Exhibit A
ALLISON GILBERT, M.D., declares under penalty of perjury that the following statements are true and correct:

1. I am the Co-Medical Director of Plaintiff Southwestern Women’s Surgery Center (“Southwestern”), a licensed ambulatory surgical center in Dallas. I am also a Staff Physician at Southwestern.

2. I submit this declaration in support of Plaintiffs’ Motion for Summary Judgment to prevent enforcement of Texas Senate Bill 8 (“S.B. 8”). The facts I state here and the opinions I offer are based on my education, training, and practical experience as an OB/GYN and an abortion provider; my expertise as a doctor and abortion provider; my personal knowledge; my review of Southwestern’s business records and information obtained through the course of my duties at Southwestern; and my research and familiarity with relevant medical literature recognized as reliable in the medical profession.
My Background

3. I am licensed to practice medicine in Texas, Alabama, and Massachusetts, and am board-certified in Obstetrics and Gynecology. I am a member of the American College of Obstetricians and Gynecologists (‘ACOG’), the Society of Family Planning, the Texas Medical Association, and the Dallas County Medical Association. I provide the full spectrum of reproductive health care to women and pregnant people, including obstetric care for low-, medium-, and high-risk pregnancies, and am trained to provide abortion care up to 24 weeks as dated from the first day of the patient’s last menstrual period (‘LMP’).

4. I graduated from the University of Oklahoma College of Medicine with an M.D. in 2014. I completed my internship in obstetrics and gynecology in 2015 and my residency in obstetrics and gynecology in 2018, both at the University of Alabama at Birmingham. After residency, I completed a two-year fellowship in family planning at Brigham and Women’s Hospital in Boston, Massachusetts. I also graduated from the Harvard T.H. Chan School of Public Health with a Master in Public Health degree in 2019. My curriculum vitae, which sets forth my experience and credentials, is attached as Exhibit 1.

5. I began working at Southwestern in August of 2020, as a Staff Physician and as Co-Medical Director. I moved to Texas because I wanted to increase abortion access for underserved populations in the South.

6. As Co-Medical Director of Southwestern, I oversee Southwestern’s policies and procedures, guided by evidence-based medicine, to ensure that we are following current and best practices. I also review patients’ charts to make sure that Southwestern is following those procedures, and I review any patient complications in the rare circumstances in which they arise.
7. In my role as Co-Medical Director, I work closely with the OB/GYN program directors at several medical residency programs throughout the state to provide training in abortion care to OB/GYN and family medicine residents during their clinical rotations at Southwestern. I occasionally teach residents from other in-state residency programs as well as medical students and fellows from out-of-state programs. Southwestern has a robust training program for residents, and I have personally worked with approximately twenty residents over the last year.

8. In addition to my management responsibilities, I am also a full-time Staff Physician at Southwestern. As a Staff Physician, I provide a wide range of gynecological care to our patients, including but not limited to, abortion care, contraception, pregnancy testing, STI testing, and diagnosis of ectopic pregnancies. I spend approximately three days a week providing clinical care at Southwestern and an additional day doing administrative work at the clinic.

**Southwestern Women’s Surgery Center**

9. Southwestern operates a licensed ambulatory surgical center in Dallas, Texas. The clinic provides medication abortion and procedural abortion care, as well as miscarriage management and contraceptive services.

10. The clinic typically performs approximately 9,000 abortions on an annual basis. I personally perform between 2,000 and 3,000 abortions at Southwestern each year.

11. Southwestern provides both medication and procedural abortions. In a medication abortion, the patient takes two medications, mifepristone and misoprostol, that together cause a pregnancy termination in a process similar to a miscarriage.

12. Procedural abortion is performed using gentle suction, sometimes along with instruments, to empty the patient’s uterus. After approximately 18 weeks LMP, a procedural
abortion may involve two separate appointments—along with an additional state-mandated
counseling and ultrasound appointment\(^1\)—to prepare the cervix for the abortion and then perform
the procedure.

13. Southwestern provides medication abortion up to 10 weeks LMP and procedural
abortions through 21 weeks and 6 days LMP.

14. The vast majority of abortion patients at Southwestern are 6 or more weeks LMP.
In 2020, Southwestern performed only 936 abortions for patients up to 5 weeks, 6 days LMP—
only 10% of the 8,623 abortions the clinic provided in total.

**S.B. 8 Bans Abortion Before Viability.**

15. I have reviewed the provisions of S.B. 8, which bans abortion once a “fetal
heartbeat” has been detected and establishes civil penalties for physicians who provide and
others who aid or abet the provision of that care.\(^2\) S.B. 8 defines “fetal heartbeat” as “cardiac
activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational
sac.”\(^3\)

16. My understanding is that exceptions to S.B. 8 are very narrow. A physician could
provide an abortion after a “fetal heartbeat” is detectable only if there is a medical emergency,
which Texas law defines as “a life-threatening physical condition aggravated by, caused by, or
arising from a pregnancy that, as certified by a physician, places the woman in danger of death or
a serious risk of substantial impairment of a major bodily function unless an abortion is
performed.”\(^4\)

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\(^3\) Tex. Health & Safety Code § 171.201(a).
\(^4\) Tex. Health & Safety Code §§ 171.204(a), 171.205(a), 171.002(3).
17. S.B. 8’s use of terminology is confusing and, in many cases, medically inaccurate. In the field of medicine, physicians measure pregnancy from the first day of a patient’s last menstrual period (“LMP”). Fertilization of the egg typically occurs at two weeks LMP. Pregnancy begins one week later, at three weeks LMP, when the fertilized egg implants in the uterus and lasts until 40 weeks LMP. For the first nine weeks LMP, an embryo develops in the uterus. It is not until approximately 10 weeks LMP that clinicians recognize the embryo as a fetus.

18. In a typically developing embryo, cells that form the basis for development of the heart later in gestation produce cardiac activity that can be detected with ultrasound. Detection of this cardiac activity happens very early in pregnancy at approximately 6 weeks, 0 days LMP, and sometimes sooner. At this point in pregnancy, an ultrasound may reveal a fluid-filled sac—or gestational sac—within the uterus. An ultrasound at this early gestation may also show a dot within the gestational sac, which represents the developing embryo, and an electrical impulse that appears as a visual flicker within that dot. No fully developed heart is present at this time.

19. As a result, S.B. 8 defines “fetal heartbeat” to include not just “heartbeat” in the medical sense, but also early electrical impulses present before the full development of the cardiovascular system.

20. Viability is medically impossible at 6 weeks LMP, the time at which early cardiac activity is generally detectable and at which S.B. 8 bans abortion. Viability is generally understood as the point when a fetus has a reasonable likelihood of sustained survival after birth,

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5 I personally have observed cardiac activity as early as 5 and a half weeks LMP.
with or without artificial support. This is an individual medical determination that occurs much later in pregnancy—at approximately 24 weeks LMP—if at all.⁶

21. Many patients do not know they are pregnant at 6 weeks LMP and thus seek abortion care only after cardiac activity is detectable. That is because the commonly known markers of pregnancy—a missed menstrual period and pregnancy symptoms—are not the same for all pregnant people.

22. First, not every pregnant person can rely on a missed menstrual period to determine whether they are pregnant. In people with an average menstrual cycle (e.g., a period every 28 days), fertilization begins at 2 weeks LMP, and they miss their period at 4 weeks LMP. Many people do not experience average menstrual cycles, though. Some people have regular menstrual cycles but only experience periods every 6 to 8 weeks, or even further apart. Others do not know when they will experience their next period because they have irregular cycles, which are caused by a variety of factors, including polyps, fibroids, endometriosis, polycystic ovary syndrome, eating disorders, and other anatomical and hormonal reasons. Some people may have irregular menstrual cycles because they are taking contraceptives or are breastfeeding. As a result, many people may not suspect they are pregnant until much later than 4 weeks LMP.

23. Second, many people will not exhibit the commonly known symptoms of pregnancy. For instance, people may have negative results from over-the-counter pregnancy tests even when pregnant because these tests often cannot detect a pregnancy at 4 weeks LMP or earlier. Additionally, symptoms such as nausea or fatigue differ for each pregnant person, and some people never experience those symptoms. Further complicating early detection of

⁶ Some fetuses are never viable, such as those in ectopic pregnancies and those with certain fetal diagnoses.
pregnancy, it is common for pregnant people to experience light bleeding when the fertilized egg is implanted in the uterus and mistake that bleeding for a menstrual period.

24. In Texas, physicians are required to perform an ultrasound on a patient before performing an abortion. Ultrasounds typically cannot detect a pregnancy before 4 weeks LMP.

25. As a practical matter, S.B. 8 is a near total ban on abortion. It prohibits abortion care at the earliest moments that a pregnancy may be detected and often before a patient has any reason to suspect that they may be pregnant.

26. Even under the best circumstances, if a Texan determines they are pregnant as soon as they miss their period, they would have roughly two weeks to decide whether to have an abortion, comply with state-mandated procedures for obtaining an abortion, resolve all financial and logistical challenges associated with abortion care in Texas, and obtain an abortion.

27. If S.B. 8 goes into effect, the many pregnant people who do not learn that they are pregnant until after 6 weeks LMP may never access abortion in Texas.

S.B. 8 Will Be Devastating for Pregnant People in Texas.

28. Abortion is a common procedure. Approximately one in four women in this country will have an abortion by the age of forty-five. Providers in Texas performed over 50,000 abortions last year, and others in the state self-manage their abortions.

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9 See Liza Fuentes et al., *Texas Women’s Decisions and Experiences Regarding Self-Managed Abortion*, 20 BMC Women’s Health 6 (2020).
29. Abortion is also one of the safest medical procedures.\textsuperscript{10} Fewer than 1% of pregnant people who obtain abortions experience a serious complication.\textsuperscript{11} And even fewer abortion patients—only approximately 0.3%—experience a complication that requires hospitalization.\textsuperscript{12}

30. Abortion is far safer than pregnancy and childbirth.\textsuperscript{13} The risk of death from carrying a pregnancy to term is approximately 14 times greater than the risk of death associated with abortion.\textsuperscript{14} In addition, complications such as blood transfusions, infection, and injury to other organs are all more likely to occur with a full-term pregnancy than with an abortion.

31. Pregnant patients have a multitude of reasons for seeking abortion care. For many, maternal health concerns make abortion desirable and even necessary. Pregnancy, including an uncomplicated pregnancy, significantly stresses the body, causes physiological and anatomical changes, and affects every organ system. It can worsen underlying health conditions, such as diabetes and hypertension. Some people develop additional health conditions simply because they are pregnant—conditions such as gestational diabetes, gestational hypertension (including preeclampsia), and hyperemesis gravidarum (severe nausea and vomiting). People whose pregnancies end in vaginal delivery may experience significant injury and trauma to the pelvic floor. Those who undergo a caesarean section (C-section) give birth through a major abdominal surgery that carries risks of infection, hemorrhage, and damage to internal organs.

\begin{footnotes}
\footnote{10 See, e.g., Comm. on Reprod. Health Servs., Nat’l Acads. of Scis., Eng’g, & Med., \textit{The Safety and Quality of Abortion Care in the United States} 10, 59, 79 (2018).}
\footnote{11 Ushma Upadhyay, et al., \textit{Incidence of Emergency Department Visits and Complications After Abortion}, 125 Obstetrics & Gynecology 175, 175 (2015).}
\footnote{12 Id.}
\footnote{14 See id. at 215.}
\end{footnotes}
32. Others seek abortion because they do not wish or do not have the resources to add an additional child to their family. Some patients choose to have an abortion because their pregnancies are the result of rape, incest, or other intimate partner violence. Still other Texans obtain an abortion because they receive a fetal anomaly diagnosis, which can be severe or even lethal. These diagnoses are made later in pregnancy—well after 6 weeks LMP.

33. If S.B. 8 goes into effect, many pregnant Texans who seek abortions will have to travel out of state to receive healthcare they want and need, adding tremendous cost to a procedure that is common, safe, and medically appropriate.

**S.B. 8 Will Be Devastating for Abortion Providers in Texas.**

34. S.B. 8 is intended to take away my ability as a highly trained OB/GYN to provide the care to patients which I have been licensed by the State of Texas to provide. I moved to Texas because I am morally compelled to provide abortion care to patients in need. Not being able to do the job that I spent years being trained to do is personally devastating. I am deeply concerned about what S.B. 8 will mean for my chosen profession, for the certifications I worked so hard to obtain, and for my future as both a doctor and a Texan.

35. The civil penalties threatened by this ban are severe and will sooner or later prevent all abortion providers from carrying out our medical and ethical duties. Because S.B. 8 allows almost anyone to sue me, Southwestern, and the staff who work with me, I fear that I will be subject to multiple frivolous lawsuits that will take time and emotional energy—and prevent me from providing the care my pregnant patients need. These lawsuits also carry heavy financial consequences even if they are ultimately unsuccessful. I also understand that the Texas Medical Board may be able to bring disciplinary action against me for violations of S.B. 8 and the Texas Nursing Board may be able to take similar actions about Southwestern’s nurses. And most
importantly, court orders in successful suits under S.B. 8 would prevent me from providing abortion care in Texas after 6 weeks LMP. It is not clear how long I will be able to provide abortions for my patients or how long Southwestern will be able to keep its doors open if this ban goes into effect.

S.B. 8’s Fee-Shifting Provision Will Also Harm Southwestern.

36. I also understand that another provision of S.B. 8 makes parties and their attorneys liable to pay defendants’ costs and attorney’s fees in cases challenging Texas laws that restrict or regulate abortion if they do not succeed on every claim they bring in the case.

37. To continue providing patients with safe and medically appropriate abortion care, Southwestern has repeatedly had to challenge laws that restrict or regulate abortion care in Texas. See e.g., In re Abbot, 954 F.3d 772 (5th Cir. 2020), cert. granted, judgment vacated as moot by Planned Parenthood Ctr. for Choice v. Abbott, 141 S. Ct. 1261 (2021) (mem.) (COVID abortion ban); Whole Woman’s Health v. Paxton, 978 F.3d 896 (5th Cir. 2020), reh’rg en banc granted, vacated by 978 F.3d 974 (5th Cir. 2020) (ban on common method of abortion); and Planned Parenthood of Greater Tex. Surgical Health Servs. v. Abbott, 748 F.3d 583 (5th Cir. 2014), reh’rg en banc denied, 769 F.3d 330 (5th Cir. 2014) (decision on admitting-privileges, medication-abortion regulations).

38. If Southwestern is responsible for defendants’ costs and attorney’s fees, this will chill our ability to bring cases or present claims to vindicate the rights of ourselves and our patients, due to fears that if we are not 100% successful, there will be serious financial consequences.
Exhibit 1
EDUCATION

July 2018-May 2019
Master of Public Health
Harvard T.H. Chan School of Public Health
Boston, MA

Aug 2010-May 2014
Doctor of Medicine
University of Oklahoma College of Medicine
Oklahoma City, OK

Aug 2006-May 2010
Bachelor of Arts in Biology
Colorado College
Colorado Springs, CO

POST-DOCTORAL TRAINING

July 2018-June 2020
Family Planning Fellowship
Division of Family Planning, Department of Obstetrics, Gynecology and Reproductive Biology
Brigham and Women’s Hospital
Boston, MA

June 2014-June 2018
Obstetrics and Gynecology Residency
Department of Obstetrics and Gynecology
University of Alabama at Birmingham
Birmingham, AL

CLINICAL WORK EXPERIENCE

August 2020-Present
Co-Medical Director & Staff Physician
Southwestern Women’s Surgical Center
Dallas, TX

July 2018-June 2020
Clinical Fellow
Department of Obstetrics, Gynecology and Reproductive Biology
Brigham and Women’s Hospital
Boston, MA

July 2018-June 2020
Physician (part-time)
Wellesley Women’s Care
Newton Wellesley Hospital
Newton, MA

BOARD CERTIFICATION AND LICENSURE

2020
Advanced Cardiac Life Support (ACLS)/Basic Life Support (BLS)

2020
Texas Medical License, Active

2020
American Board of Obstetrics and Gynecology Certifying Examination, passed

2018
Massachusetts Medical License, Active

2018
American Board of Obstetrics and Gynecology Qualifying Examination, passed

2015
Alabama Medical License, Active
**HONORS AND AWARDS**

2020
Outstanding Medical Student Teaching  
Department of Obstetrics, Gynecology and Reproductive Biology  
Brigham and Women’s Hospital  
Harvard Medical School  
Boston, MA

2018
Chairman’s Award of Excellence  
Department of Obstetrics and Gynecology  
University of Alabama at Birmingham  
Birmingham, AL

2018
Best Teaching Chief Resident  
Department of Obstetrics and Gynecology  
University of Alabama at Birmingham  
Birmingham, AL

2018
Alpha Omega Alpha Honor Society  
University of Alabama at Birmingham  
Birmingham, AL

2017, 2018
The Society for Academic Specialists in General Obstetrics and Gynecology Resident Award for Academic Excellence  
Department of Obstetrics and Gynecology  
University of Alabama at Birmingham  
Birmingham, AL

2015, 2018
Resident Research Award  
Department of Obstetrics and Gynecology  
University of Alabama at Birmingham  
Birmingham, AL

2015, 2016
Resident Teaching Award  
Department of Obstetrics and Gynecology  
University of Alabama at Birmingham  
Birmingham, AL

**RESEARCH INTERESTS**

2018-Present  
Medication abortion management in the setting of pregnancy of unknown location

**PUBLICATIONS**


Gilbert A, Barbieri R. When providing contraceptive counseling to women with migraine headaches, how do you identify migraine with aura? OBG Manag. 2019 October; 31 (10): 10-12.


POSTERS


TEACHING AND PRESENTATIONS

2021 Family planning Jeopardy! Resident lecture given at: University of Oklahoma, Dept. Ob/Gyn, Oklahoma City, OK
2021 Providing abortions in a hostile state. Family Planning Division lecture given at: Brigham and Women’s Hospital, Boston, MA
2021 Abortion complications and management. Resident lecture given at: University of Oklahoma, Dept. Ob/Gyn, Oklahoma City, OK
2020 Medical management of early pregnancy loss. Grand Rounds given at: Newton Wellesley Hospital, Dept. Ob/Gyn, Newton, MA
2020 Contraception for those with medical co-morbidities. Resident lecture given at: Tufts Medical Center, Boston, MA
2020 Pregnancy options counseling and difficult patient cases. Medical student lecture given at: Harvard Medical School, Boston, MA
2020 Abnormal uterine bleeding. Medical student lecture given at: Harvard Medical School, Boston, MA
2020 Anticoagulation and abortion. Family Planning Division lecture given at: Brigham and Women’s Hospital, Boston, MA
2019 Pregnancy options counseling and difficult patient cases. Resident lecture given at: University of Oklahoma, Oklahoma City, OK
2019 Introduction to OR Culture and Skills, Transitions to the PCE (PWY150). Medical student simulation given at: Harvard Medical School, Boston, MA
2019 Combination oral contraceptives: Troubleshooting “The Pill.” Gynecology Division lecture (1500 Lecture) given at: Brigham and Women’s Hospital, Boston, MA
2019 Gynecologic office practice. Resident simulation given at: Brigham and Women’s Hospital, Boston, MA
2019 Vasectomy and updates in male contraception. Family Planning Division lecture given at: Brigham and Women’s Hospital, Boston, MA
2019 Contraception in women with cardiovascular disease. Cardiology Division lecture given at: Brigham and Women’s Hospital, Boston, MA
2019 Combination oral contraceptives. Resident lecture given at: Tufts Medical Center, Boston, MA
2019 Contraceptive technology. Undergraduate lecture given at: Massachusetts Institute of Technology, Cambridge, MA
2019 Following declining human chorionic gonadotropin values in pregnancies of unknown location: When is it safe to stop? Regional journal club given at: Planned Parenthood League of Massachusetts, Boston, MA
2019 Natural family planning methods. Family Planning division lecture given at: Brigham and Women’s Hospital, Boston, MA
2019 LARCs, papaya and post-abortion hemorrhage workshop. Resident simulation given at: Brigham and Women’s Hospital, Boston, MA
2017 Combination oral contraceptives. Resident lecture given at: University of Alabama at Birmingham, Birmingham, AL
2017 Anticoagulation and abortion. Family Planning Division lecture given at: University of North Carolina Chapel Hill, Chapel Hill, NC
2016 Secondary amenorrhea. REI Division lecture given at: University of Alabama at Birmingham, Birmingham, AL
2016 Postoperative PCA management. Resident lecture given at: University of Alabama at Birmingham, Birmingham, AL

Last updated 9.17.20
### LEADERSHIP

**2017-2018**  
Administrative Chief of Education  
Department of Obstetrics and Gynecology  
University of Alabama at Birmingham  
Birmingham, AL

**2016-2018**  
Young Professionals Council  
Planned Parenthood Southeast  
Birmingham, AL

**2016-2018**  
Resident Coordinator for Immediate Postpartum LARC Program  
Department of Obstetrics and Gynecology  
University of Alabama at Birmingham  
Birmingham, AL

**2016-2017**  
Resident Selection Committee Chair  
Department of Obstetrics and Gynecology  
University of Alabama at Birmingham  
Birmingham, AL

**2015-2016**  
Philanthropy Committee Co-Chair  
Department of Obstetrics and Gynecology  
University of Alabama at Birmingham  
Birmingham, AL

American College of Obstetrics and Gynecology

**2016-2017**  
District VII Junior Fellow Secretary and Treasurer

**2015-2016**  
District VII Junior Fellow Advocacy Chair

**2015-2016**  
Alabama Section Junior Fellow Chair

**2014-2015**  
Alabama Section Junior Fellow Vice Chair

### PROFESSIONAL MEMBERSHIPS

**2021-Present**  
Dallas County Medical Association

**2021-Present**  
Texas Medical Association

**2018-Present**  
Society of Family Planning

**2012-Present**  
American College of Obstetricians and Gynecologists