

Exhibit J

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

WHOLE WOMAN’S HEALTH, et al.,

Plaintiffs,

v.

AUSTIN REEVE JACKSON, et al.,

Defendants.

Civil Action No. _____

**DECLARATION OF POLIN C. BARRAZA IN SUPPORT OF
PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT**

I, Polin C. Barraza, declare as follows:

1. I am over the age of 18. I make this declaration based on personal knowledge of the matters stated herein and on information known or reasonably available to my organization. If called to do so, I am competent to testify as to the matters contained herein.

2. 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 an ambulatory surgical center (“ASC”) licensed by the Texas Health and Human Services Commission (“HHSC”) and two HHSC-licensed abortion facilities—all of which are located in San Antonio.

3. I am responsible for management of PPST Surgical Center (as well as the operations of its parent organization, Planned Parenthood South Texas (“PPST”)) where I am the Senior Vice President and Chief Operations Officer, and therefore am familiar with our operations and finances, including the services we provide and the communities we serve. PPST operates health centers that provide a range of family planning and other preventative health services, including physical exams, contraception and contraceptive counseling, screening for breast cancer,

screening and treatment for cervical cancer, screening for sexually transmitted infections, pregnancy testing and counseling, and certain procedures including biopsies and colposcopies. PPST Surgical Center currently provides abortions, miscarriage management, and contraception at each of its three HHSC-licensed facilities, to the degree permitted by state law. Each of these centers also operates a pharmacy licensed by the Texas Pharmacy Board that is used in the provision of abortion and related services, including through the dispensing of mifepristone, misoprostol, and other drugs used in abortion, as well as post-abortion contraceptives.

4. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment. I understand that Texas Senate Bill 8 ("S.B. 8" or the "Act") would ban the provision of abortion in Texas after embryonic cardiac activity can be detected, which occurs at approximately 6 weeks of pregnancy, as measured from the first day of a patient's last menstrual period ("LMP"). Therefore, without relief from the Court, we will be legally prohibited from providing abortions after approximately 6 weeks of pregnancy at our health centers in San Antonio on September 1, 2021, the Act's effective date.

5. Many patients do not even realize they are pregnant at 6 weeks. By banning abortion at that gestational age, the Act will make it virtually impossible to access abortion in Texas. Although some of our patients may be able to pull together the resources to go out of state, I fear many others will not be able to do so and instead will be forced to carry the pregnancy to term or attempt to end the pregnancy without medical supervision, which may be unsafe. For these reasons, I am very worried about S.B. 8's effect on Texans' emotional, physical, and financial wellbeing and the wellbeing of their families.

PPST Surgical Center and Its Services

6. PPST Surgical Center offers medication abortion through 10 weeks LMP and procedural abortion through 15 weeks 6 days LMP.

7. PPST Surgical Center's staff who are involved in the provision of abortions include physicians and physician assistants licensed by the Texas Medical Board, nurses licensed by the Texas Nursing Board, and pharmacists licensed by the Texas Pharmacy Board.

8. While most patients obtain an abortion as soon as they are able, the vast majority of patients are at least 6 weeks LMP into their pregnancy by the time they contact us seeking an abortion. In 2019, approximately 90% of abortions PPST Surgical Center provided were done at 6 weeks LMP or later.

9. There are many reasons why patients do not reach us until at or after 6 weeks LMP, including because many do not know they are pregnant before that time. Additionally, travel-related and financial barriers are significant reasons why the vast majority of our patients do not—and realistically could not—obtain abortions before 6 weeks LMP.

Effects of S.B. 8's Abortion Ban

10. I understand that S.B. 8 bans abortions in Texas by making PPST Surgical Center and its doctors, nurses, and other staff members who assist with abortion services liable for significant monetary penalties and court injunctions preventing us from continuing to provide any abortion in violation of the Act. I also understand that anyone who is sued and loses is responsible to pay the claimant's attorney's fees but that the person sued cannot recover their own attorney's fees if they prevail.

11. Although S.B. 8 still permits abortion before approximately 6 weeks of pregnancy, because of the real possibility PPST Surgical Center and its physicians and staff will be sued for

providing *any* abortions, and be forced to defend against these meritless lawsuits, we will likely suspend all abortion services if S.B. 8 is allowed to take effect.

12. Even if we were to provide some abortions, we could not provide abortions after embryonic cardiac activity is detected if S.B. 8 takes effect. Because the Act would subject providers and anyone who assists in a prohibited abortion to liability, PPST Surgical Center, our physicians, and the staff who have essential roles in the provision of abortion—such as nurses, ultrasound technicians, and lab technicians—could be sued.

13. PPST Surgical Center, our physicians, and our staff cannot afford the monetary damages that would be owed and cannot risk civil liability and damages. We understand that even if we were willing to provide abortions at or after 6 weeks of pregnancy, which S.B. 8 prevents us from doing, we could be ordered to stop by a court while we are defending against the lawsuit.

14. The mere cost to defend against these lawsuits, which could be limitless, and potentially filed in every county in Texas, would be impossible for us to absorb, even putting aside monetary penalties the Act authorizes.

15. Even staff who have no direct role in abortion services are worried about being named in harassing lawsuits.

16. Forcing us to cease abortion services will seriously harm both PPST Surgical Center and our patients. The prospect of S.B. 8 taking effect has already taken a heavy toll on staff. Our staff are fearful that they will be sued and forced into a Texas court far away from home to defend themselves, and they are frightened that defending these cases will financially ruin them and their families.

17. Staff endure endless harassment from opponents of abortion, including passing through protestors as they come to work who berate them (and patients). These protestors often

video record staff and patients as they enter and exit the health centers, and we worry they are writing down staff license plates and/or other identifying information.

18. Despite the harassment and threats, our staff are dedicated to our mission of providing comprehensive reproductive health care services, including abortion, and have dedicated their lives and careers to providing this health care to patients and advocating for them. S.B. 8 will prevent PPST Surgical Center and our dedicated team of medical professionals from fulfilling this mission.

19. If S.B. 8 is allowed to take effect, it is likely we will have to reduce the hours of physicians and staff.

20. Unquestionably, S.B. 8 seriously harms our patients by depriving them of access to safe and legal abortions. If we are forced to stop providing abortions, patients who are able will be forced to travel out of state to obtain care. Travel will delay patients in obtaining care, which may push them into a later, more expensive abortion that carries greater risks. S.B. 8 will also prevent some patients from accessing abortion altogether, because the travel is simply too burdensome for them.

21. These burdens will fall most heavily on patients who already face barriers to accessing health care, including patients with low incomes, patients of color, and patients who live the farthest from health centers. A significant percentage of our patients are people with low incomes: of the patients who obtained abortions at our health centers in 2019, approximately 50% had incomes at or below the federal poverty line.

22. Just last year, after the Texas governor banned abortion by executive order during the early days of the pandemic, we referred patients to out-of-state providers. Executive Order No. GA-09; *In re Abbott*, 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.). What we learned is that while some patients were able to get care out of state, many were not.

23. I believe S.B. 8 will deprive PPST Surgical Center's patients of access to critical health care and will threaten their health, safety, and lives.

The Impact of S.B. 8's Fee-Shifting Provisions

24. PPST Surgical Center regularly challenges Texas abortion restrictions. S.B. 8's fee-shifting provision will make it extremely difficult for us to continue to protect our patients' constitutional rights, because it will make it more difficult for us to obtain legal counsel.

25. S.B. 8 may also impact the arguments we raise, because it will force us and our attorneys to weigh the possibility of huge legal bills every time we bring a claim.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 12, 2021, in San Antonio, Texas.


Polin C. Barraza