

# EXHIBIT 1

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

PLANNED PARENTHOOD CENTER FOR  
CHOICE, *et al.*,

Plaintiffs,

v.

GREG ABBOTT, in his official capacity as  
Governor of Texas, *et al.*,

Defendants.

No. 1:20-cv-00323-LY

**DECLARATION OF POLIN C. BARRAZA IN SUPPORT OF PLAINTIFFS' MOTION  
FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Polin C. Barraza declares as follows:

1. I am President and Board Chair of Plaintiff Planned Parenthood South Texas Surgical Center ("PPST Surgical Center"), a not-for-profit corporation headquartered in San Antonio. PPST Surgical Center operates a licensed ambulatory surgical center and a licensed abortion facility in San Antonio. PPST Surgical Center provides a range of reproductive health services, including medication and surgical abortions.

2. I am responsible for the management of PPST Surgical Center (as well as the operations of its parent organization, Planned Parenthood South Texas), and therefore am familiar with our operations and finances, including the services we provide and the communities we serve.

3. I submit this declaration in support of Plaintiffs' motion for a temporary restraining order followed by a preliminary injunction, which seeks to enjoin Executive Order

No. GA-09, as interpreted by the Texas Attorney General to ban all previability abortion in the state except where immediately necessary to protect the life or health of a pregnant person, as well as the Texas Medical Board's emergency amendment to 22 TAC § 187.57 ("Emergency Rule"), which imposes the same requirements as the Executive Order. I am familiar with the Executive Order, a press release by the Texas Attorney General interpreting it, and the Emergency Rule. PPST Surgical Center has adopted a policy to implement the Executive Order, a true and correct copy of which is attached as Exhibit A.

4. The facts I state here are based on my experience, my review of PPST Surgical Center business records, information obtained in the course of my duties at PPST Surgical Center and PPST, and personal knowledge that I have acquired through my service at PPST Surgical Center and PPST. If called and sworn as a witness, I could and would testify competently thereto.

**PPST Surgical Center's Provision of Abortion Care**

5. In 2019 PPST Surgical Center provided 1855 abortions, and of those, 1258 were medication abortions and 597 were surgical abortions.

6. In January and February 2020, PPST Surgical Center performed 550 abortions, and of those, 396 were medication abortions and 154 were surgical abortions.

7. Neither medication nor surgical abortion requires extensive PPE or otherwise would deplete PPE. In fact, for medication abortion, providing patients with the medication does not require the use of *any* PPE. And while surgical abortion at PPST Surgical Center requires the use of sterile gloves for each procedure, a surgical mask that includes protective eyewear (one per provider per day, unless a mask becomes soiled), disposable gowns (one per provider per

day, unless a gown becomes soiled), disposable hair and shoe covers, and reusable lab coats and face shields, only a small number of workers are physically present for these procedures or their preparation/recovery and therefore in need of PPE.<sup>1</sup> PPST uses only non-sterile gloves or condoms to perform ultrasound or laboratory exam, including one that accompanies medication or surgical abortion.

8. PPST Surgical Center does not use or have any N95 respirators, which I understand are the PPE in shortest supply during the COVID-19 pandemic.

9. PPST Surgical Center does not provide inpatient care, nor is it set up to do so.

**PPST Surgical Center's Efforts to Prevent COVID-19 Spread and Conserve Needed Resources**

10. PPST Surgical Center is committed to doing its part to reduce the spread of COVID-19 and to otherwise help ensure that our public health system has sufficient resources to meet the challenge of responding to a potential surge of illness.

11. Since the COVID-19 outbreak, PPST Surgical Center has taken steps to preserve much-needed medical resources that are in short supply during the pandemic. Even before the Governor's Executive Order, for example, we had excluded residents and medical students from observing or participating in surgeries or procedures, which reduced the number of individuals requiring PPE.

12. We have also taken numerous steps to help prevent the spread of COVID-19 infection in the communities where we offer services. Although in normal times we welcome support companions accompanying abortion patients, we have decided not to allow such

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<sup>1</sup> Per CDC guidance, Plaintiffs provide patients for whom there is a concern for COVID-19 or other upper respiratory disease with a mask.

companions (except parents accompanying minors) to enter our health centers in order to reduce the number of overall people exposed to one another.

13. We have also made dramatic changes to the flow of our patient care. Before patients may enter a health center, we screen them for COVID-19 symptoms. Only those individuals who are positively screened can proceed to the front desk to check in and provide their phone number. Patients are then asked to wait in their cars, where a medical assistant will contact them to do as much intake as possible by phone. Patients are only permitted to reenter the health center when a room has opened for them and a clinician is available to see them. We have reconfigured our waiting rooms and check-in practices to limit the number of people in our facility, as well as to ensure they can and are maintaining the recommended social-distance.

14. More recently, PPST has curtailed other non-abortion services that can safely be delayed, such as annual well-person visits and routine STI tests.

15. In light of the Executive Order, we have cancelled surgical abortions scheduled for this week, and PPST Surgical Center will cancel non-emergency future surgical abortions appointments unless and until the Executive Order and Emergency Rule expire or are rescinded, or unless the Court grants relief. Additionally, PPST Surgical Center has stopped providing non-emergency medication abortions because of concerns about whether these abortions are permissible under the Attorney General's interpretation of the Executive Order.

16. I declare under penalty of perjury that the foregoing is true and correct.

Executed March 25, 2020

A handwritten signature in blue ink, reading "Polin C Barraza, RW".

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Polin C. Barraza

# EXHIBIT A

**Planned Parenthood**  
**Policy In Response to Texas Executive Order GA 09**  
**Relating to Hospital Capacity During the COVID-19 Disaster**

**PURPOSE**

In light of the global pandemic of COVID-19, Governor Abbott signed Executive Order (“EO”) GA 09 on March 22, 2020, attached, which is in effect until 11:59 p.m. on April 21, 2020. EO GA 09 directs “all licensed health care professionals and all licensed health care facilities” to “postpone all surgeries and procedures that are not immediately medically 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.” EO GA 09 goes on to state that this prohibition 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.”

**POLICY**

To comply with EO GA 09, Planned Parenthood hereby establishes the following policies which shall remain in effect until rescinded or modified:

1. Surgeries and procedures that are not immediately medically necessary to correct a serious medical condition of, or 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, and which would deplete the hospital capacity or the personal protective equipment needed to cope with the COVID-19 disaster, are not to be scheduled while this policy is in effect.
2. Physicians shall determine on a case-by-case basis whether a procedure that would deplete hospital capacity or personal protective equipment needed to cope with COVID-19 can be delayed without risk for serious adverse medical consequences or death.
3. Planned Parenthood physicians have made the determination that abortion is a time-sensitive service and an essential component of comprehensive care, for which a delay of 30 days, or even less, increases the risks to patients, or make abortion completely inaccessible, and that such delay in accessing or inability to access an abortion exposes patients to risk of a serious adverse medical consequence.
4. In making this determination, Planned Parenthood physicians considered or will consider the following:



- a. The purpose and text of EO GA 09, namely: concern for “a shortage of hospital capacity or personal protective equipment” that could “hinder efforts to cope with the COVID-19 disaster.”
- b. The stated 30-day duration of a the delay, taking into account the Ambulatory Surgery Center Association’s “COVID-19: Guidance for ASCs for Necessary Surgery,” issued March 18, 2020, which states that consideration of whether delay of a surgery is appropriate must account for risk to the patient of delay, “including the expectation that a delay of 6–8 weeks or more may be required to emerge from an environment in which COVID-19 is less prevalent.”
- c. The fact that pregnancy has a duration of approximately forty weeks, as measured from the first day of a woman’s last menstrual period (LMP) and that most abortions are banned in Texas beginning at 20 weeks gestation. Tex. Health & Safety Code § 171.044.
- d. The fact that, while abortion is an extremely safe medical procedure, delay increases the risk to the health of the patient. *See, e.g.*, Nat’l Acad. of Scis. Eng’g & Med., *The Safety & Quality of Abortion Care in the United States* at 77-78, 162-63 (2018). Delay is of particular concern during the COVID-19 crisis, given guidance from the Center for Disease Control (“CDC”) and American College of Obstetricians and Gynecologists (“ACOG”) that pregnant women may be at heightened risk of severe illness, morbidity, or mortality from viral respiratory infections such as COVID-19.<sup>1</sup>
- e. The Joint Statement by the American College of Obstetricians and Gynecologists (“ACOG”), the American Association of Gynecologic Laparoscopists, *et al.*, on Elective Surgeries<sup>2</sup>, issued March 16, 2020, which states that “Obstetric and gynecologic procedures for which a delay will negatively affect patient health and safety should not be delayed. This includes gynecologic procedures and procedures related to pregnancy for which delay would harm patient health. Obstetrician–

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<sup>1</sup> Available at <https://www.acog.org/clinical/clinical-guidance/practice-advisory/articles/2020/03/novel-coronavirus-2019> and <https://www.cdc.gov/coronavirus/2019-ncov/hcp/pregnant-women-faq.html>

<sup>2</sup> Available at <https://www.acog.org/news/news-releases/2020/03/joint-statement-on-elective-surgeries>



gynecologists and other health care practitioners should be aware of the unintended impact that policies responding to COVID-19 may have, including limiting access to time-sensitive obstetric and gynecological procedures.”

- f. The Joint Statement by the ACOG, the American Board of Obstetrics & Gynecology, *et al.*, on Abortion Access During the COVID-19 Outbreak<sup>3</sup>, issued March 18, 2020, which states that to “the extent that hospital systems or ambulatory surgical facilities are categorizing procedures that can be delayed during the COVID-19 pandemic, abortion should not be categorized as such a procedure” because it “is an essential component of comprehensive health care” and “a time-sensitive service for which a delay of several weeks, or in some cases days, may increase the risks [to patients] or potentially make it completely inaccessible.”
3. All procedures which cannot be reasonably delayed and thus which *are* scheduled and performed, in accordance with the above considerations and in compliance with EO GA 09, shall be performed while making every effort to conserve PPE and to reduce the possibility of spread and transmission of COVID-19.

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<sup>3</sup> Available at <https://www.acog.org/news/news-releases/2020/03/joint-statement-on-abortion-access-during-the-covid-19-outbreak>

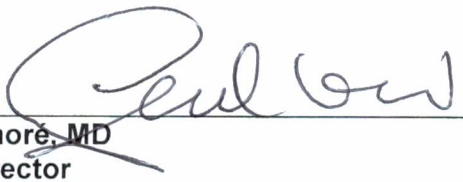
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Parenthood Policy In Response to the Texas Executive Order GA 09 Policy Relating to Hospital Capacity During the COVID-19 Disaster has been reviewed and approved by:

  
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Polin C. Barraza  
President & Chair

3-24-20  
\_\_\_\_\_  
Date

  
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Gerard Honore, MD  
Medical Director

3/24/20  
\_\_\_\_\_  
Date