

ISSUE BRIEF, APRIL 2018

## How facility standards for common outpatient procedures are developed and the implications for abortion

### Key Points:

- In contrast to U.S. state laws that single out abortion facilities for stringent regulations, facility standards for other outpatient procedures are set by committees of professionals who rely on research evidence and clinical expertise to ensure appropriate care.
- In interviews, experts in developing facility standards for outpatient procedures expressed concern about state involvement in the process of facility standards development.
- If abortion were treated like other common outpatient procedures, facility standards would be developed by professional associations or accreditation organizations, informed by the best available scientific evidence, and incorporate the expertise of clinicians who perform the procedure.

### Background

- Abortion is a common outpatient procedure that is largely performed in outpatient settings such as offices and clinics.<sup>1</sup> Abortion has a safety record in outpatient settings established over 40 years of research.<sup>2-5</sup>
- An increasing number of states have enacted laws that impose specific requirements on facilities that perform abortions.<sup>6</sup> These requirements may include accreditation, hospital admitting privileges, clinician qualifications, and/or structural requirements.

- The constitutionality of these laws has been called into question by the 2016 Supreme Court decision *Whole Woman's Health vs. Hellerstedt*, which struck down a Texas law as unconstitutional.<sup>7</sup> The Court stated that the law's imposition of requirements only on abortion, and not on other procedures, suggested that those requirements lacked health benefits to patients.
- This study sought to understand how facility standards are developed in other, less politically charged areas of health care and identify lessons learned that may be applicable to abortion.<sup>8</sup> Researchers conducted key informant interviews with 20 expert clinicians and accreditation professionals involved in facility standards development for common outpatient procedures, such as endoscopy, gynecology, oral surgery, and plastic surgery.

### Thematic Results from Interviews

- In contrast to state laws that target abortion-providing facilities for regulation, the expert respondents report that facility standards for other outpatient procedures are typically set by committees of clinicians brought together by professional associations or accreditation organizations. These committees aim to establish facility standards that ensure patient safety without placing unnecessary burdens on clinicians in practice.
- Respondents expressed concerns about the involvement of state legislatures in defining outpatient facility standards, explaining that these laws often fail to result in a benefit to public health. They recommended that facility

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standards be developed under the leadership of professional associations or accreditation organizations, as these groups are better equipped to understand and evaluate clinical needs.

- Clinicians brought together by professional associations or accreditation organizations aim to create evidence-based standards, but engaging in a formal review of research is rare. These efforts are often hampered by a lack of relevant research. In the absence of research evidence, committees rely on their clinical expertise and knowledge of best practices in decision-making.
- Respondents emphasized that facility standards do not need to be set for individual procedures. Rather, more general criteria – specifically, the use of deeper levels of anesthesia and greater invasiveness of a procedure – should prompt additional requirements as necessary to ensure patient safety.

## Conclusions

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- Experts agree that the specific content of facility standards should be determined by the risk and complexity of the procedures being done in the facility.
- Respondents were clear in their concern about the involvement of state legislatures in developing and regulating facility standards, as states were seen as lacking medical expertise, an understanding of clinical practices, and a means for regularly updating standards.
- The process of developing facility standards for abortion through state laws appears to be notably different than the process used for other outpatient procedures. If there were

a need for standards for abortion facilities, the results of this study suggest that those standards should be:

- Developed by professional associations and accreditation organizations that engage abortion providers in development, implementation, monitoring, and revision of the standards.
- Developed across outpatient procedures of similar complexity and risk, not singling out abortion.
- Informed by the best available scientific evidence and the expertise of abortion providers.
- Informed by published guidelines and expertise of other health professional organizations.

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