

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

August 18, 2016

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 14-50928  
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WHOLE WOMAN’S HEALTH; AUSTIN WOMEN’S HEALTH CENTER;  
KILLEEN WOMEN’S HEALTH CENTER; NOVA HEALTH SYSTEMS, doing  
business as Reproductive Services; SHERWOOD C. LYNN, JR., M.D., on  
behalf of themselves and their patients; PAMELA J. RICHTER, D.O., on behalf  
of themselves and their patients; LENDOL L. DAVIS, M.D., on behalf of  
themselves and their patients,

Plaintiffs-Appellees – Cross-Appellants

v.

JOHN HELLERSTEDT, M.D., Commissioner of the Texas Department of  
State Health Services, in his Official Capacity; MARI ROBINSON, Executive  
Director of the Texas Medical Board, in her Official Capacity,

Defendants-Appellants – Cross-Appellees

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Appeal from the United States District Court  
for the Western District of Texas  
\_\_\_\_\_

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before PRADO, ELROD, and HAYNES, Circuit Judges.

PER CURIAM:

In light of *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016),  
Texas Health and Safety Code section 171.0031(a)(1), enacted by Act of July  
12, 2013, 83d Leg., 2d C.S., ch. 1, § 2, 2013 Tex. Gen. Laws 5013, 5013-14,  
which requires a physician performing an abortion to have active admitting  
privileges at a hospital within 30 miles of the location of the abortion, along  
with its implementing regulations, 25 Tex. Admin. Code §§ 139.53(c)(1),

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139.56(a)(1), is unconstitutional and may not be enforced. Also in light of *Whole Woman's Health*, the second sentence of Texas Health and Safety Code section 245.010(a) enacted by Act of July 12, 2013, 83d Leg., 2d C.S., ch. 1, § 4, 2013 Tex. Gen. Laws 5013, 5017, which requires abortion-facility regulations to meet the minimum standards of ambulatory surgical centers, along with its implementing regulation 25 Tex. Admin. Code § 139.40, is unconstitutional and may not be enforced.

This order does not enjoin the enforcement of any statute or regulation not specified above.

The judgment of the district court is vacated and the case is remanded for further proceedings not inconsistent with this opinion.

**VACATED AND REMANDED.**