

Exhibit H

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

WHOLE WOMAN’S HEALTH, et al.,)	
)	
Plaintiffs,)	
)	CIVIL ACTION
v.)	
)	CASE NO. _____
AUSTIN REEVE JACKSON, et al.,)	
)	
Defendants.)	

**DECLARATION OF ALAN BRAID, M.D., IN SUPPORT OF
PLAINTIFFS’ MOTION SUMMARY JUDGMENT**

ALAN BRAID, M.D., declares under penalty of perjury that the following statements are true and correct:

1. I am a board-certified obstetrician/gynecologist licensed to practice in Texas. I am the part owner of Alamo City Surgery Center PLLC d/b/a Alamo Women’s Reproductive Services (“Alamo”) in San Antonio and Houston Women’s Reproductive Services (“HWRS”) in Houston. I also provide abortion services at Alamo.

2. I graduated from the University of Texas Health Science Center at San Antonio with an M.D. in 1972. I completed my internship in obstetrics and gynecology in 1973 at Bexar County Hospital District and my residency in obstetrics and gynecology in 1976. I have extensive experience and training in those fields and have provided reproductive health care, including abortions and obstetrical care, in San Antonio as a private practitioner since 1978.

3. I submit this declaration in support of Plaintiffs’ Motion for Summary Judgment.

4. The facts I state here are based on my experience, my review of Alamo’s and HWRS’s business records, information obtained in the course of my duties at Alamo and HWRS,

and personal knowledge that I have acquired through my work at and management of Alamo and HWRS.

Alamo Women's Reproductive Services and Houston Women's Reproductive Services

5. Alamo operates a licensed ambulatory surgical center in San Antonio, Texas, open since June of 2015. Alamo provides medication abortion through 10 weeks of pregnancy as measured from the first day of the patient's last menstrual period ("LMP"). Alamo provides procedural abortion services through 21.6 weeks LMP. In rare instances in which a procedure comes under permitted exceptions in Texas's gestational limit, Alamo provides abortion services through 23.6 weeks LMP.

6. HWRS operates a licensed abortion facility in Houston, Texas. HWRS started seeing patients in May of 2019. HWRS provides medication abortion services through 10 weeks of pregnancy LMP.

Senate Bill 8

7. I understand that Senate Bill 8 ("S.B. 8") prohibits me or any other physician in Texas from providing an abortion if there is a "fetal heartbeat" detected or we do not test for a "fetal heartbeat." The term "fetal heartbeat" is not medically accurate. In a typically developing embryo, cells that eventually form the basis for development of the heart later in pregnancy produce cardiac activity that is generally detectible via ultrasound beginning at approximately six weeks LMP, though I have seen cardiac activity several days before 6 weeks LMP. Therefore, S.B. 8 bans abortion in Texas after approximately six weeks LMP.

8. An embryo is not viable at 6 weeks LMP. Viability is generally understood in medical science as the point in gestation when a fetus has a reasonable likelihood of survival

outside of the pregnant woman. The medical consensus in the United States is that viability is not possible until approximately 24 weeks LMP.

9. I understand that if any of the physicians at Alamo or HWRS continues to provide abortions after 6 weeks LMP, any person may sue us and if they are successful in their suit, the court must order us to cease providing abortions after six weeks LMP, and to pay a minimum of \$10,000 per prohibited abortion plus their costs and attorney's fees.

10. I understand that the same penalties can be leveled against a person who "aids or abets" in the performance of an abortion. Due to this provision, I am concerned not only about liability for myself and the other physicians, but also Alamo and HWRS and the staff at these clinics. I also understand that the Texas Medical Board and Texas Nursing Board may be able to take disciplinary action against us for violations of S.B. 8.

11. Because there are not many abortion clinics in San Antonio and Houston, and we are well known in the state, I believe it is very likely that the clinics, myself, or other members of my team at Alamo or HWRS will be sued.

12. I am very concerned about opening the clinics, myself, and other staff members up to legal liability, but I also know that it will be devastating for patients if they cannot obtain abortions in Texas after 6 weeks LMP.

Burdens on Patients

13. Some patients do not realize they are pregnant until after six weeks LMP. This includes patients who have irregular menstrual cycles, have certain medical conditions, have been using contraceptives, are breastfeeding, or experience bleeding during early pregnancy, a common occurrence that is frequently and easily mistaken for a period. Other patients may not develop or recognize symptoms of early pregnancy.

14. Even for the patients who do realize they are pregnant before six weeks LMP, they would have a very small window to obtain an abortion. For a patient with regular monthly periods, fertilization typically occurs at two weeks LMP (two weeks after the first day of their last menstrual period). Thus, even a woman with a highly regular, four-week menstrual cycle would already be four weeks LMP when she misses her next period, generally the first clear indication of a possible pregnancy.

15. If patients are prohibited from obtaining an abortion after 6 weeks LMP, this gives them one to two weeks at most to decide they want an abortion, arrange all of the necessary logistics, gather the money, and schedule the two appointments at least 24 hours apart, as required by Texas law.

16. The majority of our patients will not be able to obtain an abortion before six weeks LMP. The patients who can afford to do so will attempt to travel out of state. Those traveling out of state will need to pay additional travel and lodging costs and will likely face increased costs for the procedure. At later gestational points, abortion is more expensive and may require a two-day surgical procedure, instead of one. These patients would also experience increased risks to their health by the delay in access to abortion care.

17. For many patients, pregnancy creates serious symptoms and health risks. Even for people without comorbidities, common symptoms of pregnancy can include debilitating nausea, migraines, and dizziness. For people with comorbidities like asthma, hypertension, or diabetes, pregnancy exacerbates the symptoms and risk of an emergency. There is also a significant percentage of people who suffer perinatal depression or anxiety.

18. Many of our patients will not be able to travel out of state. A significant percentage of the patients we see at Alamo and HWRS struggle to afford an abortion and receive

some form of financial assistance. These patients may try to travel to Mexico for care or attempt to order pills through the mail to self-manage their abortions. We regularly see patients who have attempted abortions themselves and failed, and the number of patients in this situation will only increase if S.B. 8 takes effect.

19. The reality is that many of our patients will be forced to carry their pregnancies to term, having been denied their constitutional right to make decisions about their own bodies.

S.B. 8's Fee Shifting Provision

20. I understand that under S.B. 8, if parties challenge Texas laws that regulate or restrict abortion and do not succeed on every claim they bring, the parties and their attorneys are responsible for the defendants' costs and attorney's fees.

21. Alamo, HWRS, or me personally have been a litigant in many cases challenging Texas laws regulating or restricting abortion, including: *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, and argued*, 978 F.3d 974 (5th Cir. 2020) (ban on common method of abortion); *Whole Woman's Health v. Smith*, 338 F. Supp. 3d 606 (W.D. Tex. 2018), *appeal docketed and argued*, No. 18-50730 (5th Cir.) (requirement for interment or cremation of embryonic and fetal tissue); *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); and *Texas Med. Providers Performing Abortion Servs. v. Lakey*, 667 F.3d 570 (5th Cir. 2012) (mandatory ultrasound law).

22. Litigation is essential to keeping the doors of Alamo and HWRS open. If we are responsible for defendants' costs and attorney's fees, this will hinder our ability to bring cases and certain claims that are necessary to protect our rights and the rights of our patients.

Dated: July 11, 2021


DR. ALAN BRAID