

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

August 18, 2016

Lyle W. Cayce
Clerk

No. 14-50928

WHOLE WOMAN’S HEALTH; AUSTIN WOMEN’S HEALTH CENTER; KILLEEN WOMEN’S HEALTH CENTER; NOVA HEALTH SYSTEMS, doing business as Reproductive Services; SHERWOOD C. LYNN, JR., M.D., on behalf of themselves and their patients; PAMELA J. RICHTER, D.O., on behalf of themselves and their patients; LENDOL L. DAVIS, M.D., on behalf of themselves and their patients,

Plaintiffs-Appellees – Cross-Appellants

v.

JOHN HELLERSTEDT, M.D., Commissioner of the Texas Department of State Health Services, in his Official Capacity; MARI ROBINSON, Executive Director of the Texas Medical Board, in her Official Capacity,

Defendants-Appellants – Cross-Appellees

Appeal from the United States District Court
for the Western District of Texas

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before PRADO, ELROD, and HAYNES, Circuit Judges.

PER CURIAM:

In light of *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016), Texas Health and Safety Code section 171.0031(a)(1), enacted by Act of July 12, 2013, 83d Leg., 2d C.S., ch. 1, § 2, 2013 Tex. Gen. Laws 5013, 5013-14, which requires a physician performing an abortion to have active admitting privileges at a hospital within 30 miles of the location of the abortion, along with its implementing regulations, 25 Tex. Admin. Code §§ 139.53(c)(1),

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139.56(a)(1), is unconstitutional and may not be enforced. Also in light of *Whole Woman's Health*, the second sentence of Texas Health and Safety Code section 245.010(a) enacted by Act of July 12, 2013, 83d Leg., 2d C.S., ch. 1, § 4, 2013 Tex. Gen. Laws 5013, 5017, which requires abortion-facility regulations to meet the minimum standards of ambulatory surgical centers, along with its implementing regulation 25 Tex. Admin. Code § 139.40, is unconstitutional and may not be enforced.

This order does not enjoin the enforcement of any statute or regulation not specified above.

The judgment of the district court is vacated and the case is remanded for further proceedings not inconsistent with this opinion.

VACATED AND REMANDED.