

FACTSHEET:

June Medical Services LLC v. Russo

This term, the Supreme Court will once again take up the issue of abortion rights in *June Medical Services v. Russo*. The consolidated case contains two challenges: a challenge to a Louisiana admitting privileges law that is identical to the Texas law that the Supreme Court struck down as unconstitutional just three years ago in *Whole Woman's Health v. Hellerstedt*, and a challenge to the long-established third-party standing doctrine.

TEXAS LAW	LOUISIANA LAW
<p>“A physician performing or inducing an abortion must, on the date the abortion is performed or induced, have active admitting privileges at a hospital that: is located not further than 30 miles from the location at which the abortion is performed or induced . . .”</p>	<p>“On the date the abortion is performed or induced, a physician performing or inducing an abortion shall have active admitting privileges at a hospital that is located not further than thirty miles from the location at which the abortion is performed or induced . . .”</p>

I. Louisiana's Unconstitutional Law

The law at issue, Act 620, would force any abortion provider in Louisiana who is unable to obtain admitting privileges at a hospital within 30 miles of their clinic to stop providing care. This “clinic shutdown law” violates the constitutional rights of women in Louisiana by imposing significant burdens on abortion access without providing any benefit to women's health or safety.¹

Admitting privileges are difficult, and often impossible, for providers to obtain. Hospitals routinely deny admitting privileges to doctors who provide abortions for a broad range of reasons, including ideological opposition to abortion, or the fact that the provider is highly unlikely to meet the hospital's minimum admissions requirement because abortion is so safe.² In fact, abortion is one of the safest medical procedures: patients rarely require emergency care, and in those very rare events, hospitals are well-equipped to treat any complication.

The Center for Reproductive Rights challenged Act 620 in 2014 and, after a thorough review of the evidence, the District Court ruled that the law was unconstitutional. However, the Fifth Circuit, in open defiance of binding precedent, reversed the District Court, so in April 2019, the Center asked the U.S. Supreme Court to review.

II. Third-Party Standing

Louisiana has additionally asked the Supreme Court to revisit the question of whether providers may challenge abortion restrictions on behalf of their current and future patients. Long-established precedent protects this third-party standing: since 1973, the Supreme Court has repeatedly affirmed that abortion providers may defend their patients' constitutional right to abortion by challenging restrictive laws in court, as their interests are aligned in challenging restrictions, while patients are hindered in bringing their own cases. Additionally, restrictions

¹ The Supreme Court has already held that admitting privileges laws impose unconstitutional burdens on women's right to abortion because they are medically unnecessary yet impede access to abortion. *Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292, 2312–2315 (2016).

² *June Medical*, 250 F.Supp.3d 27, 61-64 (M.D. La. 2017).

operate directly on providers and subject them to criminal and civil sanctions. Nearly all abortion cases are brought by doctors and clinics.

Without third-party standing, patients would have to initiate court proceedings themselves and file a case while they are pregnant and urgently seeking access to abortion care. Many would be forced to carry additional financial, emotional, and social burdens in order to access their constitutionally protected right to abortion care. As such, many of these critical challenges to unconstitutional abortion restrictions might never make it to court.

III. Abortion Access in Louisiana

Louisiana ranks among the lowest in the country in terms of abortion access, with more than 360,000 women of reproductive age per each of three clinics in the state.³ Since 2011, the number of abortion clinics in Louisiana has fallen from seven to three as Louisiana has imposed a slew of state requirements for abortion providers, including Act 620.⁴ The district court found that, if the admitting privileges requirement goes into effect, only one clinic would remain open and only one physician would continue to provide abortions—in a state where approximately 10,000 people obtain abortion services every year.⁵

IV. Next Steps at the Supreme Court

On March 4, 2020, the Court will hear oral arguments on this case to answer whether the Fifth Circuit's decision upholding Act 620 conflicts with the U.S. Supreme Court's precedent *Whole Woman's Health v. Hellerstedt*. Starting at 8am, abortion allies will be rallying on the steps of the Court to show support for abortion access and to elevate the Louisiana voices most impacted by these clinic shutdown laws.

A decision is anticipated in June 2020.

V. Suggested Talking Points

- **Louisiana's clinic shutdown law that would close every clinic in the state except one, leaving one doctor to serve all the patients seeking abortion care in Louisiana and putting abortion care completely out of reach for many.**
- **Just four years ago, the Supreme Court ruled that an identical law in Texas was unconstitutional based on evidence that the law was medically unnecessary and only made it harder for women to access abortion care.**
- **If the Supreme Court allows this law to stand, states will feel emboldened to pass more extreme laws to decimate abortion access and defy Supreme Court precedents with which they disagree.**
- **The decision about whether and when to become a parent is one of the most important life decisions we make. When people are free to make the best decisions for their own lives, families thrive, and we build communities where each of us can participate with dignity and equality.**

³ Identifying National Availability of Abortion Care and Distance from Major US Cities: Systematic Online Search, (May 2018), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5972217/>.

⁴ *June Medical*, 250 F.Supp.3d at 37.

⁵ *June Medical Servs., LLC v. Gee*, 250 F.Supp.3d at 80.