

FACT SHEET

## **2012 State Level Abortion Restrictions: A Dangerous Overreach into Women's Reproductive Health Care**

January 2013

*This year marks the 40th anniversary of Roe v. Wade, the landmark Supreme Court ruling that affirmed a woman's right to a safe and legal abortion. Yet, anti-abortion opponents in the states continue to relentlessly attack this right. In 2012, states passed 43 restrictions on abortion, the second highest number of new abortion restrictions passed in a single year.<sup>1</sup> These new obstacles to abortion represent a dangerous overreach into women's reproductive health care and personal medical decisions.*

### **States Are Requiring Women to Undergo Medically Unnecessary, Physically Invasive Ultrasounds Before Obtaining an Abortion**

In 2012, one state (Virginia) enacted a provision requiring a woman to undergo an ultrasound before she can obtain an abortion. Although mandatory ultrasound bills were introduced in additional states in 2012, the public outcry over Virginia politicians' overreach helped to stop these other states from moving forward.<sup>2</sup>

There are now eight states that require an abortion provider to perform an ultrasound on each woman seeking an abortion.<sup>3</sup> These laws subject a woman seeking an abortion to a medically unnecessary, physically invasive procedure. Requiring doctors to perform ultrasounds without regard for the circumstances or the patient's wishes impairs the doctor-patient relationship and violates principles of medical ethics. Mandatory ultrasound laws represent a profound disrespect for women's decision making and the clinical judgment of doctors.

### **States Are Banning Abortion Altogether Earlier in Pregnancy Than Allowed, Ignoring an Individual Woman's Particular Circumstances**

In 2012, legislatures in three states (Arizona, Georgia, and Louisiana) enacted provisions that ban abortion at or beyond twenty weeks' gestation, with only the most narrow exceptions. The laws in Arizona and Georgia have been challenged, and courts have blocked the laws as the lawsuits proceed.

These blatantly unconstitutional laws<sup>4</sup> – which now exist in six states<sup>5</sup> – deprive a woman of her ability to make an extremely personal, medical decision. Every pregnancy is different. These laws take the decision away from a woman and her doctor, and hand it over to politicians.

### **States Are Banning Insurance Coverage of Abortion, Taking Away Benefits Women Currently Have and Jeopardizing Women's Health**

In 2012, four states (Alabama, South Carolina, South Dakota, and Wisconsin) passed laws banning insurance cover-

age of abortion in the exchanges that will be established in the state as part of implementing the health care law. In one state (Michigan) a ban on insurance coverage of abortion in all private plans passed the legislature, but was vetoed by Governor Snyder, who pointed out the problems of intruding into the private market and not allowing coverage to protect women's health or in cases of rape and incest.<sup>6</sup>

Twenty states now prevent women from obtaining insurance coverage for abortion services.<sup>7</sup> Bans on insurance coverage of abortion represent a radical departure from the status quo. Most Americans with employer-based insurance currently have coverage for abortion,<sup>8</sup> so these bans on coverage will result in a woman losing benefits she currently has. Bans on insurance coverage of abortion are also dangerous to women's health. A woman with a serious, permanent, and even life-shortening health condition will not be able to obtain insurance coverage for a medically necessary abortion. For example, a woman for whom continuing the pregnancy will result in permanent damage to her health, such as damage to her heart, lungs, or kidneys, or a pregnant woman who is diagnosed with cancer and must undergo chemotherapy will not have insurance coverage for these medically necessary abortions.

### **States are Attempting to Regulate Abortion Providers Out of Existence**

In 2012, four state legislatures (Arizona, Michigan, Mississippi, and Tennessee) passed targeted regulations of abortion providers (TRAP laws), in an attempt to shut down abortion providers in the state. In one state (Minnesota), the governor vetoed a TRAP law passed by the legislature. TRAP laws require abortion providers to comply with medically unnecessary, burdensome requirements, such as widths of hallways or minimum square footage. Mississippi's law requires doctors that provide abortions to have admitting privileges at a local hospital, but doctors who provide abortions in the sole abortion clinic in the state have been denied privileges at every hospital to which they have applied.<sup>9</sup> This law has been challenged in court.<sup>10</sup>

### **States are Defunding Planned Parenthood**

In 2012, two states (AZ, NC) passed restrictions that effectively prevent Planned Parenthood clinics in the state from receiving certain family planning funds. Nine states now have such laws.<sup>11</sup> These laws are part of a targeted campaign to shut down the health centers, jeopardizing not only women's access to safe, legal abortion, but also to basic, preventive health care like well-woman exams, screening for diabetes and high blood pressure, and testing for sexually transmitted infections.

### **States are Limiting Women's Access to Medication Abortion**

Three states in 2012 (Michigan, Oklahoma, and Wisconsin) passed laws that prohibit the use of telemedicine for medication abortion. One additional state – Minnesota – passed a similar law, but Governor Mark Dayton vetoed the bill. Seven states now ban the use of telemedicine for medication abortion.<sup>12</sup> The use of telemedicine is an increasingly routine part of medical care that helps to improve access for individuals in rural areas who would not otherwise be able to easily and consistently access health services. Abortion providers similarly are trying to use telemedicine to provide access to abortion. Yet, these laws are designed to end the use of telemedicine for medication abortion, particularly harming women who live in rural areas where abortion providers are few and far between.

### **States Are Enacting Onerous New Mandatory Delay Requirements**

One state in 2012 (Utah) imposed an onerous new requirement that women wait 72 hours between receiving state-mandated counseling and receiving an abortion.

Twenty-six states require a woman to wait a specific amount of time before she can obtain an abortion.<sup>13</sup> Such

mandatory delays are an additional burden for women, especially women who must struggle to get time off from work or to pay for needless child-care costs, and rural women, who often have to travel hours to reach the closest health care provider.

As the attacks on women's access to reproductive health care continue unabated, the ability of women to obtain the health care they need has never been at greater risk. Politicians need to stop playing politics with women's health.

- 1 This record number of abortion restrictions is second only to 2011, when states enacted 92 provisions limiting access to abortion, almost triple the previous record. 2012 Saw Second-Highest Number of Abortion Restrictions Ever, GUTTMACHER INSTITUTE, Jan. 2, 2013, <http://www.guttmacher.org/media/inthenews/2013/01/02/index.html>; States Enact Record Number of Abortion Restrictions in 2011, GUTTMACHER INSTITUTE, Jan. 5, 2012, <http://www.guttmacher.org/media/inthenews/2012/01/05/endofyear.html>.
- 2 See, e.g., Erik Eckholm & Kim Severson, Virginia Senate Passes Ultrasound Bill as Other States Take Notice, N.Y. TIMES, Feb. 28, 2012, <http://www.nytimes.com/2012/02/29/us/virginia-senate-passes-revised-ultrasound-bill.html?pagewanted=all>.
- 3 State Policies in Brief: Requirements for Ultrasound, GUTTMACHER INSTITUTE, Jan. 1, 2013, [http://www.guttmacher.org/statecenter/spibs/spib\\_RFU.pdf](http://www.guttmacher.org/statecenter/spibs/spib_RFU.pdf).
- 4 The Supreme Court has said states may not ban abortion prior to viability. See, e.g., Planned Parenthood of S.E. Pa. v. Casey, 505 U.S. 833, 846 (1992). The Supreme Court has also said that states may not draw a line at a particular gestational age to establish viability because viability is a matter of judgment of the attending physician. See, e.g., Central Mo. v. Danforth, 428 U.S. 52, 64–65 (1976). Although a state may ban abortion after viability, any such ban must make an exception when a woman's life or health is at risk. Roe v. Wade, 410 U.S. 113, 164–65 (1973).
- 5 State Policies in Brief: State Policies on Later Abortions, GUTTMACHER INSTITUTE, Jan. 1, 2013, [http://www.guttmacher.org/statecenter/spibs/spib\\_PLTA.pdf](http://www.guttmacher.org/statecenter/spibs/spib_PLTA.pdf).
- 6 Governor Rick Snyder, Protecting the Health and Welfare of Women in Michigan, Dec. 28, 2012, <http://www.michigan.gov/snyder/0,4668,7-277--291994--,00.html>.
- 7 State Bans on Insurance Coverage of Abortion Are Sweeping the Nation, Endangering Women's Health and Taking Health Benefits Away from Women, NATIONAL WOMEN'S LAW CENTER, Jan. 15, 2013, <http://www.nwlc.org/resource/state-bans-insurance-coverage-abortion-are-sweeping-nation-endangering-women%E2%80%99s-health-and-t>.
- 8 Memo on Private Insurance Coverage of Abortion, GUTTMACHER INSTITUTE, Jan. 19, 2011, <http://www.guttmacher.org/media/inthenews/2011/01/19/index.html>.
- 9 Associated Press, Legal Woes for Mississippi's Only Abortion Clinic, USA TODAY, Jan. 11, 2013, <http://www.usatoday.com/story/news/nation/2013/01/11/abortion-mississippi-women-clinic/1828289>.
- 10 A judge partially enjoined the application of the law so that the clinic could remain open while it moved forward with the admitting-privileges process. Now that all of the doctors at the clinic have been denied privileges, the lawyers for the clinic have gone back to court to ask the court to block the law entirely while litigation proceeds. See Press Release, Center for Reproductive Rights, Mississippi's Last Abortion Clinic Back in Court (Nov. 28, 2012), <http://reproductiverights.org/en/press-room/mississippi-last-abortion-clinic-back-in-court>.
- 11 State Policies in Brief: State Family Planning Funding Restrictions, GUTTMACHER INSTITUTE, Jan. 1, 2013, [www.guttmacher.org/pubs/spib\\_SFPR.pdf](http://www.guttmacher.org/pubs/spib_SFPR.pdf).
- 12 State Policies in Brief: Medication Abortion, GUTTMACHER INSTITUTE, Jan. 1, 2013, [http://www.guttmacher.org/statecenter/spibs/spib\\_MA.pdf](http://www.guttmacher.org/statecenter/spibs/spib_MA.pdf).
- 13 State Policies in Brief: Counseling and Waiting Periods for Abortion, GUTTMACHER INSTITUTE, Jan. 1, 2013, [http://www.guttmacher.org/statecenter/spibs/spib\\_MWPA.pdf](http://www.guttmacher.org/statecenter/spibs/spib_MWPA.pdf).