



**April 14, 2020**

The Honorable Greg Abbott  
Governor of Texas  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711-2428  
*Delivered via Email*

**Ken Paxton's press release Re: Executive Order No. GA-09 relating to hospital capacity during the COVID-19 disaster**

Dear Governor Abbott:

As members of the Texas House of Representatives, Women's Health Caucus, and the Texas Senate, we are writing to express our extreme concern about Attorney General Ken Paxton's press release banning abortion despite the Attorney General having no authority to enforce this ban.

Abortion is essential, time-sensitive health care that cannot be put off without profound consequences.

Experts including the American College of Obstetricians and Gynecologists and the American Board of Obstetrics and Gynecology agree that [abortion is essential, time-sensitive](#), and cannot be delayed. The groups note that delaying this care could "profoundly impact a person's life, health, and well-being."

As you know, the vast majority of abortions are performed in stand-alone clinics, that do not impact hospital capacity. However, there are steps you can take to reduce the opportunity for transmission of the virus in the context of abortion care.

You could immediately suspend the following medically unnecessary requirements for the duration of the statewide disaster:

- The requirement for an in-person follow-up appointment not more than 14 days following the administration or use of an abortion-inducing drug.<sup>1</sup> Instead, we request permission for this appointment to be conducted remotely.
- The requirement for all abortion patients that certain state-mandated information,<sup>2</sup> be provided to patients orally and in-person.<sup>3</sup> Instead, we request permission to provide this information to all patients orally by telephone, as currently allowed only for patients who live 100 miles or more from the nearest abortion provider.<sup>4</sup>
- The requirement that a sonogram for all abortion patients be provided to patients at least 24 hours before their abortion procedure. Instead, we request permission to perform the sonogram at least 2 hours before the abortion procedure for all patients, as currently allowed for patients who live 100 miles or more from the nearest abortion provider.<sup>5</sup>
- The requirement that the administration of abortion-inducing drugs satisfy the protocol that appears on the drug's label as approved by the FDA,<sup>6</sup> which currently states that medication abortion is indicated for "termination of intrauterine pregnancy through 70 days gestation."<sup>7</sup> Instead, we request permission to provide medication abortion through 77 days gestation, as measured from the first day of the woman's last menstrual period ("LMP").
- The prohibition on use of telemedicine for abortion.<sup>8</sup> Instead, we request permission to prescribe all abortion-inducing drugs remotely via telemedicine.

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<sup>1</sup> See Tex. Health & Safety Code § 171.063(e) (requiring follow-up visit); 25 Tex. Admin Code § 139.53(b)(4) (same); Tex. Health & Safety Code § 171.064 (outlining administrative penalties and disciplinary action for violations).

<sup>2</sup> See Tex. Health & Safety Code § 171.012(a)(1) and (a)(2).

<sup>3</sup> See Tex. Health & Safety Code § 171.012(b)(1) (requiring information be provided in-person at least 24 hours before abortion procedure); see also 25 Tex. Admin. Code § 139.52.

<sup>4</sup> See Tex. Health & Safety Code § 171.012(b)(2) (creating exception to in-person requirement for patients who live 100 miles or more from the nearest abortion provider).

<sup>5</sup> See Tex. Health & Safety Code § 171.012(a)(4) (requiring a sonogram "at least 24 hours before the abortion or at least two hours before the abortion if the pregnant woman waives this requirement by certifying that she currently lives 100 miles or more from the nearest abortion provider").

<sup>6</sup> See Tex. Health & Safety Code § 171.063(a)(2).

<sup>7</sup> *Mifeprex Label*, U.S. Food & Drug Admin., 2 (2016), [https://www.accessdata.fda.gov/drugsatfda\\_docs/label/2016/020687s020lbl.pdf](https://www.accessdata.fda.gov/drugsatfda_docs/label/2016/020687s020lbl.pdf).

<sup>8</sup> See, e.g., Tex. Occ. Code § 111.005(c) (telemedicine ban on abortion); 22 Tex. Admin. Code § 174.7 (enforcing telemedicine ban on abortion through professional discipline); Tex. Health & Safety Code § 171.063(c), 25 Tex. Admin Code § 139.53(b)(5) (requirement for in-person examination of patient by physician); Tex. Health & Safety Code § 171.012(a)(4)-(7), Tex. Occ. Code § 164.0551, 25 Tex. Admin. Code §§ 139.50, 139.51(3)-(4), 139.52, 139.53(a)(3), 139.53(b)(6)(c) (requirement for ultrasound examination by the same physician who prescribes the medication abortion); Tex. Health & Safety Code § 171.012(b), Tex. Occ. Code § 164.0551 (prohibition on use of audio and video recordings).

Suspending these medically unnecessary requirements would allow Texans to receive safe, timely care under medical supervision, avoid unnecessary trips and exposure to possible viral transmission, prevent unnecessary exposure to medical personnel and unnecessary use of personal protective equipment.

The need for the full range of reproductive health care, including abortion, does not go away in the midst of a pandemic, and it is up to us to ensure every Texan can access the urgent and time-sensitive care they need without causing any further threats to public health.

We respectfully ask that you and your appointed agency leadership follow the guidance of medical professionals, in order to protect Texans' health and safety. Patients cannot wait until this pandemic is over to receive safe abortion care.

Sincerely,

**Donna Howard**  
Texas House Women's  
Health Caucus Chair  
State Representative

**Alex Dominguez**  
State Representative

**Alma Allen**  
State Representative

**Ana-Maria Ramos**  
State Representative

**Anna Eastman**  
State Representative

**Armando Walle**  
State Representative

**Art Fierro**  
State Representative

**Barbara Gervin-  
Hawkins**  
State Representative

**Celia Israel**  
State Representative

**Cesar Blanco**  
State Representative

**Chris Turner**  
House Democratic  
Caucus Chair  
State Representative

**Christina Morales**  
State Representative

**Diego Bernal**  
State Representative

**Eddie Rodriguez**  
State Representative

**Erin Zwiener**  
State Representative

**Garnet Coleman**  
Legislative Study Group  
Caucus Chair  
State Representative

**Gene Wu**  
State Representative

**Gina Calanni**  
State Representative

**Gina Hinojosa**  
State Representative

**Ina Minjarez**  
State Representative

**James Talarico**  
State Representative

**Jessica González**  
State Representative

**Joe Moody**  
Speaker Pro-Tem  
State Representative

**John Bucy III**  
State Representative

**Jon Rosenthal**  
State Representative

**Julie Johnson**  
State Representative

**Lina Ortega**  
State Representative

**Lorraine Birabil**  
State Representative

**Mary González**  
State Representative

**Michelle Beckley**  
State Representative

**Nicole Collier**  
State Representative

**Rafael Anchia**  
Co-Chair Mexican  
American Legislative  
Caucus  
State Representative

**Roland Gutierrez**  
State Representative

**Ron Reynolds**  
State Representative

**Sarah Davis**  
State Representative

**Senfronia Thompson**  
State Representative

**Shawn Thierry**  
State Representative

**Terry Meza**  
State Representative

**Toni Rose**  
State Representative

**Vikki Goodwin**  
State Representative

**Beverly Powell**  
State Senator

**Carol Alvarado**  
State Senator

**Jose Menendez**  
State Senator

**José Rodríguez**  
State Senator

**Nathan Johnson**  
State Senator

**Royce West**  
State Senator