

The Reality v. the Law: Abortion Access in California

By Jennifer Templeton Dunn¹ and Rachel Bravo²

I. Introduction

In the most solidly pro-choice state, given an A+ by NARAL Pro-Choice America,³ one would not expect to find women traveling three or more hours to get to the nearest clinic providing abortion services and physicians doing the same to reach underserved communities. In a state that has elected two women to the U.S. Senate and a solid pro-choice majority in the state government, it may come as a surprise that a women's health clinic in Redding was set on fire four times at the hands of anti-abortion activists,⁴ or that the rights of minors to access reproductive health care has faced challenges year after year by pro-life initiatives on the state-wide ballot.

Despite the vast formal legal protections and resources, there remain obstacles for women in California, particularly in rural and medically underserved areas. When people envision California, they often think of urban areas like San Francisco, Los Angeles or San Diego. Beyond the big, congested cities, lie the expansive agricultural lands of the Central Valley and the most underserved populations of women. The experiences of women in the Central Valley are a dim exception to the paradigm that where abortion is legal, it is accessible.⁵ In the rural stretches of California, the ability to access reproductive health care and abortion exists as a distant, formal right rather than a real "choice."

II. Abortion, the Right to Privacy, and California Law

The problems with accessibility are not grounded in legal restrictions. In fact, California's commitment to safeguarding a woman's right to choose is exemplified by the codification of the landmark decision, Roe v. Wade,⁶ the allocation of state funds for family planning and services for low-income women and teens, and the explicit right to privacy in the California Constitution.⁷ Unlike many states, California does not require waiting periods, parental notification or consent.⁸ Women in California have the right to obtain an abortion, free from governmental interference, until viability

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³ http://www.prochoiceamerica.org/choice-action-center/in_your_state/who-decides/state-profiles/california.html.

⁴ Michelle Burton Brown, *Feminist Health Advocates Oppose Legislation to Restrict Reproductive Rights*, Women's Independent Press (2005), <http://www.womensindependentpress.com/aug2005.html>.

⁵ Woodward, Tali, *The Other Abortion Battle*, The San Francisco Bay Guardian (Oct. 11-17, 2006).

⁶ *Roe v. Wade*, 410 U.S. 113 (1973). Codified in Reproductive Privacy Act, Cal. Health & Safety Code §§ 123460-123468 (enacted 2002).

⁷ Cal. Const. Art. 1 § 1.

⁸ Alan Guttmacher Institute, *An Overview of Abortion Laws*, State Policies in Brief, (Sept. 2007).

(approximately 23 weeks gestation).⁹ After viability, a woman may obtain an abortion if the continuation of the pregnancy poses a risk to her life or health.¹⁰

III. The Reality of Abortion Access

Women may have the legal right to obtain an abortion, but the harsh reality is that many encounter tremendous difficulty in obtaining an abortion due to the scarcity of abortion providers, the geographical isolation of underserved communities, and the cost of obtaining an abortion.

California is following the national trend, as the number of abortion providers declines steadily every year.¹¹ Access becomes increasingly problematic for women in rural areas who are geographically isolated from providers.¹² In fact, forty-one percent of the counties in California are without an abortion provider,¹³ leaving many women outside urban communities to travel to major urban clinics for care. The few clinics that do provide abortion services in the Central Valley are located in the larger cities and often depend on physicians from the San Francisco Bay Area and other urban areas. For many women, the cost of travel, taking time off of work, and finding childcare are additional financial burdens on top of the cost of the abortion services.¹⁴ In the time that it takes to finance the trip and find a provider, care may be delayed.¹⁵ With increased gestation, abortion services become less safe, more costly and finding a provider becomes even more difficult.

IV. Training New Providers

One of the greatest obstacles in California is not the law, but the shortage of trained providers, particularly in rural and medically underserved areas. As physicians committed to providing abortion services are getting older or going into retirement, new physicians are not receiving training in abortion care. Abortion training has not been routinely offered in all OB/GYN resident programs and is rarely offered in primary care professional training programs.¹⁶ In 1995, the Accreditation Council for

⁹ California law governing pre-viability abortions is undermined by the recent Supreme Court decision in *Gonzales v. Carhart*, which upheld a prohibition on a particular type of abortion procedure (intact dilation & extraction), allowing only the “standard” dilation and evacuation procedure or pregnancy termination by labor induction after the first trimester.

¹⁰ Cal. Health & Safety Code § 123468 (enacted 2002).

¹¹ Alan Guttmacher Institute, *State Facts About Abortion*, <http://www.agi-usa.org/pubs/sfas/california.html>.

¹² Henshaw SK, Finer LB, *The Accessibility of Abortion Services in the United States, 2001*, Perspectives on Sexual and Reproductive Health vol. 35(1), 16-24 (2003).

¹³ Finer LB, Henshaw SK, *Abortion Incidence and Services in the United States in 2000*, Perspectives on Sexual and Reproductive Health vol 35(1), 6-15 (2003).

¹⁴ Woodward, Tali, *The Other Abortion Battle*, The San Francisco Bay Guardian (Oct. 11-17, 2006). ACCESS is an organization that provides free information, referrals, transportation, housing and financial assistance to women seeking all types of reproductive health care, including abortion. For information about ACCESS see <http://www.whrc-access.org>.

¹⁵ *Id.*

¹⁶ National Abortion Federation, Educational Resources: Training Opportunities, <http://www.prochoice.org/education/resources/residents.html>

Graduate Medical Education recognized that opportunities for abortion training dropped to a dangerous level and established some guidelines to increase availability of training for OB/GYN residents.¹⁷

In 2002, California passed a statute to address this issue, requiring all obstetric & gynecology residency programs in California to provide their residents with training in abortion services.¹⁸ In addition to providing abortion training in Ob/Gyn residency programs, some training programs have focused on family medicine residents,¹⁹ nurse practitioners, physician assistants and certified nurse midwives²⁰ as these health care providers are more likely to practice in medically underserved areas.²¹ Expanding the pool of abortion providers who can offer both aspiration and medication abortion would increase access to safe, early abortion especially for underserved populations where the need for abortion is highest.

V. Conclusion

Lawmakers have taken great strides to keep abortion safe and legal in California. However, much more is needed to improve access to comprehensive reproductive health care services for women in California, especially in underserved rural areas. One solution is to increase the number of physicians and advanced practice clinicians who are trained and willing to provide abortion care. Educational institutions need to make sure that abortion training is supported and available in both Ob/Gyn and primary care training programs. Once trained, these new providers need the continued support of their peers, community and legislators.

¹⁷ *Id.*

¹⁸ See Cal. Health & Safety Code § 123418 (enacted 2002). The Ryan Residency Program was founded in 1999, with the goal of increasing and strengthening training opportunities in abortion and contraception for residents in obstetrics and gynecology and to encourage and support residents' exposure to evidence-based clinical care and research in the field of family planning. For more information see http://reprohealth.ucsf.edu/training/training/kenneth_j_ryan_training.html.

¹⁹ Training in Early Abortion for Comprehensive Healthcare (TEACH) is an academic-community partnership whose goal is to expand abortion access by helping Family Medicine residencies and primary care clinicians integrate abortion training into their curricula and to model comprehensive reproductive health care. See www.TeachTraining.org.

²⁰ Since 2002, advanced practice clinicians in California have been providing medication abortion (the "abortion pill") to patients seeking an early abortion. However, only a small percentage of abortions are performed using medication abortion technologies and the vast majority of abortions are still performed using the traditional aspiration abortion technique. In March 2007, the Office of Statewide Health Planning and Development approved an application by UCSF, Kaiser of Northern California, and several Planned Parenthood affiliates to conduct a study, evaluating the role of advanced practice clinicians in providing first trimester aspiration abortion care.

²¹ According to a recent study, 44% of family physicians, 49% of nurse practitioners and 69% of physician assistants in California serve rural and vulnerable populations, compared to 35% of obstetrician-gynecologists. Grumbach k, *et al.* *Who Is Caring for the Underserved? A Comparison of Primary Care Physicians and Nonphysician Clinicians in California and Washington*, *Annals of Family Medicine* vol. 1 (2), 97-104 (2003).