Uphold injunction on Texas law putting bounties on doctors’ heads

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Editor’s note: The U.S. Supreme Court will hear oral arguments Nov. 1 on the question of whether the Biden administration has legal standing to challenge Texas Senate Bill 8. The Court did not stop Texas from enforcing the law before the justices hear arguments and make a ruling.

The AMA and ACOG filed a joint brief that urged the “the Supreme Court to protect the health and well-being of patients in Texas” by lifting the 5th Circuit’s “baseless decision to stay the injunction properly issued by the district court in this case.”

Justice Sonia Sotomayor dissented in the court’s decision to not halt the law’s enforcement before the hearing, writing: “The promise of future adjudication offers cold comfort … for Texas women seeking abortion care, who are entitled to relief now.”

What’s the news: The AMA and the American College of Obstetricians and Gynecologists (ACOG) led a coalition of 19 health care associations in filing an amicus brief that urges the 5th U.S. Circuit Court of Appeals to affirm a district court’s injunction to stop a Texas law banning abortion at roughly six weeks from being enforced while the litigation moves forward.

The Texas legislation, Senate Bill 8 (SB 8) invites private parties to file civil lawsuits against anyone performing or “aiding and abetting” an abortion. A successful civil lawsuit under the law would entitle plaintiffs to collect a minimum of $10,000 for each abortion challenged.

Find out how SB 8 puts bounties on doctors’ heads for delivering care.

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Why it’s important: The law “represents a harmful, unconstitutional and unethical intrusion into the ability of women in Texas to seek essential medical care” and is “contrary to patient health, well-settled law and the core principles of medical ethics,” the brief tells the court in the case, U.S. v. Texas.

“SB 8 places clinicians in an impossible position: they cannot provide the best available medical care consistent with the foregoing ethical principles without risking substantial legal and personal penalties. Indeed, by creating liability for any person … SB 8 not only prevents abortions but it prevents clinicians from practicing medicine,” says the brief.

Other organizations joining the AMA-ACOG brief include the:

- American Academy of Family Physicians.
- American College of Nurse-Midwives.
- American College of Osteopathic Obstetricians and Gynecologists.
- American College of Physicians.
- American Gynecological and Obstetrical Society.
- National Association of Nurse Practitioners in Women’s Health.
- Society for Maternal Fetal Medicine.

AMA President Gerald E. Harmon, MD, a South Carolina family physician, said “the American Medical Association stands firmly against government interference in the clinical exam room, particularly laws and regulations like Texas SB 8 that criminalize the practice of medicine, obstruct the delivery of evidence-based care, and undermine the patient-physician relationship.”

Studies have shown that when women face barriers to reproductive health care, they are more likely to rely on harmful self-induction tactics. Those forced to carry a pregnancy to term “will face significantly greater risk to maternal health and mortality due to SB 8,” says the brief. “This is particularly concerning given that the maternal mortality rate in Texas is one of the highest in the United States.”

And the law is disproportionately harmful to people from historically marginalized communities, people with low incomes and those living in rural areas, Dr. Harmon said.

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“The deeply inequitable impact that this law will have on already-marginalized patients’ access to reproductive health care is dangerous and unconstitutional,” he said. “We must immediately stop this unnecessary government overreach into physicians’ clinical judgment—or risk irreparable harm to the health of our patients in Texas and the overall health of the nation.”

Learn more: The AMA recently filed a friend-of-court brief (PDF) brief with ACOG and nearly 30 other organizations supporting a clinic and others challenging a Mississippi state law that bans abortion procedures after the first 15 weeks of pregnancy. The case, Dobbs v. Jackson Women’s Health Organization, is before the U.S. Supreme Court and threatens to overturn abortion-rights protections the high court established under Roe v. Wade nearly 50 years ago.

The AMA also filed an amicus brief with ACOG and others in a South Carolina case before the 4th U.S. Circuit Court of Appeals that will decide the constitutionality of a law in that state that bans nearly all abortions after six weeks’ gestation. The brief urges the court to affirm a district court preliminary injunction that stops the law from taking place while the lawsuit, Planned Parenthood South Atlantic et al. v. Wilson et al., works its way through the court system.

Learn about the cases in which the AMA Litigation Center is providing assistance and learn about the Litigation Center’s case-selection criteria.