

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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NEW ORLEANS, LA 70130

April 13, 2020

TO ALL PARTIES:

No. 20-50296 In re: Greg Abbott, et al
USDC No. 1:20-CV-323

Dear Parties:

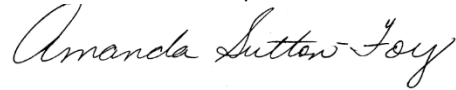
At the Court's directive, you are requested to respond, in a letter brief, to the following questions by no later than 3:30 today:

- 1) How does the Texas Medical Board, or other sources of Texas law, define the term "procedure?"
- 2) If no source of law defines the term "procedure," how should this court define that term as it appears in GA-09?
- 3) Does a medication abortion constitute a "procedure" under the terms of GA-09? Why or why not?
- 4) Is the Texas Medical Board's FAQ a controlling interpretation of GA-09? If not, what is its legal significance? See Texas Medical Board, *Frequently Asked Questions (FAQs) Regarding Non-Urgent, Elective Surgeries and Procedures During Texas Disaster Declaration for COVID-19 Pandemic* (Mar. 29, 2020), <http://www.tmb.state.tx.us/id1/228ABC7B-2985-16D5-9C9F-2099C0DADC24> (accessed Apr. 13, 2020).
- 5) The Texas Medical Board's FAQ provide that "[a] 'procedure' does not include physical examinations, non-invasive diagnostic tests, the performing of lab tests, or obtaining specimens to perform laboratory tests." Does a physical examination or ultrasound associated with medication abortions therefore not constitute a "procedure" within the meaning of GA-09?
- 6) Do you contend that the Texas Medical Board's FAQ misinterprets the term "procedure" as it is used in GA-09?

7) What medical acts should be considered analogous to medication abortion, and do those acts constitute "procedures" within the terms of GA-09?

Sincerely,

LYLE W. CAYCE, Clerk

A handwritten signature in cursive script that reads "Amanda Sutton-Foy".

By: _____
Amanda Sutton-Foy, Deputy Clerk
504-310-7670