned Parenthood South Texas Surgical Center

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: 2140 Babcock Road, Suite 100, San Antonio, Texas 78229, Ambulatory Surgical Center
License, License #130241
2140 Babcock Road, Suite 200, San Antonio, Texas 78229, Abortion Facility License,
License, #140015
920 San Pedro Avenue, Suite 150, San Antonio, Texas 78212, Abortion Facility License,
License, #140016

Dear Health Facility Licensing Certification Coordinator,

Attached please find certifications pursuant to Executive Order GA-15 and Health Facility
Licensing Guidance Letter No. GL 20-1007.

As HHSC is aware, because Planned Parenthood South Texas Surgical Center's facilities
(the three facilities indicated above) are licensed abortion facilities, they do not have any hospital
capacity.

Planned Parenthood South Texas Surgical Center understands that because it has submitted
the attached certifications, Executive Order GA-15's requirements relating to postponement of
certain surgeries and procedures do not apply to it. If HHSC has a contrary understanding, we
respectfully request that you advise us to that effect by no later than April 21, 2020, at 3:00 central
time.

Sincerely,



Polin C. Barraza, RN
President & Board Chair

Planned Parenthood South Texas Surgical Center

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood, Abortion Facility License, #140016

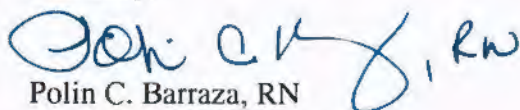
Dear Health Facility Licensing Certification Coordinator,

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood South Texas Surgical Center hereby provides the following certifications.

I, Polin C. Barraza, am the Planned Parenthood South Texas Surgical Center President, and as such have authority to bind Planned Parenthood South Texas Surgical Center's facility at 920 San Pedro Avenue, Suite 150, San Antonio, Texas 78212 in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood South Texas Surgical Center, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood South Texas Surgical Center, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,



Polin C. Barraza, RN
President & Board Chair



Planned Parenthood South Texas Surgical Center

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood, Abortion Facility License, #140015

Dear Health Facility Licensing Certification Coordinator,

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood South Texas Surgical Center hereby provides the following certifications.

I, Polin C. Barraza, am the Planned Parenthood South Texas Surgical Center President, and as such have authority to bind Planned Parenthood South Texas Surgical Center's facility at 2140 Babcock Road, Suite 200, San Antonio, Texas 78229 in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood South Texas Surgical Center, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood South Texas Surgical Center, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Polin C Barraza RN', written over a light blue rectangular background.

Polin C. Barraza, RN
President & Board Chair



Planned Parenthood South Texas Surgical Center

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood South Texas Surgical Center, Ambulatory Surgical Center
License, #130241

Dear Health Facility Licensing Certification Coordinator,

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood South Texas Surgical Center hereby provides the following certifications.

I, Polin C. Barraza, am the Planned Parenthood South Texas Surgical Center President, and as such have authority to bind Planned Parenthood South Texas Surgical Center's facility at 2140 Babcock Road, Suite 100, San Antonio, Texas 78229 in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood South Texas Surgical Center, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood South Texas Surgical Center, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

A handwritten signature in blue ink that reads 'Polin C. Barraza, RN'.

Polin C. Barraza, RN
President & Board Chair

From: [HHSC HFL Certification Coordinator](#)
To: [Jessica Klier](#)
Subject: RE: Austin Women's Health Center, Licensed Abortion Facility, 007882
Attachments: [SKM_C45820042015350.pdf](#)

Good evening,

The health care facility's certification, under Executive Order GA-15, has been received.

Thank you,

Lisa

From: Jessica Klier <jklier@brooksidewomensmedical.com>
Sent: Monday, April 20, 2020 3:44 PM
To: HHSC HFL Certification Coordinator <HFLCertificationCoordinator@hhsc.state.tx.us>
Cc: Jessica Klier <jklier@brooksidewomensmedical.com>
Subject: Austin Women's Health Center, Licensed Abortion Facility, 007882

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Please see the attached letter and certification.

Thank you,

Jessica Klier

Jessica M. Klier
Administrator
Austin Women's Health Center
1902 S. IH 35
Austin, TX 78704

512.443.9595 office
512.394.2380 cell



**AUSTIN WOMEN'S
HEALTH CENTER**

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Austin Women's Health Center, Licensed Abortion Facility, 007882

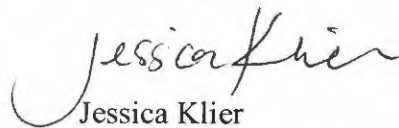
Dear Health Facility Licensing Certification Coordinator,

Attached please find certifications pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007.

As HHSC is aware, because Austin Women's Health Center is a licensed abortion facility, it does not have any hospital capacity.

Austin Women's Health Center understands that because it has submitted the attached certifications, Executive Order GA-15's requirements relating to postponement of certain surgeries and procedures do not apply to it. If HHSC has a contrary understanding, we respectfully request that you advise me to that effect by no later than April 21, 2020 at 3:00 central time.

Sincerely,


Jessica Klier



**AUSTIN WOMEN'S
HEALTH CENTER**

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Austin Women's Health Center, Licensed Abortion Facility, 007882

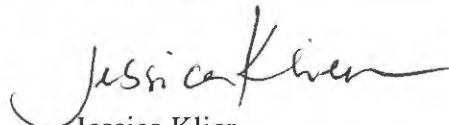
Dear Health Facility Licensing Certification Coordinator,

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Austin Women's Health Center hereby provides the following certifications.

I, Jessica Klier, am the Administrator, and as such have authority to bind Austin Women's Health Center in connection with the required certifications.

- (1) I certify, on behalf of Austin Women's Health Center, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Austin Women's Health Center, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,


Jessica Klier

From: [HHSC HFL Certification Coordinator](#)
To: [Marva Sadler](#)
Cc: [Soraya Dadras](#); [Veronica Montoya](#); [Andrea Ferrigno](#)
Subject: ACTION NEEDED_ RE: Executive Order GA-15 Licensed Health Care Facilities Certification
Attachments: [image002.jpg](#)
[McAllen 2020-04-20 Letter re GA-15.docx](#)
[Fort Worth 2020-04-20 Letter re GA-15.docx](#)
[Austin 2020-04-20 Letter re GA-15.docx](#)
Importance: High

Good evening,

The certification letters must be signed by the administrator or other deemed individual, etc. as instructed on [GL 20-1007](#). Please have them signed and resubmit. Also, to facilitate processing please include the facility name and license number in the subject line as indicated in the guidance letter.

Thank you,
Lisa

From: Marva Sadler <marva@wholewomanshealth.com>
Sent: Monday, April 20, 2020 4:41 PM
To: HHSC HFL Certification Coordinator <HFLCertificationCoordinator@hhsc.state.tx.us>
Cc: Soraya Dadras <sdadras@wholewomanshealth.com>; Veronica Montoya <vmontoya@wholewomanshealth.com>; Andrea Ferrigno <andrea@wholewomanshealth.com>
Subject: Executive Order GA-15 Licensed Health Care Facilities Certification

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Good afternoon,

Please find the GA-15 Licensed Health Care Facilities Certification for Whole Woman's Health Alliance, Whole Woman's Health of Fort Worth and Whole Woman's Health of McAllen.

If there are any further questions, please feel free to reach out using the contact information below.

Thank you,
Marva N. Sadler
Director of Clinical Services
marva@wholewomanshealth.com
512-835-6858
Pronouns She/Her/Hers



Whole Woman's Health, LLC
Changing the World, One Woman at a Time
www.wholewomanshealth.com

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Whole Woman's Health of Austin
4100 Duval Rd
Austin, TX 78759

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Whole Woman's Health of Austin
Licensed Abortion Facility N.# 140013

Dear Health Facility Licensing Certification Coordinator:

Attached please find a certification pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007.

As HHSC is aware, because Whole Woman's Health of Austin is a licensed abortion facility, it does not have any hospital capacity.

Whole Woman's Health of Austin understands that because it has submitted the attached certification, Executive Order GA-15's requirements relating to postponement of certain surgeries and procedures do not apply to it.

If HHSC has a contrary understanding, we respectfully request that you advise us to that effect by no later than April 21, 2020 at 3:00 p.m.

Sincerely,

Soraya Dadras Clinic Administrator
sdadras@wholewomanshealth.com



Whole Woman's Health of Austin

4100 Duval Rd
Austin, TX 78759

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Whole Woman's Health of Austin
Licensed Abortion Facility N.# 140013

Dear Health Facility Licensing Certification Coordinator:

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Whole Woman's Health of Austin hereby provides the following certifications:

I, Soraya Dadras, am the Administrator of Whole Woman's Health of Austin and as such have authority to bind Whole Woman's Health of Austin in connection with the required certifications.

- (1) I certify, on behalf of Whole Woman's Health of Austin, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Whole Woman's Health of Austin, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Soraya Dadras, Clinic Administrator
Sdadras@wholewomanshealth.com



Whole Woman's Health of Fort Worth, LLC

3256 Lackland Rd
Fort Worth, TX 76116

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Whole Woman's Health of Fort Worth, LLC
Licensed Abortion Facility N.# 140000

Dear Health Facility Licensing Certification Coordinator:

Attached please find a certification pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007.

As HHSC is aware, because Whole Woman's Health of Fort Worth, LLC is a licensed abortion facility, it does not have any hospital capacity.

Whole Woman's Health of Fort Worth, LLC understands that because it has submitted the attached certification, Executive Order GA-15's requirements relating to postponement of certain surgeries and procedures do not apply to it.

If HHSC has a contrary understanding, we respectfully request that you advise us to that effect by no later than April 21, 2020 at 3:00 p.m.

Sincerely,

Marva Sadler Clinic Administrator
marva@wholewomanshealth.com



Whole Woman's Health of Fort Worth, LLC

3256 Lackland Rd
Fort Worth, TX 76116

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Whole Woman's Health of Fort Worth, LLC
Licensed Abortion Facility N.# 140000

Dear Health Facility Licensing Certification Coordinator:

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Whole Woman's Health of Fort Worth, LLC hereby provides the following certifications:

I, Marva Sadler, am the Administrator of Whole Woman's Health of Fort Worth, LLC and as such have authority to bind Whole Woman's Health of Fort Worth, LLC in connection with the required certifications.

- (1) I certify, on behalf of Whole Woman's Health of Fort Worth, LLC, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Whole Woman's Health of Fort Worth, LLC, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Marva Sadler, Clinic Administrator
marva@wholewomanshealth.com



Whole Woman's Health of Fort Worth, LLC

3256 Lackland Rd
Fort Worth, TX 76116



Whole Woman's Health of McAllen, LLC
802 South Main St.
McAllen, TX 78501

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Whole Woman's Health of McAllen, LLC
Licensed Abortion Facility N.# 008036

Dear Health Facility Licensing Certification Coordinator:

Attached please find a certification pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007.

As HHSC is aware, because Whole Woman's Health of McAllen, LLC is a licensed abortion facility, it does not have any hospital capacity.

Whole Woman's Health of McAllen, LLC understands that because it has submitted the attached certification, Executive Order GA-15's requirements relating to postponement of certain surgeries and procedures do not apply to it.

If HHSC has a contrary understanding, we respectfully request that you advise us to that effect by no later than April 21, 2020 at 3:00 p.m.

Sincerely,

Veronica Montoya, Clinic Administrator
vmontota@wholewomanshealth.com



Whole Woman's Health of McAllen, LLC
802 South Main St.
McAllen, TX 78501

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Whole Woman's Health of McAllen, LLC
Licensed Abortion Facility N.# 008036

Dear Health Facility Licensing Certification Coordinator:

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Whole Woman's Health of McAllen hereby provides the following certifications:

I, Veronica Montoya, am the Administrator of Whole Woman's Health of McAllen, LLC and as such have authority to bind Whole Woman's Health of McAllen, LLC in connection with the required certifications.

- (1) I certify, on behalf of Whole Woman's Health of McAllen, LLC, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Whole Woman's Health of McAllen, LLC, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Veronica Montoya, Clinic Administrator
vmontota@wholewomanshealth.com

From: [HHSC HFL Certification Coordinator](#)
To: [HWC San Jacinto](#)
Subject: RE: GL 20-1007 Certification_ Houston Women's Clinic, Licensed Abortion Facility, License# 007326
Attachments: [HWC GL 20-1007 Cert.pdf](#)

Good evening,

The health care facility's certification, under Executive Order GA-15, has been received.

Thank you,

Lisa

From: HWC San Jacinto <houstonwomensclinic@gmail.com>
Sent: Monday, April 20, 2020 3:56 PM
To: HHSC HFL Certification Coordinator <HFLCertificationCoordinator@hhsc.state.tx.us>
Subject: GL 20-1007 Certification

WARNING: This email is from outside the HHS system. Do not click on links or attachments unless you expect them from the sender and know the content is safe.

Dear Health Facility Licensing Certification Coordinator,

Please find the certifications attached to this email RE: Executive Order GA-15. Please let us know if you have any questions.

Sincerely,

Sheila Venkatesh
Clinic Director

--

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Houston Women's Clinic

4820 San Jacinto
Houston, Texas 77004
713-868-4483
800-646-4483
713-524-0702 Fax
www.houstonwomensclinic.com

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

April 20, 2020

Re: Houston Women's Clinic, Licensed Abortion Facility, License # 007326

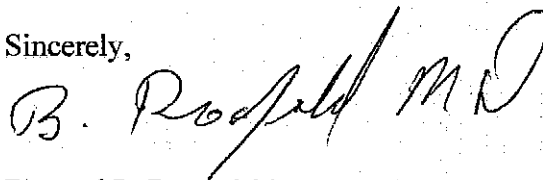
Dear Health Facility Licensing Certification Coordinator,

Attached please find certifications pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007.

As HHSC is aware, because Houston Women's Clinic is a licensed abortion facility, it does not have any hospital capacity.

Houston Women's Clinic understands that because it has submitted the attached certifications, Executive Order GA-15's requirements relating to postponement of certain surgeries and procedures do not apply to it. If HHSC has a contrary understanding, we respectfully request that you advise us to that effect by no later than April 21, 2020 at 3:00 central time.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Rosenfeld M.D.", written in a cursive style.

Bernard L. Rosenfeld, M.D., Ph.D.
Medical Director

Houston Women's Clinic

4820 San Jacinto
Houston, Texas 77004
713-868-4483
800-646-4483
713-524-0702 Fax
www.houstonwomensclinic.com

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

April 20, 2020

Re: Houston Women's Clinic, Licensed Abortion Facility, License # 007326

Dear Health Facility Licensing Certification Coordinator:

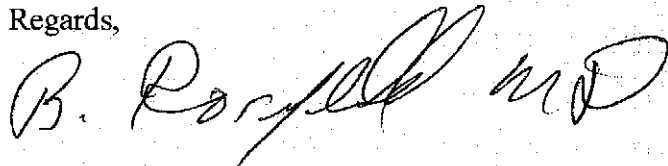
Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Houston Women's Clinic hereby provides the following certifications.

I, Dr. Bernard L. Rosenfeld, am the Medical Director of Houston Women's Clinic, and as such have authority to bind Houston Women's Clinic in connection with the required certifications.

I certify, on behalf of Houston Women's Clinic, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and

I certify, on behalf of Houston Women's Clinic, that this facility will not request any personal protective equipment from any public source whether federal, state, or local, for the duration of the COVID-19 disaster.

Regards,

A handwritten signature in black ink, appearing to read "B. Rosenfeld MD". The signature is fluid and cursive, with the "MD" part being more distinct and written in a slightly larger, bolder script.

Bernard L. Rosenfeld, M.D., Ph.D.
Medical Director

From: [HHSC HFL Certification Coordinator](#)
To: alicia@southwesternwomens.com
Subject: Southwestern Women's Surgery Center, Ambulatory Surgery Center, # 130019
Attachments: [image001.png](#)
[SWSC LETTER TO HHSC - 2.pdf](#)

Good evening,

The health care facility's certification, under Executive Order GA-15, has been received.

Thank you,

Lisa

From: Alicia Dewitt-Dick <alicia@southwesternwomens.com>
Sent: Monday, April 20, 2020 3:53 PM
To: HHSC HFL Certification Coordinator <HFLCertificationCoordinator@hhsc.state.tx.us>
Subject: Executive Order GA-15 Licensed Health Care Facilities Certification

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To Whom It May Concern,

Please see attached documents in response to Executive Order GA-15.

Kindest Regards,



Alicia DeWitt-Dick, MS

Administrator

Pronouns: she/her/hers

Southwestern Women's Surgery Center

Telephone (214) 742-9310

Fax (214) 969-9468

www.southwesternwomens.com



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□□□ Confidentiality Notice □□□

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Southwestern Women's Surgery Center

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347 Austin, TX 78714-9347

Re: Southwestern Women's Surgery Center, Ambulatory Surgery Center, License #130019

Dear Health Facility Licensing Certification Coordinator,

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Southwestern Women's Surgery Center hereby provides the following certifications.

I, Alicia DeWitt-Dick, am the facility/ASC's administrator and as such have authority to bind Southwestern Women's Surgery Center in connection with the required certifications.

- (1) I certify, on behalf of Southwestern Women's Surgery Center, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Southwestern Women's Surgery Center, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Alicia DeWitt-Dick, MS
Administrator
Southwestern Women's Surgery Center

From: [HHSC HFL Certification Coordinator](#)
To: [White, Kasia](#)
Cc: [McKinney, Sheila](#)
Subject: RE: Executive Order GA-15 certifications_ Re: Planned Parenthood of Greater Texas Surgical Health Services, ASC licenses, #130121, #130193, #130148 and abortion licenses, #140018, #140017 and #140010.
Attachments: [Executive Order GA-15 Licensed Health Care Facilities Certification signed.pdf](#)

Good morning,
The health care facility's certifications, under Executive Order GA-15, have been received for:
Planned Parenthood of Greater Texas Surgical Health Services,
ASC licenses: #130121, #130193, #130148 and
Abortion licenses: #140018, #140017 and #140010.

Thank you,
Lisa

From: White, Kasia <kasia.white@ppgt.org>
Sent: Tuesday, April 21, 2020 8:11 AM
To: HHSC HFL Certification Coordinator <HFLCertificationCoordinator@hhsc.state.tx.us>
Cc: McKinney, Sheila <Sheila.McKinney@ppgt.org>
Subject: Executive Order GA-15 certifications

WARNING: This email is from outside the HHS system. Do not click on links or attachments unless you expect them from the sender and know the content is safe.

Dear Health Facility Licensing Certification Coordinator,

Attached please find certifications pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007 for the abortion facilities and ASCs maintained and operated by Planned Parenthood of Greater Texas Surgical Health Services.

Planned Parenthood of Greater Texas Surgical Health Services does not have any hospital capacity. Planned Parenthood of Greater Texas Surgical Health Services understands that because it has submitted the attached certifications, Executive Order GA-15's requirements relating to postponement of certain surgeries and procedures do not apply to it.

Kasia White RN, BSN
Vice President of Quality, Risk Management & Training
Planned Parenthood of Greater Texas
201-B East Ben White Blvd.
Austin, TX 78704
512-276-8077

Image removed by sender.



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Planned Parenthood of Greater Texas



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, ASC licenses, #130121, #130193, #130148 and abortion licenses, #140018, #140017 and #140010.

Dear Health Facility Licensing Certification Coordinator,

Attached please find certifications pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007.

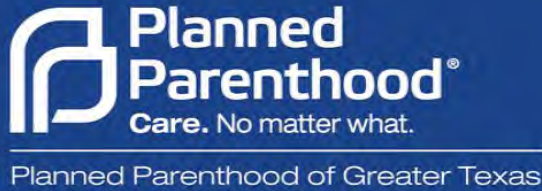
As HHSC is aware, because Planned Parenthood of Greater Texas Surgical Health Services maintains and operates licensed abortion facilities and ASCs, it does not have any hospital capacity.

Planned Parenthood of Greater Texas Surgical Health Services understands that because it has submitted the attached certifications, Executive Order GA-15's requirements relating to postponement of certain surgeries and procedures do not apply to it. If HHSC has a contrary understanding, we respectfully request that you advise us to that effect by no later than April 21, 2020, at 3:00 central time.

Sincerely,

A handwritten signature in blue ink that reads 'Ken Lambrecht'.

Ken Lambrecht
President and Chief Executive Officer



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, ASC license, #130121.

Dear Health Facility Licensing Certification Coordinator,

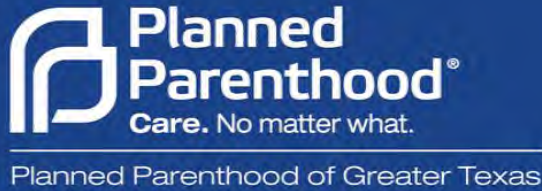
Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood of Greater Texas Surgical Health Services hereby provides the following certifications.

I, Ken Lambrecht, am the facility/ASC's president and Chief Executive Officer, and as such have authority to bind Planned Parenthood of Greater Texas Surgical Health Services in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Ken Lambrecht
President and Chief Executive Officer



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, ASC license, #130193.

Dear Health Facility Licensing Certification Coordinator,

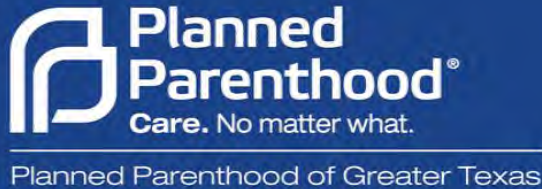
Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood of Greater Texas Surgical Health Services hereby provides the following certifications.

I, Ken Lambrecht, am the facility/ASC's president and Chief Executive Officer, and as such have authority to bind Planned Parenthood of Greater Texas Surgical Health Services in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Ken Lambrecht
President and Chief Executive Officer



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, ASC license, #130148.

Dear Health Facility Licensing Certification Coordinator,

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood of Greater Texas Surgical Health Services hereby provides the following certifications.

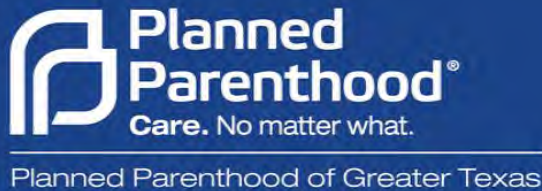
I, Ken Lambrecht, am the facility/ASC's president and Chief Executive Officer, and as such have authority to bind Planned Parenthood of Greater Texas Surgical Health Services in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

A handwritten signature in blue ink that reads 'Ken Lambrecht'.

Ken Lambrecht
President and Chief Executive Officer



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, abortion facility license, #140018.

Dear Health Facility Licensing Certification Coordinator,

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood of Greater Texas Surgical Health Services hereby provides the following certifications.

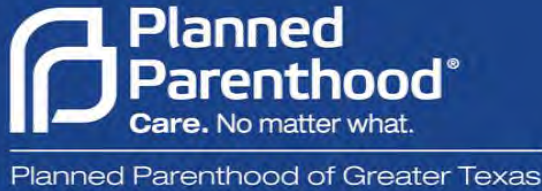
I, Ken Lambrecht, am the facility/ASC's president and Chief Executive Officer, and as such have authority to bind Planned Parenthood of Greater Texas Surgical Health Services in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

A handwritten signature in blue ink that reads 'Ken Lambrecht'.

Ken Lambrecht
President and Chief Executive Officer



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, abortion facility license, #140017.

Dear Health Facility Licensing Certification Coordinator,

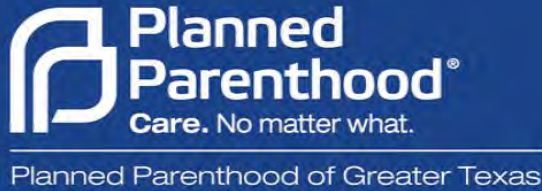
Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood of Greater Texas Surgical Health Services hereby provides the following certifications.

I, Ken Lambrecht, am the facility/ASC's president and Chief Executive Officer, and as such have authority to bind Planned Parenthood of Greater Texas Surgical Health Services in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Ken Lambrecht
President and Chief Executive Officer



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, abortion facility license, #140010.

Dear Health Facility Licensing Certification Coordinator,

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood of Greater Texas Surgical Health Services hereby provides the following certifications.

I, Ken Lambrecht, am the facility/ASC's president and Chief Executive Officer, and as such have authority to bind Planned Parenthood of Greater Texas Surgical Health Services in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Ken Lambrecht
President and Chief Executive Officer



Planned Parenthood of Greater Texas



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, ASC licenses, #130121, #130193, #130148 and abortion licenses, #140018, #140017 and #140010.

Dear Health Facility Licensing Certification Coordinator,

Attached please find certifications pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007.

As HHSC is aware, because Planned Parenthood of Greater Texas Surgical Health Services maintains and operates licensed abortion facilities and ASCs, it does not have any hospital capacity.

Planned Parenthood of Greater Texas Surgical Health Services understands that because it has submitted the attached certifications, Executive Order GA-15's requirements relating to postponement of certain surgeries and procedures do not apply to it. If HHSC has a contrary understanding, we respectfully request that you advise us to that effect by no later than April 21, 2020, at 3:00 central time.

Sincerely,

A handwritten signature in blue ink that reads 'Ken Lambrecht'.

Ken Lambrecht
President and Chief Executive Officer



Planned Parenthood of Greater Texas



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, ASC license, #130121.

Dear Health Facility Licensing Certification Coordinator,

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood of Greater Texas Surgical Health Services hereby provides the following certifications.

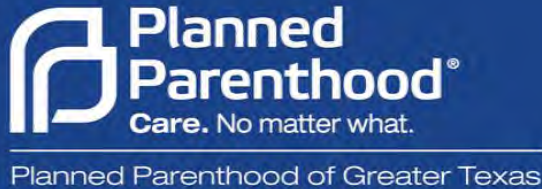
I, Ken Lambrecht, am the facility/ASC's president and Chief Executive Officer, and as such have authority to bind Planned Parenthood of Greater Texas Surgical Health Services in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

A handwritten signature in blue ink that reads 'Ken Lambrecht'.

Ken Lambrecht
President and Chief Executive Officer



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, ASC license, #130193.

Dear Health Facility Licensing Certification Coordinator,

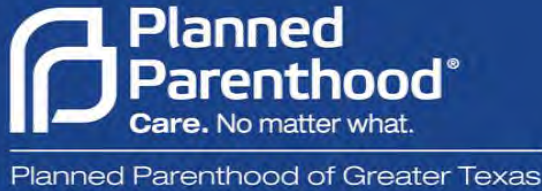
Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood of Greater Texas Surgical Health Services hereby provides the following certifications.

I, Ken Lambrecht, am the facility/ASC's president and Chief Executive Officer, and as such have authority to bind Planned Parenthood of Greater Texas Surgical Health Services in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Ken Lambrecht
President and Chief Executive Officer



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, ASC license, #130148.

Dear Health Facility Licensing Certification Coordinator,

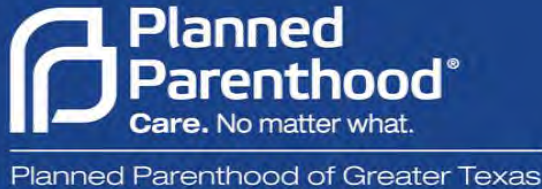
Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood of Greater Texas Surgical Health Services hereby provides the following certifications.

I, Ken Lambrecht, am the facility/ASC's president and Chief Executive Officer, and as such have authority to bind Planned Parenthood of Greater Texas Surgical Health Services in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Ken Lambrecht
President and Chief Executive Officer



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, abortion facility license, #140018.

Dear Health Facility Licensing Certification Coordinator,

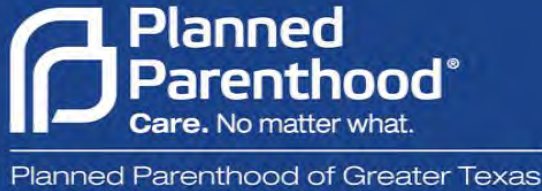
Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood of Greater Texas Surgical Health Services hereby provides the following certifications.

I, Ken Lambrecht, am the facility/ASC's president and Chief Executive Officer, and as such have authority to bind Planned Parenthood of Greater Texas Surgical Health Services in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Ken Lambrecht
President and Chief Executive Officer



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, abortion facility license, #140017.

Dear Health Facility Licensing Certification Coordinator,

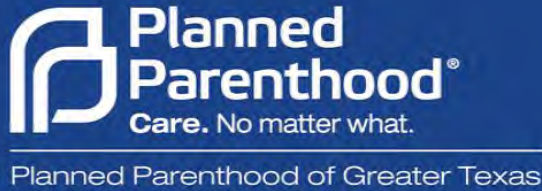
Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood of Greater Texas Surgical Health Services hereby provides the following certifications.

I, Ken Lambrecht, am the facility/ASC's president and Chief Executive Officer, and as such have authority to bind Planned Parenthood of Greater Texas Surgical Health Services in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Ken Lambrecht
President and Chief Executive Officer



April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood of Greater Texas Surgical Health Services, abortion facility license, #140010.

Dear Health Facility Licensing Certification Coordinator,

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood of Greater Texas Surgical Health Services hereby provides the following certifications.

I, Ken Lambrecht, am the facility/ASC's president and Chief Executive Officer, and as such have authority to bind Planned Parenthood of Greater Texas Surgical Health Services in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood of Greater Texas Surgical Health Services, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Ken Lambrecht
President and Chief Executive Officer

From: [HHSC HFL Certification Coordinator](#)
To: [Gottlieb, Kathryn \(Katie Beth\)](#)
Subject: RE: Executive Order GA-15 Licensed Health Care Facilities Certifications_ ASC License # 130061 & ABO License # 140014
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[PPCFC HHSC Certifications 04.21.2020.pdf](#)

Good morning,
The health care facility's certifications, under Executive Order GA-15, have been received.

Thank you,
Lisa

From: Gottlieb, Kathryn (Katie Beth) <Kathryn.Gottlieb@ppgulfcoast.org>
Sent: Monday, April 20, 2020 9:30 PM
To: HHSC HFL Certification Coordinator <HFLCertificationCoordinator@hhsc.state.tx.us>
Subject: Executive Order GA-15 Licensed Health Care Facilities Certifications

WARNING: This email is from outside the HHS system. Do not click on links or attachments unless you expect them from the sender and know the content is safe.

Dear Health Facility Licensing Certification Coordinator,

Please see the attached health care facility certifications, and contact me if you have any questions.

Best,
Katie Beth



Katie Beth Gottlieb, JD, MPH

Pronouns: she, her, hers ([learn more](#))

General Counsel & Chief Compliance Officer

Planned Parenthood

4600 Gulf Freeway

Houston, TX 77023

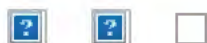
PH: 713.831.6517

CELL: 832.274.2084

FAX: 713.535.2517

INTEGRITY HOTLINE: 1-877-778-5463

www.ppgulfcoast.org



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received the message in error, please advise the sender by replying and delete the message.



4600 Gulf Freeway, Ste. 300
Houston, TX 77023
p: 713.535.2400
f: 713.535.2418
www.ppcenterforchoice.org

Planned Parenthood Center for Choice

April 20, 2020

VIA EMAIL TO HFLCERTIFICATIONCOORDINATOR@HHSC.STATE.TX.US

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood Center for Choice ASC, Ambulatory Surgical Center, License # 130061
Planned Parenthood Center for Choice Stafford, Abortion Facility, License # 140014

Dear Health Facility Licensing Certification Coordinator,

Attached please find certifications pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007.

As HHSC is aware, because Planned Parenthood Center for Choice ASC and Planned Parenthood Center for Choice Stafford are a licensed ambulatory surgical center and a licensed abortion facility respectively, they do not have any hospital capacity.

Planned Parenthood Center for Choice ASC and Planned Parenthood Center for Choice Stafford understand that because they have submitted the attached certifications, Executive Order GA-15's requirements relating to postponement of certain surgeries and procedures do not apply to them. If HHSC has a contrary understanding, we respectfully request that you advise us to that effect by no later than April 21, 2020, at 3:00 p.m. CST.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Linton'.

Melaney A. Linton
President & CEO
Planned Parenthood Center for Choice, Inc.

Enclosures



4600 Gulf Freeway, Ste. 300
Houston, TX 77023
p: 713.535.2400
f: 713.535.2418
www.ppcenterforchoice.org

Planned Parenthood Center for Choice

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood Center for Choice ASC, Ambulatory Surgical Center, License # 130061

Dear Health Facility Licensing Certification Coordinator,

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood Center for Choice ASC hereby provides the following certifications.

I, Melaney A. Linton, am the ASC's President & CEO, and as such have authority to bind Planned Parenthood Center for Choice ASC in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood Center for Choice ASC, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood Center for Choice ASC, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Linton', written in a cursive style.

Melaney A. Linton
President & CEO
Planned Parenthood Center for Choice, Inc.



4600 Gulf Freeway, Ste. 300
Houston, TX 77023
p: 713.535.2400
f: 713.535.2418
www.ppcenterforchoice.org

Planned Parenthood Center for Choice

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Planned Parenthood Center for Choice Stafford, Abortion Facility, License # 140014

Dear Health Facility Licensing Certification Coordinator,

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Planned Parenthood Center for Choice Stafford hereby provides the following certifications.

I, Melaney A. Linton, am the facility's President & CEO, and as such have authority to bind Planned Parenthood Center for Choice Stafford in connection with the required certifications.

- (1) I certify, on behalf of Planned Parenthood Center for Choice Stafford, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Planned Parenthood Center for Choice Stafford, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Linton', written in a cursive style.

Melaney A. Linton
President & CEO
Planned Parenthood Center for Choice, Inc.

From: [HHSC HFL Certification Coordinator](#)
To: [Marva Sadler](#)
Cc: [Andrea Ferrigno](#); [Veronica Montoya](#)
Subject: RE: GA-15 Licensed Health Care Facilities Certification for Whole Woman's Health of McAllen ABO License Number 008036
Attachments: [image002.jpg](#)
[McAllen 2020-04-20 Letter re GA-15 final.pdf](#)

Good afternoon,

The health care facility's certification, under Executive Order GA-15, has been received.

Thank you,

Lisa

From: Marva Sadler <marva@wholewomanshealth.com>
Sent: Tuesday, April 21, 2020 11:20 AM
To: HHSC HFL Certification Coordinator <HFLCertificationCoordinator@hhsc.state.tx.us>
Cc: Andrea Ferrigno <andrea@wholewomanshealth.com>; Veronica Montoya <vmontoya@wholewomanshealth.com>
Subject: GA-15 Licensed Health Care Facilities Certification for Whole Woman's Health of McAllen ABO License Number 008036

WARNING: This email is from outside the HHS system. Do not click on links or attachments unless you expect them from the sender and know the content is safe.

Good afternoon,

Please find the GA-15 Licensed Health Care Facilities Certification for Whole Woman's Health of McAllen.

If there are any further questions, please feel free to reach out using the contact information below.

Marva N. Sadler
Director of Clinical Services
marva@wholewomanshealth.com
817-889-4247
Pronouns She/Her/Hers



Whole Woman's Health, LLC
Changing the World, One Woman at a Time
www.wholewomanshealth.com

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From: [HHSC HFL Certification Coordinator](#)
To: [Marva Sadler](#)
Cc: [Andrea Ferrigno](#)
Subject: RE: GA-15 Licensed Health Care Facilities Certification for Whole Woman's Health of Fort Worth_ ABO License Number 140000
Attachments: [image002.jpg](#)
[Fort Worth 2020-04-20 Letter re GA-15.docx](#)

Good morning,

The health care facility's certification, under Executive Order GA-15, has been received.

Thank you,

Lisa

From: Marva Sadler <marva@wholewomanshealth.com>
Sent: Tuesday, April 21, 2020 9:32 AM
To: HHSC HFL Certification Coordinator <HFLCertificationCoordinator@hhsc.state.tx.us>
Cc: Andrea Ferrigno <andrea@wholewomanshealth.com>
Subject: GA-15 Licensed Health Care Facilities Certification for Whole Woman's Health of Fort Worth License Number 140000

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Good morning,

Please find the GA-15 Licensed Health Care Facilities Certification for Whole Woman's Health of Fort Worth.

If there are any further questions, please feel free to reach out using the contact information below.

Marva N. Sadler
Director of Clinical Services
marva@wholewomanshealth.com
817-889-4247
Pronouns She/Her/Hers



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sender via telephone (Administration: 512-835-6858) or by return e-mail and destroy all copies of the original message.



Whole Woman's Health of Fort Worth, LLC

3256 Lackland Rd
Fort Worth, TX 76116

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Whole Woman's Health of Fort Worth, LLC
Licensed Abortion Facility N.# 140000

Dear Health Facility Licensing Certification Coordinator:

Attached please find a certification pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007.

As HHSC is aware, because Whole Woman's Health of Fort Worth, LLC is a licensed abortion facility, it does not have any hospital capacity.

Whole Woman's Health of Fort Worth, LLC understands that because it has submitted the attached certification, Executive Order GA-15's requirements relating to postponement of certain surgeries and procedures do not apply to it.

If HHSC has a contrary understanding, we respectfully request that you advise us to that effect by no later than April 21, 2020 at 3:00 p.m.

Sincerely,

Marva Sadler Clinic Administrator
marva@wholewomanshealth.com



Whole Woman's Health of Fort Worth, LLC

3256 Lackland Rd
Fort Worth, TX 76116

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Whole Woman's Health of Fort Worth, LLC
Licensed Abortion Facility N.# 140000

Dear Health Facility Licensing Certification Coordinator:

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Whole Woman's Health of Fort Worth, LLC hereby provides the following certifications:

I, Marva Sadler, am the Administrator of Whole Woman's Health of Fort Worth, LLC and as such have authority to bind Whole Woman's Health of Fort Worth, LLC in connection with the required certifications.

- (1) I certify, on behalf of Whole Woman's Health of Fort Worth, LLC, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Whole Woman's Health of Fort Worth, LLC, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Marva Sadler, Clinic Administrator
marva@wholewomanshealth.com



Whole Woman's Health of Fort Worth, LLC

3256 Lackland Rd
Fort Worth, TX 76116

From: [HHSC HFL Certification Coordinator](#)
To: [Marva Sadler](#)
Cc: [Soraya Dadras](#); [Andrea Ferrigno](#)
Subject: RE: GA-15 Licensed Health Care Facilities Certification for Whole Woman's Health of Austin License Number 140013
Attachments: [Austin 04-20-20 GA-15 Certification.pdf](#)

Good morning,

The health care facility's certification, under Executive Order GA-15, has been received.

Thank you,

Lisa

From: Marva Sadler <marva@wholewomanshealth.com>
Sent: Wednesday, April 22, 2020 6:26 AM
To: HHSC HFL Certification Coordinator <HFLCertificationCoordinator@hhsc.state.tx.us>
Cc: Soraya Dadras <sdadras@wholewomanshealth.com>; Andrea Ferrigno <andrea@wholewomanshealth.com>
Subject: RE: GA-15 Licensed Health Care Facilities Certification for Whole Woman's Health of Austin License Number 140013

WARNING: This email is from outside the HHS system. Do not click on links or attachments unless you expect them from the sender and know the content is safe.

Good morning,

I am resubmitting the GA-15 Licensed Care Facilities Certification for Whole Woman's Health of Austin. We did not receive the confirmation email that it was received and would like to follow up to ensure that it has been processed correctly.

Thank you for your assistance, and if there are any further questions or concerns, please feel free to reach out.

Thank you,

Marva N. Sadler

Director of Clinical Services

marva@wholewomanshealth.com

512-835-6858

Pronouns She/Her/Hers



Whole Woman's Health, LLC

Changing the World, One Woman at a Time

www.wholewomanshealth.com

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From: Marva Sadler

Sent: Tuesday, April 21, 2020 9:33 AM

To: HFLCertificationCoordinator@hhsc.state.tx.us

Cc: Soraya Dadras <sdadras@wholewomanshealth.com>; Andrea Ferrigno <andrea@wholewomanshealth.com>

Subject: GA-15 Licensed Health Care Facilities Certification for Whole Woman's Health of Austin License Number 140013

Good morning,

Please find the GA-15 Licensed Health Care Facilities Certification for Whole Woman's Health of Austin.

If there are any further questions, please feel free to reach out using the contact information below.

Marva N. Sadler

Director of Clinical Services

marva@wholewomanshealth.com

817-889-4247

Pronouns She/Her/Hers



Whole Woman's Health, LLC

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www.wholewomanshealth.com

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Whole Woman's Health of Austin
4100 Duval Rd bldg 2, ste 201
Austin, TX 78759

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Whole Woman's Health of Austin
Licensed Abortion Facility N.# 140013

Dear Health Facility Licensing Certification Coordinator:

Attached please find a certification pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007.

As HHSC is aware, because Whole Woman's Health of Austin is a licensed abortion facility, it does not have any hospital capacity.

Whole Woman's Health of Austin understands that because it has submitted the attached certification, Executive Order GA-15's requirements relating to postponement of certain surgeries and procedures do not apply to it.

If HHSC has a contrary understanding, we respectfully request that you advise us to that effect by no later than April 21, 2020 at 3:00 p.m.

Sincerely,

Soraya Dadras Clinic Administrator
sdadras@wholewomanshealth.com



Whole Woman's Health of Austin
4100 Duval Rd bldg 2, ste 201
Austin, TX 78759

April 20, 2020

Health Facility Licensing Certification Coordinator
Health and Human Services Commission
Health Facility Licensing – MC 1868
P.O. Box 149347
Austin, TX 78714-9347

Re: Whole Woman's Health of Austin
Licensed Abortion Facility N.# 140013

Dear Health Facility Licensing Certification Coordinator:

Pursuant to Executive Order GA-15 and Health Facility Licensing Guidance Letter No. GL 20-1007, Whole Woman's Health of Austin hereby provides the following certifications:

I, Soraya Dadras, am the Administrator of Whole Woman's Health of Austin and as such have authority to bind Whole Woman's Health of Austin in connection with the required certifications.

- (1) I certify, on behalf of Whole Woman's Health of Austin, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and
- (2) I certify, on behalf of Whole Woman's Health of Austin, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.

Sincerely,

Soraya Dadras, Clinic Administrator
Sdadras@wholewomanshealth.com

From: [HHSC HFL Certification Coordinator](#)
To: [Kathy K](#)
Subject: RE: Houston Women's Reproductive Services , Licensed Abortion Facility, License #140019
Attachments: [HWSR Covid 19 certification state.pdf](#)

Good afternoon,

The health care facility's certification, under Executive Order GA-15, has been received.

Thank you,

Lisa

From: Kathy K <kathykleinfeld@gmail.com>
Sent: Sunday, April 19, 2020 12:07 PM
To: HHSC HFL Certification Coordinator <HFLCertificationCoordinator@hhsc.state.tx.us>
Subject: Houston Women's Reproductive Services , Licensed Abortion Facility, License #140019

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Attached, please find our signed Health Care Facility certification letter re: GA-15

Kathy Kleinfeld, Administrator
Houston Women's Reproductive Services
281-501-2197 (o)

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HOUSTON WOMEN'S REPRODUCTIVE SERVICES

5225 KATY Fwy, SUITE 370

HOUSTON, TX 77007

PHONE 281-501-2197 FAX 281-501-8176

April 19,2020

Health Facility Licensing Certification Coordinator

Health and Human Services Commission

Health Facility Licensing – MC 1868

P.O. Box 149347

Austin, TX 78714-9347

Submitted Via email to HFLCertificationCoordinator@hhsc.state.tx.us.

Re: Houston Women's Reproductive Services , Licensed Abortion Facility, License #140019

I certify, on behalf of Houston Women's Reproductive Services, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and

I certify, on behalf of Houston Women's Reproductive Services that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID-19 disaster.

A handwritten signature in black ink, appearing to read 'Kathy Kleinfeld', written in a cursive style.

Kathy Kleinfeld, Administrator

From: [HHSC HFL Certification Coordinator](#)
To: [Alan Braid](#)
Subject: RE: Alamo City Surgery Center; Texas licensed Ambulatory Surgery Center; lic#130238
Attachments: [certification letter.pdf](#)

Good afternoon,

The health care facility's certification, under Executive Order GA-15, has been received.

Thank you,

Lisa

From: Alan Braid <abraid45@gmail.com>

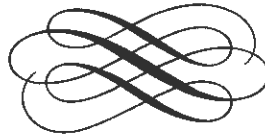
Sent: Sunday, April 19, 2020 10:40 AM

To: HHSC HFL Certification Coordinator <HFLCertificationCoordinator@hhsc.state.tx.us>

Subject: Alamo City Surgery Center; Texas licensed Ambulatory Surgery Center; lic#130238

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Certification letter attached:



Alamo City Surgery Center
7402 John Smith Drive, suite 102
San Antonio, Texas 78229

April 18, 2020

Health Facility Licensing Certification Coordinator

Health and Human Services Commission

Health Facility Licensing-MC 1868

PO BOX 149347

Austin, Texas 78714-9347

Re: Alamo City Surgery Center, Licensed Ambulatory Surgery Center (ASC), License number 130238

Dear Sir,

I certify, on behalf of Alamo City Surgery Center, that this facility will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and

I certify, on behalf of Alamo City Surgery Center, that this facility will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID-19 disaster.

A handwritten signature in black ink that reads "Alan Braid, M.D." with a stylized flourish at the end.

Alan Braid, M.D.

Administrator, Medical Director, Owner

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

PLANNED PARENTHOOD	§	
CENTER FOR CHOICE, et al.,	§	
	§	
Plaintiffs,	§	
v.	§	CAUSE NO. 1:20-CV-00323-LY
	§	
GREG ABBOTT, et al.,	§	
	§	
Defendants.	§	

**ORDER DENYING PLAINTIFFS' MOTION FOR PRELIMINARY
INJUNCTION**

On this date the Court considered Plaintiffs' Motion for Preliminary Injunction. After considering the Motion, Plaintiffs' briefing in support, State Defendants' responses, any further replies filed by the parties, and the other pleadings in this matter, the Court is of the opinion that the Motion is not meritorious and should be **DENIED**.

IT IS THEREFORE ORDERED that Plaintiffs' Motion for Preliminary Injunction is denied. This Court declines to issue any preliminary injunctive relief at this time.

SIGNED this ____ day of _____, 2020.

LEE YEAKEL
UNITED STATES DISTRICT JUDGE