

OF THE STATES BY THE STATES FOR THE STATES

Strategies & Tools for Gender Equality

First Edition:
Abortion Rights
Religious Refusals
May 2015

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COMPILED BY
THE ALLIANCE: STATE ADVOCATES FOR WOMEN'S RIGHTS & GENDER EQUALITY



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Strategies & Tools for Gender Equality

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THE ALLIANCE: STATE ADVOCATES FOR WOMEN'S RIGHTS & GENDER EQUALITY is a collaborative of regional law and policy centers working in eleven states across the U.S. – **California Women's Law Center, Gender Justice, Legal Voice, Southwest Women's Law Center** and **Women's Law Project**. We have joined forces to strengthen our collective impact, promote pro-active strategies to advance women's rights, reproductive justice and LGBTQ rights, and to produce clear wins in the states.

CURRENT ALLIANCE PARTNERS:



CALIFORNIA WOMEN'S LAW CENTER (CWLC) is a nonprofit public interest law and policy center in Los Angeles specializing in the civil rights of women and girls. Founded in 1989, CWLC breaks down barriers and advances the potential of women and girls through transformative litigation, policy advocacy and education. **Current CWLC programs** focus on reproductive justice, gender discrimination and women's health, domestic violence, Title IX enforcement, and equal pay. **Current initiatives include:** *California Women Veterans Legal Collaborative*, a partnership with Legal Aid Society-Employment Law Center of San Francisco to provide statewide legal assistance to female veterans who were victims of sexual assault or violence while in the military; *Eliminating Health Barriers Project*, a collaborative effort with veteran organizations across CA to work directly with women veterans to develop workable, gender-appropriate and responsive solutions to address obstacles to health care; *Just Play Now: STOP Gender Discrimination in High School Sports website and Title IX guide for women and girls*; Policy initiatives and training to protect the civil and educational *Rights of Pregnant and Parenting Students* to stay in school, participate in extra-curricular activities, and receive child care and confidential family planning services; and *Reproductive Justice Project*, using policy advocacy, community education and collaborations through the Reproductive Justice Coalition of Los Angeles to advance reproductive justice for under-served women in CA, particularly women of color, immigrants and adolescents.



GENDER JUSTICE is a nonprofit law firm based in the upper Midwest. Founded in 2010, our mission is to eliminate gender barriers. We pursue our mission through three linked programs: outreach, policy advocacy, and litigation. In each program area, we seek to highlight the central role of cognitive bias – the subtle but pervasive ways that stereotypes affect our perceptions, decision, and preferences – as a cause of inequality. In each program area, we seek to counteract the most harmful consequences of inequality by working to dismantle the gender-based barriers that keep people from full participation in our economy and our society. Gender Justice addresses gender discrimination in all its forms, including discrimination on the basis of sex, gender identity, and sexual orientation. Gender Justice works on behalf of anyone facing gender discrimination, not only women and girls, but also men and boys and LGBT individuals who challenge gender norms. We focus on those with the least access to justice, such as low-income, immigrant, and rural workers. We address the causes and consequences of gender inequality, both locally and nationally. **Current Gender Justice program priorities** include co-leading the *Women's Economic Security Agenda coalition*, a pro-active legislative campaign addressing the range of legal and policy barriers to women's economic security in Minnesota; Challenging *transgender discrimination in health care, employment and education*, and the *Pregnancy Without Prejudice Project*, raising awareness about pregnant and parenting workers' rights in MN, strengthening those rights under MN law, and improving enforcement of MN laws prohibiting pregnancy discrimination and supporting pregnant and parenting workers on behalf of women and families statewide.



LEGAL VOICE is a regional public interest advocacy organization based in Seattle. Founded in 1978 as Northwest Women’s Law Center, our mission is to pursue justice for all women and girls in the Northwest – Washington, Oregon, Montana, Idaho, Alaska – through groundbreaking litigation, policy advocacy, and educational tools to help individuals and communities understand their rights and the legal system. We aim to empower women, girls, and sexual minorities who are most marginalized in our communities, and to effect systemic change in the multiple dimensions of women's lives. Legal Voice has forged a long track record of reforms advancing women’s and LGBTQ rights in the Northwest as well as models and precedents used by advocates nationally. In 2009 we adopted the name “Legal Voice” to better convey the multi-issue power of our advocacy to give women a powerful legal voice in our society, and adopted a comprehensive “Women’s Bill of Rights,” which holds that all women have the rights *equal treatment and to be free from discrimination; to decide when and how to form and maintain their families; to be safe wherever they are; to economic equality and independence; and to be healthy and active.* **Current Legal Voice programs** are: *Advancing Reproductive Rights, Health & Justice in the Northwest; Celebrating Diverse Families; Economic Justice & Workplace Equity for Women; Educational Equity for Women & Girls; Self Help Legal Education; Senior Legal Wellness Program; and Violence Against Women: Response & Prevention.* Legal Voice has played a leadership role among our allies in creating The Alliance, and serves as Convening Partner.



SOUTHWEST WOMEN’S LAW CENTER (SWLC) is a non-profit legal advocacy organization in Albuquerque, New Mexico. Founded in 2005, the SWLC mission is to provide women in New Mexico with the opportunity to achieve their full economic and personal potential by: eliminating gender bias, discrimination and harassment; lifting women and their families out of poverty; and ensuring access to comprehensive reproductive health services and information. SWLC integrates five tools to create social change: legal research; policy analysis; advocacy; community and stakeholder education; and coalition work on local, state and national levels. **Current SWLC programs** focus on ensuring ACA implementation and Medicaid reform will maximize women’s health care access and advance reproductive justice statewide; strengthening Title IX protections against LGBTQ bullying, athletics discrimination, and discrimination against pregnant and parenting students; securing equal pay and pregnancy accommodations for women workers, and economic security for survivors of domestic violence, sexual assault and stalking. **Current SWLC initiatives** include partnering with Equality New Mexico to launch the New Mexico Safe Schools Initiative, a multi-year policy and education effort to address bullying and harassment in public schools; partnering with NMWomen.org to help ensure pregnant employees receive appropriate accommodations if they work throughout their pregnancy; partnering with NM Civil Legal Services Commission and Santa Fe Community Foundation to remove barriers to health care for low income and rural women in New Mexico; and collaboration with NM Coalition for Choice allies to advance contraceptive equity and abortion access statewide.



WOMEN’S LAW PROJECT (WLP) is a non-profit women’s legal advocacy organization with offices in Philadelphia and Pittsburgh, Pennsylvania. Founded in 1974, the WLP mission is to create a more just and equitable society by advancing the rights and status of all women throughout their lives. Combining high-impact litigation, public policy advocacy, and community education, WLP has forged an extensive track record of litigation victories, legislative and policy reforms, direct services, and creative collaborations that have strengthened women’s legal status and promoted gender equality in laws and institutions, in the legal system and in the response of public agencies to women’s needs. Our work also educates the public about the status of women’s rights, and empowers women by providing information that enables them to address problems in their lives. WLP has a stellar record of achievement protecting reproductive freedom in Pennsylvania and elsewhere in the United States, and in challenging sex discrimination in employment, education, athletics, and insurance; advancing the rights of lesbian and gay parents; advocating on behalf of impoverished women; working for fair and accessible procedures in child custody, child support, and protection from abuse actions; and championing the rights of sexual assault survivors. **Current WLP priorities** encompass a comprehensive range of programmatic areas: *Reproductive Health, Rights and Justice, Violence Against Women, Family Law & Court Reform, Gender & Sex Discrimination, Health Care Reform, Economic Justice, Telephone Counseling & Consumer Education, and co-leading the Pennsylvania Campaign for Women’s Health* a comprehensive legislative, constituency organizing, and messaging initiative to link women’s health, reproductive rights and economic security statewide.

INTRODUCTION

THE ALLIANCE IS a groundbreaking collaboration among five law and policy centers working in 11 states – Legal Voice in the Northwest, Gender Justice in the upper Midwest, Women's Law Project in Pennsylvania, Southwest Women's Law Center in New Mexico, and California Women's Law Center – leading from the states to advance gender equality and reproductive justice, and to produce clear wins on critical issues.

WE FORMED THE ALLIANCE out of an urgent need to build in-state legal capacity to fight the assault on women's rights and LGBTQ equality in the states. The absence of a progressive state-based legal advocacy infrastructure has allowed the opposition to escalate a decades-long, state-by-state strategy to erode abortion rights, stigmatize reproductive healthcare, promote increasingly broad rights to refuse healthcare, employment and services based on personal beliefs, and seed regressive policy on the local level for promotion in Washington, D.C.

In the wake of last year's Supreme Court *Hobby Lobby* ruling, moreover, the frontier for advocacy to challenge overly broad religious refusals targeting women and LGBTQ people has also moved even more squarely to the states. An emboldened opposition is escalating efforts to enact ever-broader refusal provisions for religious entities, including state Religious Freedom Restoration Act bills, policies, and myriad local exemptions allowing religious entities, or people claiming religious or personal objections, to deny health care, employment and services to women and LGBTQ individuals.

The Alliance partners have joined forces to leverage our unique role as state-based legal advocates working to advance reproductive rights as part of broad advocacy agenda. We work at the intersection of women's and LGBTQ rights, to secure tangible wins in the short-term and test new approaches. We combine pro-active policymaking with creative defense, and ground our advocacy in diverse grassroots and client communities. We are working strategically together to harness opportunities for pro-active advocacy in our states, and to maximize our impact by coordinating multi-state efforts and collaborating on synergistic state initiatives.

THIS ALLIANCE RESOURCE IS a first-time compilation of our state advocacy strategies, models and resources in two priorities areas: advancing abortion policy and combating religious refusals. This 1st Edition chronicles tangible abortion and refusals advocacy efforts on the ground in our states – which are blue, purple and red – with links to concrete advocacy tools:

- ✓ Bills and model legislation
- ✓ Statutory language
- ✓ Court rulings, briefs and pleadings
- ✓ Legal research/novel causes of action to advance abortion rights or challenge refusals
- ✓ Innovative stakeholder education resources
- ✓ Press releases, news coverage and talking points with tailored messaging
- ✓ Comprehensive and multi-issue advocacy projects

This First Edition is organized chronologically, by organization, from oldest to most recent. We plan to evolve it as a more user-friendly, searchable resource, and also to expand it in future editions documenting our state strategies in additional policy areas.

We created this resource to make our strategies accessible to each other, for mining best practices and aligned efforts on which we can build going forward. We dream of a day when we are part of a well-financed, 50-state infrastructure of legal and policy advocates, working together to construct a state architecture of women, LGBTQ and family-friendly laws and policies, nationwide. At present though, the Alliance partners are five of a very few state-based women's rights and gender equality organizations in the country. We want to make our strategies to advance abortion rights and combat religious refusals available to other allies, now, as tools that can help strengthen our movements on the ground.

WE OFFER THIS RESOURCE TO STATE-BASED ALLIES ACROSS THE COUNTRY, especially in the Reproductive Rights, Health and Justice, and LGBTQ rights movements. We invite advocates in state and regional organizations and coalitions around the country to examine these strategies:

- Lawyers may be inspired by these state legal strategies, litigation tools and court rulings, and find resources of use in challenging regressive laws and regulations, testing unorthodox state causes of action, and promoting pro-active policy language in pleadings, briefs and statutes.
- Policy advocates may find strategies and model language of use in efforts to replace or neutralize bad laws, and to advance policies that frame reproductive rights as encompassing pregnancy, birthing and parenting as well as abortion and contraception, and that link reproductive health rights to economic justice, LGBTQ rights, and the prevention of gender violence.
- Grassroots and reproductive justice allies, health care providers, and a host of other allies may wish to share this resource with trusted legal advocates, and to leverage their own expertise in grassroots advocacy and movement building to help legal advocates ground their advocacy in community realities and reproductive justice values.
- State advocates for reproductive rights, health and justice and for LGBTQ rights need, now more than ever, to build collaborations and develop models for working together, and building cross movement advocacy partnerships to advance both abortion and contraception policies, and LGBTQ rights in the healthcare, employment and public accommodations contexts. We hope some of these ideas will resonate.

We welcome allies to contact us for deeper discussion of specific practices and lessons learned; cross-sector collaborations we have created, co-convened, or been part of; comprehensive advocacy approaches we have forged; and considerations in trying to adapt specific approaches across state lines, in various political and community contexts.

WE HOPE THIS RESOURCE WILL BE OF VALUE IN BUILDING STATE-BASED LEGAL ADVOCACY CAPACITY TO ADVANCE WOMEN'S RIGHTS AND GENDER EQUALITY. Right wing forces have invested massive resources, over decades, in state-based legal, legislative, and regulatory strategies to erode reproductive rights and gender equality. State-based advocates for women's rights and gender equality must be empowered to respond creatively, quickly and effectively if we are to begin stanching their

flood of regressive policymaking and its spread to other states and trickle up to the federal level. On the pro-active front, moreover, the states are the only viable environment for affirmative advocacy given the culture of deadlock at the federal level and conservative control of the U.S. Congress and many federal courts. We must capitalize on our ability to take calculated risks and test unorthodox advocacy strategies in the states, including those that may not succeed in the short-term, but that enable us to set the terms of the debate and promise to move us forward through learning and innovation.

This Alliance resource offers state advocacy examples across a broad arsenal of strategies, forged in our courts, legislatures, governors' offices, agencies and local bodies, and with a diversity of client bases and community allies. As we share this First Edition with state-based allies, we also look forward to updating, expanding and developing it further in the coming year. We aim to make it searchable by key word, strategy type, sub-topics (e.g., abortion: advanced practice clinicians, clinic access/defense, crisis pregnancy centers, criminalization, fetal rights, etc.) and other categories. We plan to add case studies featuring best practices and lessons learned, and more fully exploring the profound significance of our coalition work and what that means for advocacy and policy outcomes.

We are also planning future editions of this resource focused on additional policy areas. Our next priorities include editions that will more fully capture Alliance state strategies on contraception access, and that compile our extensive, intersectional strategies to advance healthy pregnancy policymaking on the state and local level.

THE ALLIANCE PARTNERS SEND THANKS TO OUR FIRST-YEAR FUNDERS, for their vision for a better future, their investment in our novel collaboration, and their commitment to empowering advocates for women's rights and gender equality in the states:

Compton Foundation
Educational Foundation of America
Ford Foundation
The Moriah Fund
National Institute for Reproductive Health
Jessie Smith Noyes Foundation
Mary Wohlford Foundation

We invite other progressive funders to join us in strengthening our progressive movements for women's rights, reproductive justice, and gender equality on the ground.

THIS RESOURCE MAY BE DOWNLOADED AT:
alliance.legalvoice.org/ofbyforthestates.pdf

PART 1

SECURING AND
ADVANCING
ABORTION RIGHTS

Alliance State Abortion Advocacy Strategies, Models, Accomplishments and Resources: 1986 - 2015

This compilation of the Alliance partners' strategies to advance abortion access and coverage includes efforts focused specifically on abortion policymaking, as well as efforts that address abortion rights as part of a broader set of policy aims, e.g., on contraceptive access, Medicaid coverage, ACA implementation, or improving reproductive health care access among women in underserved communities. In some of these examples, Alliance advocates leveraged broader reproductive health advocacy efforts to address abortion rights under the radar.

This compilation includes advocacy efforts that were led and co-led by the Alliance organization as well as advocacy led by allies, to which we lent support. Collaborative advocacy is fundamental to our work in the states. We work extensively with grassroots, state and regional coalitions to effect change through joint efforts, to learn from a diversity of allies, and to keep the concerns of women and girls at the center of policy and advocacy efforts in a range of communities and across a range of issues. We work with coalition partners in many ways: providing technical legal, legislative drafting and policy analysis assistance; helping to organize a multifaceted response that may include negotiation, community outreach, public relations, and litigation; and collaborating to advance joint efforts. Consequently, much of the work cited in this compilation has been pursued in collaboration, and we have made every effort to credit the leadership and partnership of key allies.

CALIFORNIA WOMEN'S LAW CENTER

SECURING & ADVANCING ABORTION RIGHTS IN CALIFORNIA STRATEGIES, MODELS, ACCOMPLISHMENTS & RESOURCES

1992 - 2015

The CWLC advocacy examples that follow include model project and coalition efforts that addressed abortion as part of a broader agenda, followed by a chronology of exemplary abortion advocacy strategies, accomplishments, and resource links.

CWLC PROJECTS & COALITIONS

1992-93

THE CIVIL RIGHTS OF WOMEN: A FOCUS ON IMMIGRANT WOMEN IN CALIFORNIA

- CWLC worked with a diverse Advisory Group of immigrant women and advocates to organize two conferences on legal issues at the intersection of gender and immigration status, and published a 2-volume legal handbook on women's legal issues as they affect communities of documented and undocumented immigrants in California.
- Each volume of *Using the Law to Empower Immigrant Women* provides an extensive overview of the law, with a special section devoted to the particular implications of the law for immigrant women. Volume 1 addresses Child Care, Domestic Violence, Family Law, Health & Safety, Sexual Harassment and Wage/Hour Issues; Volume 2 addresses **Reproductive Rights – including abortion rights and access** – Public Benefits, Pregnancy Discrimination at Work and Housing Discrimination.

Reproductive Rights chapter (and others) are available on request

1993-94

THE CIVIL RIGHTS OF WOMEN: A FOCUS ON WOMEN WITH DISABILITIES

- CWLC convened an Advisory Committee comprising women with disabilities, advocates and service providers from around the state, who worked with us to design this outreach and education project to address legal and access issues facing women with disabilities in California, and to organize an accessible conference addressing those issues.
- The statewide conference: "*Women's Rights: Disabled and Deaf Women in California*" included panels and discussions on the intersection of women's issues and disability rights, focusing on reproductive rights, family law, violence against women, and employment. **Among the reproductive rights issues addressed were forced abortion, denial of abortion, abortion on the basis of disability, accommodations needed by disabled women seeking abortion, and perspectives from deaf and disabled women on abortion, and the mainstream reproductive rights movement.**

Conference materials available on request

THE CIVIL RIGHTS OF PREGNANT AND PARENTING STUDENTS IN CALIFORNIA

- In response to requests from pregnant students in California public schools, including cases in which school personnel violated students' rights to confidential abortion services by notifying their parents, CWLC developed a comprehensive project to address the reality that reproductive rights of pregnant students are often violated by public schools, as neither schools nor students know there are laws that specifically protect pregnant and parenting students. Preliminary research into a random sample of districts across the state found 25% of written policies violated state law governing minors' rights.
- CWLC education, technical assistance and advocacy through this project includes:
 - Trainings for school administrators and staff, child advocates and attorneys, to: (a) educate stakeholders about state and federal laws that protect pregnant and parenting students and (b) uncover illegal school policies and practices that violate these rights.
 - Legal services for students whose rights are violated (often discovered during trainings) including interventions to stop schools from informing parents that their daughter had an abortion, and to ensure schools provide pregnant and parenting teens equal access to educational opportunities.
 - Technical assistance to school districts in developing policies that comply with the law.
 - Training, technical assistance and services to protect the rights of teens from 104 federally recognized Native American tribes in CA who attend American-run schools to confidential abortion and other reproductive health care.
- From 2013 to the present, CWLC has been active in the **Title IX California Coalition**, surveying communities statewide and conducting Title IX education, awareness, compliance, and enforcement including of the rights of pregnant and parenting students.
- In January 2015, CWLC participated in the second annual hearing on Title IX at the CA State Legislature and co-presented an *Executive Summary: Title IX Check List, Results & Recommendations from Nine Local Assessments*.

Title IX Check List available upon request

MULTI-CULTURAL REPRODUCTIVE HEALTH RIGHTS PARTNERSHIP PROJECT

- CWLC collaborated with organizations serving new immigrant communities in Los Angeles to develop culturally and linguistically appropriate reproductive health and rights educational materials and training. Because California's strong reproductive rights mean little to large populations of women who lack of reproductive health information and culturally or linguistically appropriate services, this collaborative project aimed to educate women in ethnically marginalized communities about their reproductive health rights in California. We worked with 5 community-based partners to create culturally appropriate materials on "birth control as a reproductive right," and used the materials to train over 700 women in diverse Los Angeles communities. Partners and outreach included:
 - **Clinica Msr. Oscar A. Romero** collaborated in outreach among Mayan women who speak neither Spanish nor English, but their indigenous language of Khanjobal
 - **Black Women for Wellness** collaborated to produce a reproductive health and rights booklet, *A Black Women's Guide to Womb Health and Healing*, addressing contraception and abortion through a reproductive justice lens (see more in chronology, below)

- **Los Angeles Indigenous People’s Alliance** worked with CWLC to produce a Spanish-language audio reproductive health and rights compact disk (“zine”), a collage of music, poetry and other sounds relevant to low-income indigenous women and Latinas
- **NISWA Family and Children Services Center**, a domestic violence shelter for Muslim women, adapted *A Black Women’s Guide to Womb Health and Healing* for Muslim women
- **Nepal Sewa Center** worked with CWLC to conduct a focus group among Nepalese women, among whom no reproductive health rights research or advocacy had previously been done, and then adapt *A Black Women’s Guide to Womb Health and Healing* as a culturally appropriate reproductive health and rights guide for Nepalese women. The Nepalese version was adapted first in Hindi; the Hindi version was translated into English.

Materials and lessons in collaborating with new immigrant organizations available on request

CHRONOLOGY OF CWLC ABORTION ADVOCACY STRATEGIES, MODELS, ACCOMPLISHMENTS & RESOURCES

1990

ABORTION AND THE LAW IN CALIFORNIA: PAMPHLET ON CALIFORNIA AND FEDERAL LAW

Copy available upon request

- This booklet provided, for the first-time, a comprehensive discussion of the court decisions and laws – California and federal – affecting access to and funding for abortion, including for minors, for both lay advocates and attorneys.

2001

LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY TO PROTECT THE RIGHTS OF PREGNANT AND PARENTING STUDENTS, INCLUDING TO CONFIDENTIAL ABORTION

- CWLC provided technical assistance to LAUSD personnel in developing this exemplary policy;
- The LAUSD is the largest public school district in California.

2002

MODEL POLICY: PROTECTING THE CIVIL RIGHTS OF PREGNANT AND PARENTING TEENS

Copy available upon request

- CWLC drafted and promoted this model policy among school districts throughout California as a tool for more proactively addressing the health and educational issues facing pregnant and parenting students. The policy details students’ rights to confidential medical care including abortion and contraception, at school based health clinics and community providers, without parental notification.

2002

POLICY BRIEF: THE CIVIL RIGHTS OF PREGNANT AND PARENTING TEENS IN CALIFORNIA SCHOOLS

http://cwlc.org/web/wp-content/uploads/2013/09/policy_brief_civil_rights_ppt.pdf

- CWLC authored and widely disseminated a policy brief detailing the rights of pregnant and parenting students in California, including to confidential abortion and contraception.

2002

REPRODUCTIVE PRIVACY ACT CODIFYING ROE V. WADE UNDER CALIFORNIA LAW

SB 1301

http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb_1301-1350/sb_1301_bill_20020906_chaptered.html

- This bill repealed California's 1967 Therapeutic Abortion Act and replaced it with language declaring every woman's fundamental right to choose to bear a child or not and to choose and obtain an abortion, and allowed mid-level practitioners under physician supervision to provide early non-surgical abortions.
- CWLC co-founder Sheila Kuehl sponsored this bill while she was a member of the State Assembly. ACLU of Northern California led statewide advocacy for its passage; CWLC provided technical assistance on the bill and joined allies statewide in supporting its passage.

2004

ATTORNEY GENERAL OPINION THAT SCHOOLS CANNOT INFORM PARENTS IF THEIR CHILD LEAVES CAMPUS FOR CONFIDENTIAL MEDICAL CARE, INCLUDING ABORTION

AG Opinion available upon request

- CWLC participated in advocacy with the Attorney General on the need for clarification on this issue;
- The AG issued this formal opinion following an inquiry about the legality of a school board requiring parental permission or notification for a minor to access confidential medical services.

2005 & 2006

REPRODUCTIVE JUSTICE COALITION CAMPAIGN TO MOBILIZE LATINO, ASIAN & AFRICAN AMERICAN COMMUNITIES TO DEFEAT PARENTAL NOTIFICATION

Copies of the seven community/message-specific flyers and cards are available upon request

- Proposition 73 (2005) and Prop 85 (2006) sought to amend the California Constitution to require parental notification and a 48-hour waiting period when teens seek an abortion.
- CWLC worked with allies in the Reproductive Justice Coalition of Los Angeles (RJCLA), Pacific Institute on Women's Health, ACLU of Southern California, National Health Law Program, and Asian Pacific American Law Center to develop and then strategically disseminate seven community-specific messages, through phone calling, press events, and door-to-door canvassing.

2007

SISTERS IN CONTROL: COMMUNITY GUIDE ON CONTRACEPTION AND ABORTION THROUGH A REPRODUCTIVE JUSTICE LENS FOR WOMEN OF COLOR, IMMIGRANT WOMEN, AND ADOLESCENT GIRLS

<http://cwl.org/web/wp-content/uploads/2013/09/CWLC-Sisters-in-Control.pdf>

- CWLC collaborated with Black Women for Wellness (BWW) to develop and publish this education and resource guide, which includes a detailed chapter on abortion, understanding and choosing between medical and surgical abortion - including advantages of each, issues to consider, possible side effects, and when to call your doctor - and a warning with information about deceptive “Crisis Pregnancy Centers.” The eighty-page guide was edited and reviewed by an African-American female OB-GYN and other African-American public health professionals
- CWLC and BWW used this guide to train 270 African-American women and English-speaking Latina immigrants on California’s reproductive rights laws.

2007

REPRODUCTIVE JUSTICE COALITION COMMUNITY RESEARCH & POLICY BRIEF: REPRODUCTIVE JUSTICE: WHERE DO WE GO FROM HERE?

Policy brief available on request

- The Reproductive Justice Coalition of Los Angeles (RJCLA), in which CWLC participates, conducted a Los Angeles focus group project to engage women from various communities in identifying their reproductive health needs and their level of knowledge about reproductive health, in order to develop recommendations for action. There were eleven focus groups, including with indigenous Guatemalan, African-American, Indonesian, Nepalese, Muslim, Latina, Thai, Japanese women, sex workers, and lesbians. Most of the focus groups were conducted in the women’s native languages to support an environment of safety and trust.
- Focus group findings confirmed that there is an enormous gap between excellent California laws and how they play out for many women in Los Angeles County; many cannot make basic decisions about their reproductive health, including whether to continue or terminate a pregnancy.
- CWLC’s policy brief summarized the legal aspects of RJCLA focus group findings and offers detailed recommendations for changes in state and local policy, health care service delivery, and enforcement of existing laws, and for shifting advocacy focus from reproductive rights to reproductive justice.

2010 (Brief filed); 2011 (9th Circuit ruling)

NINTH CIRCUIT RULING THAT OAKLAND "BUBBLE" ZONE LAW IS CONSTITUTIONAL

Hoye v. City of Oakland, 642 F.Supp.2d 1029 (9th Cir. 2009)

9th Circuit decision: <http://caselaw.findlaw.com/us-9th-circuit/1575729.html>

CWLC amicus brief available upon request

- Walter Hoye filed suit after he was arrested for violated the Oakland clinic protection ordinance, represented by Life Legal Defense Fund, claiming First Amendment and Equal Protection violations.
- CWLC filed an amicus brief that was signed by many of our women’s rights allies, arguing that the ordinance does not violate the First Amendment and that it is a necessary means to achieve safe and unencumbered access to reproductive health care facilities.

- The Ninth Circuit Court of Appeals upheld the constitutionality of the Oakland ordinance, but found that the City was applying the ordinance in an unconstitutional manner. Following the ruling, the City issued new police training materials to educate officers as to the neutral application of the ordinance.

2012-2013

EARLY ABORTION ACCESS BILL

AB 154

http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0151-0200/ab_154_bill_20131009_chaptered.pdf

- This groundbreaking bill authorized trained Nurse Practitioners, Certified Nurse Midwives and Physician Assistants to provide first trimester abortions, which is within the scope of their licenses.
- CWLC joined allies on the California Coalition for Reproductive Freedom and other pro-choice and RJ networks to support the bill, which was sponsored by Planned Parenthood Affiliates of California, and co-sponsored by ACLU, ACCESS Women’s Health justice, Black Women for Wellness, California Latinas for Reproductive Justice, and NARAL Pro-Choice California.

2013

ANTI-REPRODUCTIVE RIGHTS CRIMES BILL

SB 340

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB340

- CWLC supported this bill to indefinitely extend the Reproductive Rights Law Enforcement Act that requires the Attorney General to assume specified duties relating to planning, information gathering, and analysis with respect to anti-reproductive rights crimes, and requires the Commission on Peace Officer Standards and Training to develop an optional course for training law enforcement agencies regarding such crimes.

2013

POLICY BRIEF: PREGNANT STUDENTS AND CONFIDENTIAL MEDICAL SERVICES

<http://cwlc.org/web/wp-content/uploads/2013/09/PPT-CMS.pdf>

- This updated policy brief details pregnant students’ specific rights to confidential contraception and abortion services without parental consent in California.

2014

COLLABORATION WITH CAARE COALITION TO LAUNCH “ALL ABOVE ALL” NATIONAL BUS TOUR CAMPAIGN TO LIFT BANS ON ABORTION COVERAGE

[http://allaboveall.org/#!prettyPhoto\[1\]/http://allaboveall.org/wp/wp-content/uploads/2014/07/10606290_331941483640722_5742066742943101783_n.jpg](http://allaboveall.org/#!prettyPhoto[1]/http://allaboveall.org/wp/wp-content/uploads/2014/07/10606290_331941483640722_5742066742943101783_n.jpg)

- CWLC played a leadership role in planning and execution of the launch of the All Above All Be Bold Bus Tour in Los Angeles on Saturday, August 9, 2014. CWLC’s Laura Herrera was the emcee for the Plummer Park activation and program.

2015

REPRODUCTIVE FACT ACT REQUIRING CLINICS THAT PROVIDE PREGNANCY SERVICES TO NOTIFY CONSUMERS OF THEIR REPRODUCTIVE RIGHTS, AND TO DISCLOSE IF THE CLINIC IS NOT A LICENSED FACILITY

AB 775

http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_0751-0800/ab_775_bill_20150225_introduced.htm

- The Freedom, Accountability, Comprehensive Care and Transparency (FACT) Act will ensure all licensed clinics in California provide women with the information they need to access affordable health care and make informed family planning decisions. This bill takes aim at CPCs by also requiring unlicensed facilities that provide pregnancy-related care to inform clients that they are not a licensed medical facility and do not have a licensed provider on staff (many CPCs are unlicensed).
- The bill was authored by Assembly members David Chiu (D- San Francisco) and Autumn Burke (D-Los Angeles), and sponsored by Attorney General Kamala Harris, NARAL-Pro Choice California, and Black Women for Wellness. The bill was developed following a year-long undercover investigation of CPCs conducted by NARAL Pro-Choice California revealed a disturbing pattern of medical misinformation and manipulation of women. The results of the investigation can be found at www.cpclies.com
- CWLC mobilized support to help pass this bill, in support of advocacy led by NARAL PC CA, Feminist Majority Foundation, and Black Women for Wellness. The FACT Act was passed by the state Assembly in May. The bill will continue moving through the legislative process this summer; if the bill is sent to the Governor, he will enact or veto it by October 2015.

2015

LEGAL RESEARCH AND COMMUNITY PARTNERSHIPS TO ADVANCE ACCESS TO MEDICATION ABORTION IN CALIFORNIA

Research and resources are confidential; contact CWLC for information

- CWLC is providing legal, research and planning support to women's health advocates developing a campaign and website for education about abortion by pills at home.
- CWLC is conducting initial legal research into possible liabilities and circulating among Alliance members and RJ partners for review and feedback.

GENDER JUSTICE

SECURING & ADVANCING ABORTION RIGHTS IN MINNESOTA STRATEGIES, MODELS, ACCOMPLISHMENTS & RESOURCES

2012 - 2015

2012

SUCCESSFULLY ARGUED AGAINST COURT INTERPRETING “CHILD” IN A CRIMINAL STATUTE TO INCLUDE A FETUS, AND THAT SUBJECTING PREGNANT WOMEN TO PENALTIES NOT IMPOSED ON MEN VIOLATES EQUAL PROTECTION LAW

Minn. Stat. § 152.137(2)(b) ("No person may knowingly cause or permit a child [to] be exposed to...or ingest methamphetamine.")

- Gender Justice worked with National Advocates for Pregnant Women to assist a Minnesota woman facing criminal prosecution for continuing a pregnancy to term after allegedly using a controlled substance. The woman charged had a public defender assigned; NAPW sought help from Gender Justice to make sure the PD would make the relevant gender rights/Equal Protection arguments in a motion to dismiss the criminal charges that had been brought under MN statute 152.137.
- Gender Justice engaged a private criminal defense attorney as pro bono co-counsel to gather relevant information to help NAPW, the woman charged, and her PD to bring an effective motion to dismiss.
- A Gender Justice attorney traveled to the county seat in Northern MN to be an in-person and on-the-ground presence supporting the woman at a key hearing related to the motion to dismiss.

2013-2014

DEFENDED MINNESOTA STATE CONSTITUTIONAL RIGHT TO MEDICAID COVERAGE FOR THERAPEUTIC ABORTIONS AGAINST “TAXPAYER RIGHTS” CHALLENGE

Walker v. Jesson, 2014 Minn. App. Unpub. LEXIS 411 (Minn. Ct. App. May 5, 2014) (denying ADF appeal)
Amicus brief on appeal:

http://reproductiverights.org/sites/crr.civactions.net/files/documents/AmicusCuriae_MinnesotaCourtOfAppeals.pdf

- Gender Justice served as Minnesota co-counsel to the Center for Reproductive Rights representing Pro-Choice Resources, to intervene in a lawsuit to end public funding for abortions in Minnesota, brought by the national right-wing group, Alliance Defending Freedom.
- The right to public funding for abortions for low-income women was established in *Doe v. Gomez*, 542 N.W.2d 17 (Minn. 1995), when the MN Supreme Court found that low-income women have a right under the MN state constitution to access to therapeutic abortion, as long as the state continues to fund medical services related to childbirth. The state has funded abortions for low-income women since then. The process involves a certification from the provider that the abortion is therapeutic.
- Opponents have long looked for ways to reverse *Gomez*. See, e.g., <http://www.mccl.org/doe-v-gomez.html>. ADF brought *Walker v. Jesson* as a taxpayer suit, alleging the state was wrongfully expending funds because it was paying for abortions that were not therapeutic. They relied in part on supposed discrepancies in the reporting collected by two state agencies on the reasons for individual state-funded abortions. This legal strategy, if allowed to go forward, would have led to discovery requests for individual patient medical records, raising serious privacy issues.

- Pro Choice Resources was an original plaintiff in *Gomez*, and sought to intervene in *Walker v. Jesson*. CRR and Gender Justice represented PCR in a motion to intervene in the lawsuit. The motion was denied, but the judge made clear that PCR could participate as an amicus on appeal. Gender Justice assisted CRR in forming the legal strategy and drafting PCR’s amicus brief on appeal.
*In 2014, the appellate court affirmed the district court’s dismissal of the ADF claim.

2014-2015

DEVELOPING MINNESOTA WOMEN’S ECONOMIC SECURITY AGENDA AND COALITION TO INCLUDE REPRODUCTIVE HEALTH AND JUSTICE AS ECONOMIC ISSUES

www.mnwesa.org/

http://genderjustice.us/case_study/case-study-1/

- Gender Justice partnered with Minnesota Women’s Consortium, WomenVenture and the Center on Women and Public Policy at the University of Minnesota to pass the Women’s Economic Security Act of 2014, making Minnesota the first state to pass a comprehensive package of bills to modernize workplaces and address the gender pay gap. Gender Justice and the Minnesota Coalition for Women’s Economic Security are now building on that success to launch a five-year campaign for additional policy reforms to support family care giving and strengthen family economic security.
- As leaders in the MN Women’s Economic Security Coalition, Gender Justice is working with Pro-Choice Resources to encourage the Coalition to consider reproductive health as economic issues and to incorporate RJ issues in the Women’s Economic Security agenda.

2015

DEFEATED ALL BILLS TO RESTRICT ABORTION IN THE 2015 LEGISLATURE, INCLUDING “BORN ALIVE INFANTS PROTECTION ACT”

<http://www.startribune.com/lifestyle/health/294461851.html>

- Change of party control of the Minnesota House of Representatives in 2014 spurred introduction and hearings in the House on a slate of 2015 bills to restrict or eliminate abortion access.
- Gender Justice provided support to key pro-choice allies leading legislative advocacy to defeat these anti-abortion bills introduced in 2015 session:
 - HF1047/SF0904** (Born Alive Infants Protection Act, and civil remedies/protections)
 - HF787/SF0800** (Abortion state-sponsored health programs funding limits)
 - F788/SF0794** (Abortion facilities licensure requirement)
 - HF734/SF0727** (Abortion physician presence requirement)
 - HF607/SF0683** (Abortion state-sponsored health programs funding limitation)
 - HF606/SF0616** (Abortion facilities licensure requirement)

LEGAL VOICE

AKA NORTHWEST WOMEN'S LAW CENTER (NWLC) UNTIL 2009

SECURING & ADVANCING ABORTION RIGHTS IN THE NORTHWEST CHRONOLOGY OF STRATEGIES, MODELS, ACCOMPLISHMENTS & RESOURCES 1986 – 2015

1986

WA

STATE SUPREME COURT RULING THAT PROTESTERS OUTSIDE AN ABORTION CLINIC COULD NOT HOLD SIGNS WITH GRUESOME PICTURES OF (ALLEGED) ABORTED FETUSES

Bering v. Share, Tacoma Stands up for Life, 106 Wn.2d 212 (1986) and 106 Wn.2d 261 (1986)

<http://courts.mrsc.org/mc/courts/zsupreme/106wn2d/106wn2d0261.htm>

- NWLC filed an amicus brief in this successful case brought by a City of Federal Way clinic seeking damages from an anti-abortion organization and to prevent its members from picketing and attempting to influence people in the area surrounding the clinic, using the words "kill" and "murder" in connection with clinic employees and patients, and obstructing access to the building.

1988

WA

STATE ASSOCIATION OF INSURERS DECISION TO STOP INFORMAL PRACTICE OF NOT COVERING ABORTIONS BEYOND 16 WEEKS

- NWLC advocated for this change. The practice was not part of any administrative rule or law; advocacy was aimed at educating insurers.

1988-1990

WA

OPERATION RESCUE SHUT DOWN: FIRST STATEWIDE INJUNCTION BY A FEDERAL JUDGE

Aradia Women's Health Center v Operation Rescue, 929 F.2d 530 (1991)

http://docs.legalvoice.org/Aradia_v_OperationRescue_Decision.pdf

- At the request of clinics, doctors and women's groups, as well as patients, NWLC represented same in federal court arguing that Operation Rescue's practice of blocking access to clinics violated the right to obtain an abortion and the right to interstate travel.
- We obtained ruling that defendants' refusal to answer questions in depositions could be interpreted as admission of activities, per civil conspiracy laws, and persuaded the federal court to impose contempt sanctions for violation of injunction at \$5,000/per day.

REPRODUCTIVE PRIVACY ACT PASSED CODIFYING ROE V. WADE VIA CITIZEN INITIATIVE

<http://apps.leg.wa.gov/RCW/default.aspx?cite=9.02&full=true#9.02.100>

- NWLC's Jan Bianchi co-wrote this historic legislation, which included this unique provision regarding state funding for abortions: *"If the state provides, directly or by contract, maternity care benefits, services, or information to women through any program administered or funded in whole or in part by the state, the state shall also provide women otherwise eligible for any such program with substantially equivalent benefits, services, or information to permit them to voluntarily terminate their pregnancies."*

REPRODUCTIVE PRIVACY ACT DEFENDED AGAINST EFFORTS TO ERODE

- NWLC successfully blocked legislative efforts to erode provisions of the RPA:
 - Protected funding for abortions for low income women
 - Resisted parental consent and notification laws for minor women
 - Preserved low-income women's right to family planning services
 - Fought limitations on student access to confidential counseling, AIDS and sexuality education

CLINIC ACCESS BILL PASSED, BASED ON TIME, PLACE AND MANNER RESTRICTIONS

RCW 9A.50, 10.97

<http://apps.leg.wa.gov/rcw/default.aspx?cite=9A.50&full=true>

- NWLC drafted this bill, which protects all health care facilities and includes provisions for a private cause of action and attorneys' fees, and advocated successfully for its passage.

COURT ORDER DISMISSING GUARDIAN AD LITEM ORDERED FOR FETUS OF DISABLED WOMAN, PERMITTING ABORTION LATE IN PREGNANCY

In re the Guardianship of JMB

- NWLC challenged the appointment of a GAL for the fetus, requested by the guardian for a severely developmentally disabled woman who was raped by a facility caregiver.
- This ruling dismissed the GAL and permitted the abortion at 5 months.

ADVOCATED FOR THE RIGHT TO CHOOSE TO DIE WITH PHYSICIAN ASSISTANCE

Compassion in Dying v. State of Washington, became Washington v. Glucksberg, 117 S. Ct 2258 (1997)

- NWLC, ACLU and other allies joined a challenge to Washington's prohibition on physician-assisted aid in dying, on the grounds that intimate personal decisions are protected by the U.S. Constitution's guarantee of liberty. This case bears directly on the constitutional right to obtain an abortion.
- NWLC wrote an amicus brief in the case; we prevailed at the district court and the 9th Circuit; overturned by U.S. Supreme Court.

STATE COURT OF APPEALS RULING THAT A FETUS IS NOT A PERSON; THEREFORE, NOT PERMISSIBLE TO CHARGE OR CONVICT A PREGNANT WOMAN WHOSE BABY TESTED POSITIVE FOR DRUGS

State v Dunn

http://docs.legalvoice.org/State_v_Dunn_Decision.pdf

- In this case, a county prosecutor charged a mother with delivery of a controlled substance.
- NWLC filed a brief successfully arguing that under state and federal law, a fetus is not a person until it is born.

DEFEATED "PARTIAL BIRTH ABORTION" BAN VIA CITIZEN INITIATIVE

I-694

http://ballotpedia.org/Washington_Late-term_Abortion_Initiative_694_%281998%29

- NWLC led the ballot title litigation regarding wording in the voter pamphlet and on petitions; Lisa Stone (current Executive Director) served on Executive Committee. The measure failed 57-43%.
- Successful messaging strategy framed as "ban on abortion" without getting pulled into details; lesson learned not to emphasize rarity of procedure in message, as it's not helpful.

FOUNDED AND CONVENEED NORTHWEST REPRODUCTIVE FREEDOM NETWORK

- NWLC created and administered the RFN to link geographically isolated advocates, broaden the advocacy base, and strengthen coordination of advocacy for reproductive freedom in the Northwest.
- We engaged traditional allies (e.g., PP & NARAL chapters, women's health providers) and non-traditional allies representing women of color, tribal communities, youth, LGBTQ people (e.g., Women of Color Alliance in ID; Odyssey Youth Center in Spokane, WA; Alaska Network on Domestic Violence and Sexual Assault; Basic Rights OR)
- RFN members communicated, shared information and strategized via listserv, monthly conference calls, and periodic regional convenings.

ADVOCACY TO ENSURE ACCESS TO ABORTION AFTER SECULAR HOSPITAL ACQUIRED PROPERTY FROM A RELIGIOUS SYSTEM

- Swedish Hospital in Seattle acquired the Cherry Hill campus from Sisters of Providence health care system; the original transaction would have left the Catholic Ethical and Religious Directives in place at the non-sectarian hospital campus and an additional facility after the deal closed.
- Nancy Sapiro of NWLC led the negotiation team of reproductive health and rights advocates to prevent the cessation of abortion services. Swedish ultimately agreed to form a separate entity, governed by a new board, to provide “non-therapeutic, elective” abortions.

FEDERAL TRIAL COURT RULING THAT WOMAN WHO NEEDED AN ABORTION BECAUSE FETUS HAD ANENCEPHALY WAS ENTITLED TO HAVE THE PROCEDURE PAID FOR BY FEDERAL INSURANCE

Jane Doe I and II v United States

<http://law.justia.com/cases/federal/appellate-courts/F3/372/1308/593334/>

- This case challenged Department of Defense regulations prohibiting the government from paying for abortions except when the life of the mother is endangered.
- See link to Doe I federal court ruling, above; Doe I was eventually reversed by the Ninth Circuit Court of Appeals. Doe II settled.

STATE SUPREME COURT RULING THAT A FROZEN “PRE-EMBRYO” WAS NOT AN ENTITY ENTITLED TO A GUARDIAN AD LITEM

Litowitz v. Litowitz

<http://caselaw.findlaw.com/wa-court-of-appeals/1485926.html>

- In this divorce where a couple fought about who should retain “frozen embryos”, NWLC argued that a) said embryos should not be appointed a GAL; b) the court must take needs of all parties into account (i.e., biology is not destiny); c) embryos should be treated the same as other community property.
- The Court skirted the issue (except GAL) but affirmed Court of Appeals ruling that biological connection to a frozen embryo or a child is not the only determinant of parentage.

ADVOCACY TO PROMOTE ABORTION ACCESS BY ADVANCED PRACTICE CLINICIANS

AGO 2004 No. 1

<http://www.atg.wa.gov/AGOOpinions/opinion.aspx?section=archive&id=6714#.VIX3H2TF8mM>

- Results of NWLC advocacy:

WA: Obtained Attorney General Opinion that medication abortions were not contemplated by I-120 (statute codifying Roe); advanced practice clinicians can provide medication abortion. The NWLC's request suggested AGO analysis and logic; co-written by Sara Ainsworth (NWLC) and PP.

MT: Yes, as a result of case law and state constitution, advanced practice clinicians can provide medication abortions.

OR: Yes; no legal restrictions are in place (only barrier is scope of practice); advanced practice clinicians can provide medication abortions.

AK: Yes, but overturned by anti-choice state Pharmacy Board.

CHALLENGING FETAL RIGHTS MOVEMENT:

STATE LEGAL RESEARCH; LEGISLATIVE AND LITIGATION STRATEGIES

Research and advocacy resources available on request

- NWLC conducted background research and compiled state laws that implicate fetal rights in all 5 Northwest states.
- We provided research to Reproductive Freedom Network members in the 5 states for use in the 2005 legislative sessions, technical assistance for legislative approaches should fetal rights bills be introduced, and talking points about fetal rights.
- NWLC also collected cases and anecdotal reports regarding maternal/fetal rights conflicts, identifying common law, statutory, and constitutional theories to challenge fetal rights laws with focus on conflicts related to pre-natal drug use, and conflicts related to forced caesarian procedures.

CRISIS PREGNANCY CENTER RESEARCH AND INVESTIGATION TO DETERMINE IF CPCS CAN BE SUED IN THE NORTHWEST STATES

Research available on request

- NWLC developed analyses of potential causes of action to challenge CPCs, e.g., under state fraud, consumer protection, and unauthorized practice of medicine laws in the 5 Northwest states.
- We talked to ~10 potential plaintiffs; none chose to move forward.

TECHNICAL ASSISTANCE TO CREATE A STATEWIDE JUDICIAL BYPASS SYSTEM

- Idaho passed a new parental consent law in 2007; NWLC legal research determined it could not be challenged under state or federal law.
- In response, NWLC helped Idaho allies to implement a judicial bypass system, through which a pool of trained pro bono attorneys represent young ID women seeking abortions without parental consent.

NORTHWEST REPRODUCTIVE JUSTICE COLLABORATIVE: RJ PRINCIPLES AND POLICY POSITIONS REFLECTING COMMUNITY NEEDS

Reproductive Justice framework and principles for legal and policy advocacy available on request

- NWLC undertook a three-year community building process intended to develop a new framework for protecting women's and LGBTQ persons' autonomy and rights to full personhood.
- We developed a steering committee comprising 7 women of diverse backgrounds committed to reproductive health and rights; recruited grassroots participants and compensated them for the time their staff spent on the NRJC; and held a series of workshops to identify the most pressing reproductive health and justice issues facing communities in ID, OR, WA.
- Together, we developed 3 position papers reflecting an RJ approach to sexuality education and to reproductive health and rights issues affecting immigrant women and incarcerated women.

In 2011, the NRJC evolved into a new RJ group, *Surge NW*, which has joined Legal Voice in our pharmacy refusal and crisis pregnancy center advocacy, helped secure birthing rights for incarcerated women, and engaged diverse coalitions to advance reproductive justice in the Northwest.

ADVOCACY TO ENSURE A BILL TO REQUIRE STATE AGENCIES TO ISSUE A BIRTH CERTIFICATE WHEN A CHILD IS STILLBORN WOULD NOT ADVANCE FETAL RIGHTS

- Legal Voice proposed alternative language to recognize the loss the parents suffered, without endangering the woman's personhood and autonomy by endowing the fetus with legal personhood.
- No statute has been passed, though this issue continues.

OPPOSED INTESTACY LAW CHANGE THAT WOULD INSTITUTE FETAL PERSONHOOD

Revisions to WA intestacy statute

- Washington trusts and estates lawyers, through the Bar Association, proposed revisions to the state's laws regarding intestacy to include inheritance rights of persons in utero at time of decedent's death.
- Legal Voice opposed this effort, as such a law has the potential to imbue a fetus with status as a person, and thus endanger abortion rights. After discussion, the Bar revised the proposed draft to avoid this problem.

CRISIS PREGNANCY CENTER LEGISLATION TO REQUIRE MEDICALLY ACCURATE INFORMATION AND DISCLOSURE OF SERVICES THEY DO AND DO NOT PROVIDE

SB 5274: Limited Service Pregnancy Center Accountability Act

<http://lawfilesext.leg.wa.gov/biennium/2011-12/Pdf/Bills/Senate%20Bills/5274.pdf>

- Legal Voice drafted this legislation to regulate CPCs, enlisted sponsors, and mobilized allies to join us in advocacy for its passage. The bill did not pass.

RESEARCH AND ADVOCACY TO ENSURE INCARCERATED WOMEN'S ACCESS TO REPRODUCTIVE HEALTH CARE

Research available on request

- Legal Voice represented two women incarcerated in Washington jails who were initially denied abortion access when they were in jail, obtaining temporary release for one, and transport to the abortion for the other.
- We worked with Birth Attendants of Washington to determine whether women at the state correctional facility had access to abortion care.
- We researched jail and prison abortion policies in all 5 Northwest states.

THE DECEPTIVE PRACTICES OF LIMITED SERVICE PREGNANCY CENTERS REPORT

http://docs.legalvoice.org/LimitedServicePregnancyCenters_2011Report.pdf

- Legal Voice and Planned Parenthood Votes Northwest prepared a report for Washington legislators and the public about CPCs, to document and demonstrate their harmful and deceptive practices.
- Legal Voice and PPVNW compiled information about women's experiences at CPCs. Legal Voice conducted the analysis and was the primary drafter of the report.

KNOW YOUR REPRODUCTIVE RIGHTS PUBLICATION

http://docs.legalvoice.org/KnowYourReproRights_WA.pdf

- Legal Voice drafted and published this memo explaining Washington laws on reproductive rights, including abortion, birth control, pregnancy, women's health care, sexual assault, and patients' rights, and disseminated it widely in Washington State.

ADVOCACY FOR STATE SUPREME COURT REVIEW OF RULING THAT A NON-VIABLE FETUS COULD BE CONSIDERED A PERSON UNDER THE STATE MURDER STATUTE

State v. Besabe

http://docs.legalvoice.org/State_v_Besabe_LegalVoiceAmicus.pdf

- Legal Voice wrote an amicus brief in support of an effort to persuade the Washington Supreme Court to accept review of a case in which the defendant was convicted of murder when he fired a single shot that killed both a pregnant woman and her fetus.
- The fetus was unable to breathe on its own, yet the Court of Appeals ruled the conviction for the fetus' death was permissible under the "born alive" rule, previously not recognized in WA. We attempted to convince the court to accept review and reject the notion that a non-viable fetus could be considered a person for purposes of the murder statute. The WA Supreme Court declined review.

ADVOCACY FOR STATE REPRODUCTIVE PARITY ACT TO REQUIRE INSURERS THAT COVER MATERNITY CARE TO COVER ABORTION

HB 2148

<http://apps.leg.wa.gov/documents/billdocs/2013-14/Pdf/Bill%20Reports/House/2148%20HBR%20APH%2014.pdf>

- Legal Voice led advocacy for this legislation, the first of its kind in the U.S. to require all health insurance policies that cover maternity care to also cover abortion care.
- Legal Voice helped to draft the bill, testified in support at hearings in 2012 and 2013, and defended the bill from proposed amendments to add expanded religious and conscience clause exemptions.
- This model bill passed the House three times but was not given a vote in the Senate.

PASSED MUNICIPAL (SEATTLE) ANTI-HYDE AMENDMENT RESOLUTION

Resolution 31541

<http://clerk.ci.seattle.wa.us/~scripts/nph-brs.exe?s1=&s3=31541&s2=&s4=&Sect4=AND&l=20&Sect2=THESON&Sect3=PLURON&Sect5=RESNY&Sect6=HITOFF&d=RESF&p=1&u=%2F~public%2Fresny.htm&r=1&f=G>

- Legal Voice drafted and advocated for passage of this resolution calling for abolishment of the federal Hyde Amendment and similar restrictions on federal insurance coverage of abortion care.
- The Seattle City Council unanimously passed it in 2014.
- We collaborated with NARAL Pro-Choice WA, NIRH and CAARE All Above All Campaign, including to develop a factsheet on: [Why We Need a Seattle Resolution Supporting Insurance Coverage of Abortion](#)

SEATTLE ANTI-HYDE RESOLUTION ORGANIZER ACTION KIT

http://docs.legalvoice.org/SeattleAnti-HydeResolution_Toolkit.pdf

- Legal Voice partnered with NARAL Pro-Choice Washington to create this resource for allies in other municipalities to use in advocating for anti-Hyde Amendment resolutions, including Talking Points, Sample Letters to the Editor, Letters to Councilmembers, Social Media postings.

CONVENER, NOW MEMBER OF RELIGIOUS HOSPITAL MERGERS AND REFUSALS COALITION

- Legal Voice was an initial convener of this cross-sector coalition of Washington advocates, and continues in a collaborative leadership role to advance joint advocacy to protect abortion access, LGBTQ care, and end-of-life care threatened by religiously-affiliated hospital mergers.
- The coalition includes grassroots citizen advocacy groups, Compassion & Choices, MergerWatch, NWLC, NARAL Pro-Choice WA, Planned Parenthood Votes NW, PFLAG, WA Women for Choice, ACLU, and women's health providers.

DEPARTMENT OF HEALTH RULE REQUIRING HOSPITALS TO POST REPRODUCTIVE HEALTH CARE, END OF LIFE, AND OTHER POLICIES ON THEIR WEBSITES

WAC 246-320-141

<http://app.leg.wa.gov/wac/default.aspx?cite=246-320-141>

- Legal Voice collaborated with allies in the Hospital Mergers and Refusal Coalition to advocate for this Department of Health rule to promote transparency by hospitals regarding services they do and do not provide.
- Compliance has varied; in response, Coalition members are preparing a "Consumer Report Card" investigating and publicizing each hospital's actual policies for use in educating the public.

ATTORNEY GENERAL OPINION INTERPRETING RCW 9.02 (WA STATUTE CODIFYING ROE) AND ITS APPLICATION TO PUBLIC HOSPITAL DISTRICTS THAT CONTRACT WITH PROVIDERS THAT DECLINE TO PROVIDE CERTAIN SERVICES

AGO 2013 No. 3

<http://www.atg.wa.gov/AGOOpinions/opinion.aspx?section=archive&id=31350#.VlifzHF9kk>

- Legal Voice worked with allies (NARAL-WA, Planned Parenthood Votes Northwest, and ACLU-WA) to educate a state senator and the Washington Attorney General's office about the meaning and requirements of RCW 9.02 and state constitution, to position the senator to request this formal Attorney General Opinion relating to public hospital districts' obligations regarding abortion care.
- The AG Opinion was obtained, stating that public hospital districts must comply with non-discrimination provisions of the statute: if maternity care benefits, services or information is provided, substantially equivalent abortion care benefits, services or information is required.

ADVOCACY TO PASS REPRODUCTIVE HEALTH ACT

HB 1647

<http://lawfilesexternal.wa.gov/biennium/2015-16/Pdf/Bills/House%20Bills/1647.pdf>

- This bill was a legislative priority for Legal Voice, and part of the Washington Women's Health Agenda developed by a collaborative of women's health advocates to maximize abortion and contraceptive access and coverage under Medicaid and private insurance, and strengthen patient and provider rights against refusals. The RPA would:
 - Require insurance companies to cover all FDA-approved birth control methods without cost sharing, delays, or denials of coverage
 - Require plans to cover at least one-year's supply of birth control at a time, dispensed on-site at the health provider's office
 - Require that all health plans that cover maternity care also include abortion care
 - Require the Governor's Task Force on Health Care Disparities to conduct a literature review and make recommendations to the legislature on reducing reproductive health disparities.
- The bill passed the House, but did not get a hearing in the WA State Senate in 2015.

ADVOCACY TO PASS A COMPREHENSIVE WOMEN'S HEALTH BILL

- Legal Voice provided legal and strategy support to NARAL-OR, CAARE Coalition, and other Oregon and national allies working to advance this comprehensive women's health bill on no-cost public and private coverage for contraception, abortion, and pre-natal and post-partum care in Oregon.
- The legislative health committee chair did not want to schedule the bill for a hearing despite being supportive in concept because it used the word "abortion," despite specific polling that showed over 60% support statewide – and even more in swing districts – for a comprehensive bill that included abortion (using that word) and with strong Democratic majorities in both houses and the Governor's office. <https://www.thelundreport.org/content/democratic-leaders-spike-women%E2%80%99s-health-bill-over-abortion-issue>
- The bill did not pass, and Legal Voice is providing research to support OR allies in ongoing efforts to secure no-cost abortion coverage through private and Medicaid plans, including plans for the 2016 legislative session.

NINTH CIRCUIT STRIKES DOWN THREE OF IDAHO'S RESTRICTIVE ABORTION LAWS AS UNCONSTITUTIONAL, INCLUDING 20-WEEK BAN

McCormack v. Herzog

http://docs.legalvoice.org/McCormack_LegalVoiceAmicus.pdf

- Legal Voice wrote 2 amicus briefs in support of Jennie Linn McCormack who was criminally charged with performing her own abortion after self-inducing using Internet medication, and provided substantial technical assistance to her attorney.
- Idaho has some of the most restrictive abortion laws in the country, which earned the state an "F" rating on the Institute for Women's Policy Research's 2015 state score card measuring reproductive rights. Ms. McCormack's case challenged all of these restrictive laws.

- Client's counsel, who is a lawyer and a doctor in Idaho but without experience in reproductive rights cases, contacted national reproductive rights organizations as well as Legal Voice seeking assistance; all declined except Legal Voice and National Advocates for Pregnant Women. The Center for Reproductive Rights and Planned Parenthood of the Great Northwest later joined our amicus effort.
- Legal Voice's amicus brief arguments were adopted by the Ninth Circuit, affirming the trial court's preliminary injunction preventing the state from using Idaho's criminal abortion statutes to prosecute a woman for seeking abortion care, finding her constitutional challenge was likely to succeed on the merits. <http://cdn.ca9.uscourts.gov/datastore/opinions/2012/09/11/11-36010.pdf>
- The 9th Circuit decision was issued on May 29, 2015
<http://cdn.ca9.uscourts.gov/datastore/opinions/2015/05/29/13-35401.pdf>

Key rulings from the decision:

- The Idaho provision banning abortions after 20 weeks (post-fertilization) is unconstitutional because a categorical ban on all abortions between 20 weeks gestational age and viability is "directly contrary to the Court's central holding in Casey that a woman has a right to choose to have an abortion before viability and to obtain it without undue interference from the State."
- The Idaho provision requiring hospitalizations for all second trimester abortions and imposing civil and criminal penalties for violations is unconstitutional because it imposes an undue burden on women seeking abortion care.
- The Idaho statute setting requirements for 1st trimester abortions is unconstitutionally vague. The statute included requirements that there be a "properly staffed" medical office and that the physician make "satisfactory arrangements" with a hospital - terms the Court found too imprecise to give providers notice of what actions could subject them to civil and criminal penalties.

SOUTHWEST WOMEN'S LAW CENTER

SECURING & ADVANCING ABORTION RIGHTS IN NEW MEXICO CHRONOLOGY OF STRATEGIES, MODELS, ACCOMPLISHMENTS & RESOURCES 2005 – 2015

The SWLC advocacy examples that follow include exemplary strategies, projects and coalition efforts to advance abortion policy in New Mexico, often as part of a broader contraception or women's health agenda.

2005-ongoing

JOINING AMICUS BRIEFS IN ABORTION CASES BEFORE THE U.S. SUPREME COURT

- From its founding, SWLC signed onto amicus briefs in abortion impact cases in part as a strategy for educating members of the private bar in New Mexico who serve on the SWLC Legal Committee about the status of abortion law.

2006

EDUCATIONAL BROCHURE FOR MEDICAL PROVIDERS ON MINORS' ACCESS TO REPRODUCTIVE HEALTH SERVICES

Copy available on request

- SWLC co-authored this brochure with allies in the New Mexico Emergency Contraception Working Group and Pegasus Legal Services for Children, to educate physicians on confidentiality and informed consent issues under state law for minors seeking reproductive health services, including abortion.
- The brochure, published by Physicians for Reproductive Choice and Health (now Physicians for Reproductive Health) brought physicians and attorneys together to address the legal issues affecting minors' access in the clinical context.

2006

EDUCATIONAL BROCHURE FOR MINORS EXPLAINING THEIR RIGHTS TO ACCESS REPRODUCTIVE HEALTH SERVICES

Copy available on request

- SWLC co-authored this brochure with Pegasus Legal Services for Children, which was published by the Bernalillo County Health Council.

2009

ADVOCACY FOR A NEW MEXICO FREEDOM OF CHOICE ACT

HB0256

<http://www.nmlegis.gov/Sessions/09%20Regular/bills/house/HB0256.html>

- SWLC provided technical assistance to NARAL Pro-Choice NM in developing and advocating for a Freedom of Choice Act, which sought to remove the criminal abortion ban written into state law in 1969, and codify *Roe v Wade* protections on the state level.
- HB0256 did not pass, but the bill language remains a resource for allies developing similar legislation.

2009

WON STATE MEDICAID PROGRAM DECISION TO COVER PLAN B WITHOUT A PRESCRIPTION FOR WOMEN 17 AND OLDER

Copy of the policy available on request

- SWLC conducted administrative advocacy with the New Mexico Medicaid Program over 2 years to secure an agency decision to cover Plan B without a prescription for women 17 and older.
- The agency issued a Medicaid Assistance Plan Supplement to providers regarding reimbursement for OTC costs for Emergency Contraception and allotted approximately \$50,000 of state funds to the program. Use of federal funds had been barred; a decision quietly reversed in 2014.
- Current status of program implementation is unknown.

2009

DEFEATED PARENTAL NOTIFICATION BILL

SB 121

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=S&legtype=B&legno=%20121&year=09>

- SWLC advocated with the New Mexico Coalition for Choice to defeat legislation requiring forced parental notification prior to minors' accessing abortion.

2010-2014

BROAD-BASED ADVOCACY ON AFFORDABLE CARE ACT IMPLEMENTATION TO MAXIMIZE ABORTION ACCESS AND COVERAGE IN NEW MEXICO

Beginning in 2010, as New Mexico policymakers developed plans and policies for ACA implementation by 2014, SWLC took a leadership role in New Mexico advocacy and education to ensure that ACA implementation in our state would improve access to affordable, comprehensive health care for women, and to ensure that private and public coverage for abortion care would continue and not be encumbered by new obstacles. SWLC conducted legal, policy and administrative advocacy, and engaged extensive community partners to these ends.

Southwest Women's Law Center ACA Advocacy Focused On New Mexico's Medicaid Program, Health Insurance Regulation System, And Health Insurance Exchange:

Monitoring the regulatory and legislative landscape of ACA implementation to identify and position SWLC to respond to any policies that will affect reproductive rights, services and coverage, ensure there was no legislation banning abortion in private plans, and be positioned to address how the Insurance Superintendent would implement abortion coverage payment parameters.

- Attended working group/task force meetings of stakeholders addressing ACA implementation policy, including Medicaid Expansion.
- Reviewed proposed regulations, and provided comments and testimony.
- Collaborated with reproductive rights and justice allies on messaging and response to proposed regulations affecting reproductive rights and coverage.

Advocacy for a community-based, patient-centered Navigator program under the ACA, that would include outreach and education targeted to reach women in diverse NM populations, specifically address reproductive health care access and coverage, and ensure that women and LGBT-centered, community-based organizations are engaged in the Navigator process and selected to act as Navigators.

- Organized a committee of community-based health services programs, educators, consumer advocates, and women's health advocates to develop a comprehensive list of organizations interested in and qualified to become Navigators for the Exchange.
- Provided/advocated for Navigators from list of community health organizations.
- Served as a consultant to groups selected as Navigators on assisting women select health plans with appropriate pregnancy, reproductive health, and family planning coverage.

Advocacy for private insurance changes under the ACA to ensure that Office of the Superintendent of Insurance outreach, education and assistance for consumers includes information and strategies to address reproductive health coverage by private insurers statewide.

- Private insurance carriers offer insurance to women in rural areas, and cover services at clinics that provide family planning access.
- Private insurance plans provide women coverage without co-pay for family planning services, well-woman visits, and reproductive cancer screenings.
- Private insurance plans offer employer-based coverage to non-traditional families.
- Insurance plans offered through the Exchange provide coverage for comprehensive reproductive health services and list family planning clinics in their networks.
- Quality controls for plans offered in the Exchange include measures that positively impact reproductive health care.
- Elimination of gender inequities in insurance ratings is properly enforced.

Southwest Women's Law Center ACA Advocacy Included Extensive Outreach And Collaborations To Improve Access and Coverage for Abortion and Other Reproductive Health Care In Low-Income, Rural And Immigrant Communities In New Mexico.

- SWLC collaborated with Young Women United, Strong Families New Mexico, and other grassroots allies to build bridges between reproductive justice organizations and traditional reproductive rights advocates, and broaden the base for reproductive health care advocacy under the ACA especially among women of color and youth, and conducted extensive ACA training throughout the state.

2010

“HEALTH CARE FOR ALL” COALITION ADOPTS PRINCIPLE FOR HEALTH INSURANCE EXCHANGE LEGISLATION THAT NO CATEGORY OF SERVICES, INCLUDING ABORTION, SHOULD BE EXEMPTED OR CARVED OUT OF COVERAGE

- SWLC exercised leadership on ACA implementation within the New Mexico Health Care for All Coalition, and persuaded our allies to add language in the Coalition’s statement of principles for NM Health Insurance Exchange legislation that no category of services should be exempted or carved out of coverage on the Exchange, which included abortion.

2010

LEGAL ANALYSES OF STUPAK AND NELSON AMENDMENTS, INCLUDING UNDER THE STATE ERA, SUPPORTING ADVOCACY TO PROTECT ABORTION ACCESS UNDER ACA IMPLEMENTATION IN NEW MEXICO

Letters to the delegation available on request

- SWLC prepared legal analyses of Stupak and Nelson amendments to support our legislative advocacy to ensure inclusion of abortion services in the final New Mexico Health Reform bill; our analysis addressed how any legislation to ban abortion coverage in the insurance exchange in NM would violate the New Mexico Equal Rights Amendment.

2010

CREATED CONSUMER PROTECTION ADVISORY GROUP AND EXTENSIVE RECOMMENDATIONS ON ACA IMPLEMENTATION IN NEW MEXICO

Report and recommendations available on request

- The SWLC Director was asked to organize a Consumer Protection Advisory Group for state Health Care Reform Implementation, and used the opportunity to develop relationships with key players and to help set up systems that we thought would promote women’s access to comprehensive services.
- In this role, SWLC authored a report and recommendations on the overall system for consumer/patient outreach and protection, which had direct bearing on improving access to reproductive health services for women, after engaging input from state policymakers and advocacy allies including the state insurance division, Attorney General’s consumer protection division, Health Action New Mexico, New Mexico Legal Aid and Senior Citizens Law Office.

2011

PUBLISHED IN-DEPTH POLICY BRIEFS ON KEY ACA IMPLEMENTATION ISSUES

- [*Consumer Navigators under the Affordable Care Act*](#): Building a Community-Based, Patient-Centered System in New Mexico to Support Greater Health care Access and Coverage, Jane Wishner & Kyle Marie Stock, Southwest Women’s Law Center, August 31, 2011
- [*Consumer Protections and Insurance Reforms under the Affordable Care Act*](#): Maximizing Benefits to All New Mexicans, Jane Wishner & Kyle Marie Stock, Southwest Women’s Law Center, August 31, 2011

- ***Accountable Care Organizations and Federal Health care Reform***: A Search for New Payment Models That Will Provide Better Care, Improve Health Outcomes and Reduce Costs, Jane Wishner & Kyle Marie Stock, Southwest Women’s Law Center, August 31, 2011

2011

CONDUCTED “BOOT CAMP” FOR PRO-CHOICE LEGISLATORS AND COALITION PARTNERS ON THE ROLE OF PRIVATE INSURANCE IN COVERING ABORTION

Training materials, report on lessons learned, letter to NM Attorney General detailing why NM’s ERA disallows the state from enacting legislation to bar OHPs from offering abortion coverage available on request

- New Mexico’s political landscape changed dramatically after the 2010 election:
 - New Mexico became a “purple” state, led by an anti-choice Governor (Susana Martinez) who was endorsed by NM Right to Life and campaigned on the need for a parental notification law
 - Operation Rescue arrived, protesting later-term abortions now provided in Albuquerque and placing significant pressure on the new Governor to pursue strong anti-abortion policies
 - New anti-choice majorities took control in both houses of the state legislature
- In response, SWLC won funding from NIRH to plan and host a legislator training on pro-choice issues, focusing particularly on the intersection of health care reform, the private insurance market and abortion rights, to educate and mobilize elected and advocacy allies to hold the line against an anticipated run of anti-abortion bills in the 2011 session. Fourteen elected officials attended, including state senators and representatives, the NM Attorney General, and two County Commissioners; as well as four advocates and four abortion providers.

2011

DEFEATED MULTIPLE BILLS TO CURB ABORTION ACCESS IN THE 2011 LEGISLATURE

Talking points to support this advocacy are available on request

- Following the legislator “boot camp”, SWLC advocated with Coalition for Choice allies to successfully defeat the following bills in 2011:

BLOCKED 20-WEEK ABORTION BAN

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=H&legtype=B&legno=%20179&year=11>

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=S&legtype=B&legno=%20222&year=11>

BLOCKED BAN ON SCHOOL-BASED HEALTH CENTERS PROVIDING REPRODUCTIVE HEALTH CARE

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=H&legtype=B&legno=%20380&year=11>

BLOCKED UNLAWFUL CONTACT BY ABORTION CLINIC STAFF

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=S&legtype=B&legno=%20225&year=11>

BLOCKED “LATE-TERM” ABORTION BAN

<http://www.nmlegis.gov/Sessions/11%20Regular/bills/senate/SB0239.html>

BLOCKED PARENTAL NOTIFICATION BILL

SB 230

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=S&legtype=B&legno=%20230&year=11>

- This was a collaborative effort by our strong Coalition; members include SWLC, ALCU-NM, Planned Parenthood of NM, New Mexico Religious Coalition for Reproductive Choice, Young Women United, Strong Families New Mexico, League of Women Voters New Mexico, NOW New Mexico and Santa Fe Chapters, New Mexico Women’s Agenda, AAUW – New Mexico Chapter, ACOG, Physicians for Reproductive Health, Whole Woman’s Health, Southwestern Women’s Options, and University of New Mexico Center for Reproductive Health.

2012

DEFEATED PARENTAL NOTIFICATION BILLS IN THE 2012 LEGISLATURE

- SWLC advocated with NM Coalition for Choice allies to successfully defeat the following bills:

HB 51 & SB 157

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=H&legtype=B&legno=%20%2051&year=12>

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=S&legtype=B&legno=%20157&year=12>

2012

LISTENING & ADVOCACY TOUR: WHAT THE ACA MEANS FOR WOMEN AND GIRLS

Sample survey cards available upon request

- SWLC conducted a 6-stop “Listening & Advocacy Tour” among women and girls in the various regions of the state, discussing the legal implications of the U.S. Supreme Court case upholding the Affordable Care Act, *National Federation of Independent Business v. Sebelius*.
- The presentations gave an overview of the ACA and preventative care and co-pay free services for women, including co-pay free birth control; Know your rights materials were disseminated.
- SWLC issued survey cards after the presentations and collected feedback on advocacy efforts on women’s health care, including reproductive health care access and education in schools.

2013

DEFEATED MULTIPLE BILLS TO CURB ABORTION ACCESS IN THE 2013 LEGISLATURE

Talking points to support this advocacy are available on request

- SWLC advocated with NM Coalition for Choice allies to successfully defeat the following bills:

BLOCKED UNBORN VICTIMS OF VIOLENCE ACT

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=H&legtype=B&legno=%20%2084&year=13>

BLOCKED “INFORMED CONSENT” AND MANDATORY ULTRASOUND OMNIBUS BILL

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=H&legtype=B&legno=%20122&year=13>

BLOCKED PARENTAL NOTIFICATION ACT

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=H&legtype=B&legno=%20177&year=13>

BLOCKED ABORTION AS EVIDENCE OF RAPE BILL

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=H&legtype=B&legno=%20206&year=13>

2013

PRESERVED ABORTION ACCESS UNDER REDESIGNED MEDICAID PROGRAM

- Shortly after taking office in January 2011, the new Governor of New Mexico announced her administration's intention to overhaul the state Medicaid Program.
- SWLC worked over 3 years to ensure the redesigned Medicaid program ("Centennial Care") would not result in new obstacles for family planning, cervical and breast cancer care, or abortion access.
- Advocacy included participation in New Mexico Medicaid Coalition and Health care for All Coalition, and joining allies in meeting with the Human Services Department Secretary and Medicaid Director to address program cost-containment, budget shortfalls, and planning for ACA implementation.

2013

PRESERVED ABORTION ACCESS UNDER MEDICAID EXPANSION IN NEW MEXICO

- SWLC conducted administrative advocacy to ensure restrictions on abortion remained lawful and unchanged from previous state Medicaid family planning and pregnancy packages.
- No restrictions were placed on abortion care for the expansion population.

2013

HEALTH INSURANCE EXCHANGE LAUNCHED WITH PLANS THAT COVER ABORTION; INSURANCE SUPERINTENDENT DOES NOT ALLOW SEPARATION OF ABORTION COVERAGE FOR BILLING, WHICH IS AN OPTION UNDER THE NELSON AMENDMENT

- SWLC conducted administrative advocacy with the Superintendent of Insurance to ensure that refusal exemptions and the Nelson Amendment were not part of the NM HIX creation.
- Three of the 5 Exchange plans cover abortion services, and the NM Superintendent of Insurance is on board with not making the Nelson Amendment separation of coverage for abortion a billing concern.

2013-2015

LEGAL RESEARCH ON ADVANCED PRACTICE CLINICIANS' ABILITY TO PRESCRIBE MEDICATION ABORTIONS IN NEW MEXICO

Research available upon request

- SWLC collaborated with reproductive health advocacy consultant Susan Yanow, Planned Parenthood of New Mexico, and University of New Mexico on a potential convening of providers and advocates to discuss advanced practice clinicians' recruitment and training to provide medication abortions.
- Further work on the issue in 2013 was derailed by Respect ABQ Women Campaign, but has been newly revitalized by work with Whole Woman's Health in Las Cruces (see below).

2013

COLLABORATIVE “RESPECT ABQ WOMEN” CAMPAIGN DEFEATS THE FIRST MUNICIPAL EFFORT IN THE U.S. TO BAN ABORTION CARE AFTER 20 WEEKS

<http://myemail.constantcontact.com/We-Did-It-.html?soid=1104276052387&aid=wVp9x6ZuuFQ>

Campaign report with strategy tips available upon request

- SWLC served on the Steering Committee for the “Respect ABQ Women” Campaign, along with other Coalition for Choice members (see list of Coalition allies above).
- Our strong and diverse steering committee ran the campaign and hired an experienced campaign manager to conduct direct oversight of campaign activities:
 - The steering committee and a communications team developed extensive talking points and a strict messaging strategy that were key to presenting a cohesive campaign message to the public
 - The campaign aggressively courted supportive, earned media coverage through regular press conferences highlighting broad-based support, and conducted significant fundraising with the support of a substantial individual donor base and anonymous donors to back paid media buys
 - The campaign organized an extensive phone and ground campaign utilizing social media to attract volunteers
 - The campaign engaged in extensive, targeted outreach to communities of color, although lost with Hispanic voters in the general election
- The campaign was launched in August 2013 and defeated the municipal ballot measure in November.

2014

RESPECT ABQ WOMEN CAMPAIGN TOOL KIT

Contact SWLC if interested in a copy of the tool kit

- SWLC adapted the Respect ABQ Women campaign manager’s report into an advocates “tool kit” describing the various elements of the campaign and lessons learned, and providing samples of the advocacy and media tools created, as a resource for advocates fighting efforts to ban abortion in other regions and municipalities.

2014

ANTI-TRAP LEGISLATION

Contact SWLC for bill language

- NM currently has no TRAP (targeted regulation of abortion providers) law; SWLC worked with ACLU of NM to draft anti-TRAP legislation for introduction as cannon fodder to block anti-choice legislation in the 2015 legislative session.

2014

BLOCKED BILL TO PROHIBIT MEDICAID FUNDING FOR ABORTION

SB 289

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=S&legtype=B&legno=%20289&year=14>

Talking points to support this advocacy are available upon request.

- SWLC quietly advocated with NM Coalition for Choice allies to successfully defeat this bill in 2014.

2014

CONSULTED ON AND PASSED A STILLBORN BIRTH CERTIFICATE BILL THAT DOES NOT CREATE FETAL PERSONHOOD

SB 305: Registration of Certain Fetal Deaths

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=S&legtype=B&legno=%20305&year=13>

- SWLC collaborated with Coalition for Choice allies to develop this compromise bill as alternative to a version supported by stillborn birth certificate advocates that would establish fetal personhood.

2014

WON FIGHT TO RETAIN FAMILY PLANNING AND PREGNANCY CARE MEDICAID COVERAGE AT MAXIMUM FPL, RETAINING ACCESS TO EXPANDED ABORTION CARE

SWLC comments on state plan amendments available on request

- SWLC conducted extensive administrative advocacy, over 2 years, with the NM Medicaid Department to ensure that pregnancy - including abortion - and family planning coverage would not drop to Medicaid Expansion eligibility levels, effectively eliminating programs.
- SWLC advocacy won increased eligibility levels for these programs: Pregnancy/abortion coverage remains at 250% Federal Poverty Level; Family Planning Medicaid coverage remains at 185% FPL.

2014-2015

LEGAL RESEARCH AND TECHNICAL ASSISTANCE ON EXPANDING ACCESS TO MEDICATION ABORTION IN NEW MEXICO VIA TELEMEDICINE

- Gynuity Health Projects and Whole Woman's Health contacted SWLC for assistance in reviewing legal, administrative, and political barriers in creating a telemedicine abortion program in New Mexico.
- SWLC provided contact referrals and recommendations for expanding access, and is continuing to provide assistance in assessing the state landscape for medication abortion practice development.

DEFEATED MULTIPLE BILLS TO CURB ABORTION ACCESS IN THE 2015 LEGISLATURE

Talking points to support this advocacy are available on request

BLOCKED 20-WEEK ABORTION BAN

BLOCKED FORCED PARENTAL NOTIFICATION BILL

- Both bills included “RFRA” components that would have allowed any healthcare provider, hospital or pharmacy in NM refuse reproductive health services for any moral or religious objection.

BLOCKED HOSPITAL ADMITTING PRIVILEGES BILL

- This bill would have closed all but one abortion clinic in New Mexico.

BLOCKED “INFORMED CONSENT” AND MANDATORY ULTRASOUND OMNIBUS BILL

- SWLC and NM Coalition for Choice allies successfully defeated these bills despite an anti-choice majority and anti-choice leadership in the NM House in 2015. Our campaign included extensive pre-session legislator education; a press conference with doctors, patients and religious leaders; a grassroots lobby day; and mobilization of 100 community members to oppose the bills at hearing. Successes included moving on-the-fence legislators to not only vote against the bills, but also share their stories and use Coalition talking points we created for advocacy in opposition.

WOMEN'S LAW PROJECT

SECURING & ADVANCING ABORTION RIGHTS IN PENNSYLVANIA STRATEGIES, MODELS, ACCOMPLISHMENTS & RESOURCES 1986 – 2015

The Women's Law Project advocacy examples that follow include innovative projects and coalition efforts to advance abortion policy in Pennsylvania, often as part of a broader women's reproductive health agenda, followed by a chronology of specific strategies and accomplishments, models and resource links.

WLP PROJECTS & COALITIONS

PENNSYLVANIA AGENDA FOR WOMEN'S HEALTH

http://www.womenslawproject.org/NewPages/lgLegislative_Action.html

- The Pennsylvania Agenda for Women's Health (PA4WH) is a bold, pro-choice, pro-woman legislative package designed to underscore the link between women's health, reproductive rights and economic security.
- PA4WH has been crafted by pro-choice members of the Pennsylvania Legislature's Women's Health Caucus in collaboration with reproductive rights and justice organizations.
- The overwhelming populist support for many of the bills — equal pay, pregnancy accommodations, support for working mothers, protection from sexual harassment — is deep, cross-cutting, and movement-building.
- PA4WH is simultaneously a powerful weapon in the pro-choice arsenal as it delivers a counter-punch to the anti-abortion mantra of disguising abortion restrictions as "women's health regulations." It contains explicit abortion-protective measures: a reproductive health clinic protection proposal, and the groundbreaking Patient Trust Act, which strategically situates abortion alongside other evidence-based medical care.
- In the first year of the PA Agenda for Women's Health (2014), fourteen pieces of legislation were introduced, three of which passed.
- WLP has assisted legislators in drafting bills based on findings and recommendations from its recent publication, *Through the Lens of Equality: Eliminating Sex Bias to Improve the Health of Pennsylvania's Women*.

PENNSYLVANIA CAMPAIGN FOR WOMEN'S HEALTH

www.pa4womenshealth.org

- The PA Campaign for Women's Health is a coalition of organizations and abortion providers united in the mission of protecting and promoting equal access to abortion care and other reproductive healthcare services. The Campaign's flagship initiative is to support bills in the PA Agenda for Women's Health through constituent education and advocacy.
- The Campaign unites progressives, health care providers, millennials, feminists, reproductive justice activists, labor unions, and civil rights groups under the banner of women's health, an explicit component of which is a commitment to abortion rights. *No one may join the Campaign for Women's Health who is not pro-choice. No legislator may participate in the Women's Health Caucus who votes against abortion rights.*
- As of June, 2015, the Campaign has 35 member organizations, and continues to expand through targeted recruitment. The Campaign is led by a steering committee composed of 6 member organizations including: Women's Law Project, Keystone Progress, Planned Parenthood Pennsylvania Advocates, New Voices Pittsburgh: Women of Color for Reproductive Justice, AccessMatters and the Clara Duvall Reproductive Freedom Project of the ACLU of Pennsylvania.
- The Campaign officially launched in May, 2015 at a press conference at the Pennsylvania Capitol in Harrisburg that simultaneously introduced the legislation proposed by the Women's Health Caucus under the PA Agenda for Women's Health for the 2015-2016 legislative session.
- WLP manages www.PA4WomensHealth.org, the online home of the Campaign. This website outlines the purpose of the Campaign, maintains a list of members and explains each piece of legislation in the Agenda. The target audience is Campaign partners, potential partners, citizen advocates and media.
- As Communications Co-Director of the Campaign, WLP's strategic communications staff manages the development of messaging for each of the Agenda bills, and coordinates toolkits with pertinent background information and readymade social media content. The toolkits are distributed to all Campaign members. This strategy ensures messaging is legally accurate, unified, and aligns with national campaigns, when possible. It also builds capacity among member organizations.

PENNSYLVANIANS FOR REPRODUCTIVE HEALTH (PRH) COALITION

- Pennsylvanians for Reproductive Health is a robust coalition of women's groups, civil rights and liberties advocates, religious organizations, medical and social work networks, family planning providers, and others in outreach, education and advocacy. PRH is fundamentally a rapid-response network that seeks to protect and expand access to reproductive health services in PA.
- WLP convened the coalition, originally Pennsylvanians for Choice (PFC), from 1989 through 2014. Over the past 25 years, the coalition has successfully advocated for state funding for family planning, lobbied against the Pennsylvania Abortion Control Act, and helped defeat a mandatory ultrasound bill, an abortion procedure ban bill, and a welfare family cap bill.
- In 2014, WLP worked with other stakeholder organizations to re-imagine and restructure PFC to more effectively work in tandem with the Campaign for Women's Health. The coalition was renamed PRH.
- PRH creates community and strengthens capacity among members to amplify our voices and build progressive power. It also functions as a training ground for activists. The new structure includes operating principles designed to nurture new leadership within participating organizations and the movement at large.
- WLP is on the PRH steering committee and communications committee. Our participation ensures that PRH providers and feminist advocates have access to the legal expertise and resources essential to advancing reproductive rights and defeating regressive bills and policies aimed at curtailing equal access to abortion and reproductive health services.

WOMENVOTE PA

www.womenvotepa.org

- WomenVote PA (WVPA) is a strategic communications initiative of the Women’s Law Project aimed at raising awareness about gender discrimination and the erosion of reproductive rights, expanding the constituency of pro-choice activists in PA, and supporting lawmakers and public officials with educational materials and advocacy tools designed to advance women’s rights. Kate Michelman is co-chair of WomenVote PA. She is also president emerita of NARAL Pro-Choice America and author of "With Liberty and Justice for All: A Life Spent Protecting the Right to Choose."
- WVPA is focused on reaching, educating and inspiring the “rising” and expanding American electorate, including unmarried women, people of color and young people under 30. Our goal is for this electorate to be fully engaged in civic matters and armed with information about public policy issues affecting women, particularly the centrality of reproductive rights to all of women’s rights.
- Through WVPA, we have placed scores of op-eds and other articles on women’s rights in news outlets across PA and nationally. We leverage all of our social media channels to amplify our op-eds and other media, in recognition of the fact that our younger audience finds news online, not in printed newspapers.
- The WVPA website is designed to attract millennials and provide fast facts on a whole range of women’s issues and concerns.

LEGAL SUPPORT AND REPRESENTATION FOR ABORTION PROVIDERS

- For four decades, WLP has provided clinic escorts and medical center staff across PA with legal advice and support on clinic violence. WLP acts as the lawyer for clinics in Pittsburgh, Reading, Allentown, West Chester, Bucks County, Delaware County, Harrisburg, York and Philadelphia.
- We provide legal defense for Planned Parenthood health care facilities and independent clinics against lawsuits and legal harassment by anti-choice actors, and expert advice for hospital counsel and private physicians who provide abortion services.
- We fill an otherwise unmet need for legal representation of clinic staff and volunteers who are called as witnesses in clinic violence cases. Clinic staff and volunteer patient escorts are often the only witnesses of illegal acts by anti-abortion zealots who are willing to testify in court. The U.S. Department of Justice under President Obama has been prosecuting violations of the federal Freedom of Access to Clinic Entrances Act with greater vigor than previous administrations.
- We have developed relationships with FBI agents, local and state police, U.S. attorneys, and the Department of Justice’s Special Litigation Unit to ensure that PA providers have immediate access to well-informed law enforcement officials in times of crisis. WLP works closely with the Philadelphia Police Department’s Civil Affairs Unit to assure that police are properly trained and present during organized protests. In Pittsburgh, we meet regularly with volunteer clinic escorts in order to track upticks in protester activity.
- For many years, we acted as counsel to PA’s association of freestanding abortion clinics, assisting them with legal issues that arose from the parental consent law, Medicaid reimbursements, informed consent requirements, and state reporting statutes.
- We successfully represented two doctors who faced meritless charges before the Pennsylvania Bureau of Professional and Occupational Affairs.

JUDICIAL BYPASS TRAINING AND REPRESENTATION

http://www.womenslawproject.org/brochures/wlp_teen_piece.pdf

http://www.womenslawproject.org/NewPages/hrAbortion_young_bypass.html

- To ensure that young women have access to abortion despite PA's mandatory parental consent statute, WLP drafted and negotiated the adoption of simple, accessible Pennsylvania Supreme Court forms and rules that are used in judicial bypass proceedings.
- WLP has trained judges, court administrators and judicial clerks on PA's parental consent statute.
- WLP recruited and trained volunteer bypass attorneys in six counties and continues to be a resource and troubleshooter for this network.
- We have directly represented over three dozen young women in judicial bypass proceedings in Allegheny County, and advise attorneys representing judicial bypass petitioners.
- In at least three counties, we won revisions to the local bypass forms and rules that simplify the form petition, streamline the hearings, and protect young women's privacy.
- We supervise an innovative project of the Reproductive Rights Law Project at the University of Pennsylvania Law School where law students assist young women in filling out their judicial bypass petitions while they are at their initial clinic visit, thereby sparing young women additional trips downtown and unnecessary days away from school.
- We give legal advice to reproductive health care providers whose patients present unusual applications of the parental consent/judicial bypass law.

PROTECTING MINORS' RIGHTS TO CONFIDENTIAL ABORTION CARE IN CHILD ABUSE CASES

- WLP educates PA health care providers and health officials about their legal obligations to report child abuse and maintain client confidentiality. These coexisting legal obligations can sometimes appear to conflict, including when they are raised in the context of public funding for minors' reproductive health care. WLP aims to ensure that providers know how to comply with child abuse reporting obligations, while also ensuring that young women receive the confidential care mandated by law.

COMPREHENSIVE ADVOCACY FOR MEDICAID COVERAGE FOR WOMEN NEEDING ABORTION CARE

http://www.womenslawproject.org/brochures/pregnant_and_illness.pdf

http://www.womenslawproject.org/brochures/If_raped.pdf

- Women who qualify for medically necessary, Medicaid-funded abortions still struggle to get the coverage. Although PA (like all states) is required to cover abortions under Medicaid in cases of rape, incest and life endangerment, women in these circumstances – for whom getting a timely abortion is critically important – often face tremendous hardship accessing this care. WLP has worked with local and national allies to systematically identify the barriers low-income PA women face when attempting to access abortion care as mandated under Medicaid, and leverages these relationships and this knowledge to eliminate those barriers for PA women by:
- **Improving public understanding:** WLP publishes brochures explaining when Medicaid will cover abortion in PA and disseminates them among 10,000 family planning agencies, rape crisis centers, domestic violence shelters, emergency rooms, social workers, welfare advocates, abortion providers, and activists around the state.

- **Gaining support of public officials:** WLP negotiated the adoption of improved state forms and rules for Medicaid coverage of abortion. State welfare officials designated WLP a troubleshooter to help solve problems with particular cases such as confirming that a client is enrolled in the Medicaid program, facilitating preauthorization for clients whose coverage was not through a managed care plan, unraveling interstate enrollment problems, and expediting clients' enrollment in the system.
- **Training providers:** The WLP outreach to state officials resulted in their offer to help train abortion providers regarding how to bill for Medicaid services. With this guidance, and through ongoing communication with providers around the state, more providers are able to accept Medicaid reimbursement, thereby expanding options for low-income women.
- **Getting women to providers:** The WLP learned the PA Medicaid program covers transportation for any covered service, through the county-based Medical Assistance Transportation Program (MATP). The WLP educated our staff and providers about how to use this complex, county-based system (with 67 different sets of instructions in 67 PA counties) and built relationships with county welfare supervisors who intervene to solve eligibility problems and answer questions when time is of the essence.

SECURING & ADVANCING ABORTION RIGHTS IN PENNSYLVANIA CHRONOLOGY OF STRATEGIES, MODELS, ACCOMPLISHMENTS & RESOURCES

1986

U.S. SUPREME COURT CASE STRIKING DOWN PENNSYLVANIA ABORTION RESTRICTIONS AND REAFFIRMING ROE V. WADE

ACOG v. Thornburgh

- This WLP case challenged Pennsylvania's Abortion Control Act of 1982 and reaffirmed the constitutional principles of *Roe v. Wade*.

1989

CIVIL ACTION WINNING INJUNCTIVE RELIEF AND IMPOSING CONTEMPT SANCTIONS AGAINST THE ORGANIZERS OF ANTI-ABORTION BLOCKADES OF REPRODUCTIVE HEALTH CLINICS

Roe v. Operation Rescue

- This WLP case is one of the earliest federal clinic blockade cases in the country. It was pursued in response to Operation Rescue's publicly announced plans to close down abortion providers in the Philadelphia area by staging massive demonstrations and blockades.

LANDMARK U.S. SUPREME COURT RULING REAFFIRMING CORE OF ABORTION RIGHTS AND STRIKING DOWN PENNSYLVANIA HUSBAND NOTIFICATION STATUTE

Planned Parenthood v. Casey, 505 U.S. 833 (1992)

- WLP brought this case on behalf of Planned Parenthood and other Pennsylvania abortion providers, challenging five provisions of the PA Abortion Control Acts of 1988 and 1989 as unconstitutional under *Roe v. Wade*.
- The District Court held that the challenged provisions were unconstitutional and entered a permanent injunction against Pennsylvania's enforcement of them.
- The Court of Appeals for the Third Circuit affirmed in part and reversed in part, upholding all of the regulations except for the husband notification requirement. The court of appeals, anticipating an overruling of *Roe v. Wade*, applied a new constitutional standard drawn from Justice O'Connor's concurring and dissenting opinion in *Akron v. Akron Center for Reproductive Health*; under this new standard, the court found the husband notification provision to be unduly burdensome because it potentially exposed women to spousal abuse, violence, and economic duress at the hands of their husbands.
- The U.S. Supreme Court plurality ruling upheld the "essential holding" of *Roe* that prohibited states from banning abortion prior to viability, and struck down the husband notification provision and a related reporting requirement as unconstitutional under a newly formulated "undue burden" test, but upheld the 24-hour waiting period, biased counseling, informed parental consent for minors, and other reporting requirements.
- Litigation in this case continued in the lower courts for two years and included a state court challenge to Pennsylvania's readiness to provide the printed materials required by the informed consent statute and the state's failure to create an adequately confidential and expeditious judicial bypass alternative for young women seeking abortion care.
- WLP filed many briefs in states such as Nebraska, Alabama, Florida, Washington, Montana, Ohio, Texas and Kentucky arguing that states' child neglect statutes could not be used to prosecute pregnant women who used controlled substances or alcohol during pregnancy.

THIRD CIRCUIT COURT OF APPEALS RULING STRIKING DOWN PENNSYLVANIA'S RAPE AND INCEST REPORTING REQUIREMENTS AND SECOND-PHYSICIAN CERTIFICATION REQUIREMENTS FOR LOW-INCOME WOMEN SEEKING MEDICAID ABORTIONS

Elizabeth Blackwell Health Center v. Knoll

<http://caselaw.findlaw.com/us-3rd-circuit/1320516.html>

- WLP acted as co-counsel for plaintiffs-appellees in this successful challenge to state law requiring rape and incest survivors to make police reports, and requiring women with life-threatening pregnancies to have their condition certified by two physicians in order to be eligible for Medicaid-funded abortions.

1999

FEDERAL ACTION IN WHICH A COUNTY CORRECTIONAL INSTITUTION WAS ORDERED TO ENSURE THAT A PRISONER HAD ACCESS TO PROMPT ABORTION CARE AT THE COUNTY'S EXPENSE

Ptashnik v. Luzerne County Correctional Institution

- WLP helped to represent a single mother of three who was serving time on a drug offense, who was denied an abortion while incarcerated after the County Commissioner determined it was an elective procedure, not an emergency or necessary medical care. A federal judge ruled that the county must pay for abortions as necessary medical procedures if the inmate is unable to pay for the procedure herself.

1999

LITIGATION TO PROTECT A PREGNANT INCARCERATED WOMAN'S RIGHT TO ABORTION CARE

K.B. v. Chester County Commissioners

- WLP represented a pregnant inmate of a private prison who was denied prompt access to abortion care; the case was settled.

2000

ORGANIZED AMICUS EFFORT IN U.S. SUPREME COURT ABORTION PROCEDURE CASE

Stenberg v. Carhart

http://www.womenslawproject.org/Briefs/PBfinal_equality_brief.pdf

<http://www.womenslawproject.org/Briefs/carhart.pdf>

- WLP served as counsel for seventy-five *amici curiae* supporting women's equality in this abortion procedure ban case.

2001

U.S. SUPREME COURT RULING THAT WOMEN DO NOT LOSE THEIR RIGHT TO PRIVACY WHILE PREGNANT

Ferguson v. City of Charleston 532 U.S. 67 (2001)

- The WLP co-counseled this successful Supreme Court case establishing that women do not lose their privacy rights by virtue of becoming pregnant and that the Special Needs exception to the Fourth Amendment's warrant and probable cause requirements could not be invoked to justify an unconstitutional scheme whereby a public hospital secretly drug tested pregnant women and turned the results over to police, who in turn arrested the women.

2002

STATE COURT RULING REVERSING BOYFRIEND'S INJUNCTION BARRING WOMAN'S ABORTION

Stachokus v. Meyers, C.A. 63-E (Luzerne Cty. C.P. Aug. 5, 2002)

- WLP served as co-counsel for a 22-year old pregnant woman seeking to lift an *ex parte* state court injunction obtained by boyfriend that ordered her not to terminate her pregnancy.

2004

CHALLENGE TO ALASKA'S PARENTAL CONSENT ACT AND JUDICIAL BYPASS PROCEDURE

Alaska v. Planned Parenthood of Alaska

http://www.womenslawproject.org/Briefs/FINAL_brief_Alaska.pdf

- WLP submitted an *amicus* brief to the Alaska Supreme Court on behalf of national and local groups in support of the plaintiff's challenge to the judicial bypass process implemented by the AK legislature. The brief described the enormous burden the judicial bypass procedure would impose upon young women in Alaska who seek an abortion. In 2007, the AK Supreme Court ruled that the Parental Consent Act violated the right to privacy under the Alaska Constitution.

2005

PASSAGE OF PITTSBURGH CLINIC BUFFER/BUBBLE ZONE ORDINANCE

Bill 1944

- In response to heightened conflict and confrontational protests in front of women's health clinics in Pittsburgh, WLP researched and organized support for a City ordinance that would establish limited medical safety zones around health care facilities, including those that provide abortion care.
- Bill 1944 established a safety zone of 15 feet around the entrance to a health care facility, within which people may not congregate, patrol, picket or demonstrate (buffer zone) and also barred anyone near a health care facility from knowingly approaching within 8 feet of another person to leaflet, show a sign, or engage in oral protest, education or counseling unless that person consents (bubble zone).
- The ordinance was modeled in part after a Colorado statute that was upheld by the U.S. Supreme Court in *Hill v. Colorado* in 2000.

2007

FEDERAL F.A.C.E. ACTION AND PERMANENT INJUNCTION AGAINST ANTI-ABORTION PROTESTOR

Gonzales v. Dunkle

http://www.womenslawproject.org/NewPages/wkRepro_Clinics.html

<http://www.justice.gov/usao/pae/News/2007/aug/dunklecomplaint.pdf>

- This case is believed to be the only Freedom of Access to Clinic Entrances civil action to be brought by the Department of Justice under President Bush's administration.
- WLP represented the reproductive health care providers who appeared as witnesses in this action against a Pennsylvania clinic protester who posted doctors' names, photos and addresses on the Internet, along with instructions for killing them. This federal civil action produced an injunction that permanently shut down portions of the offender's website. It continues to protect Pennsylvania providers today.

2008-2011

FEDERAL DISTRICT COURT RULING DISMISSING CONSPIRACY CLAIMS AGAINST ABORTION CLINIC

Kuhns v. City of Allentown

http://scholar.google.com/scholar_case?case=17482421421637266495&q=Kuhns+v.+City+of+Allentown&hl=en&as_sdt=40000006&as_vis=1

- WLP successfully defended Allentown Women's Center from unduly intrusive and burdensome discovery practices and conspiracy claims in a lawsuit brought by anti-abortion protesters against both the City of Allentown and the Allentown Women's Center.

2009

THIRD CIRCUIT COURT OF APPEALS RULING UPHOLDING MODIFIED PITTSBURGH BUFFER ZONE LAW

Brown v. City of Pittsburgh

<http://www2.ca3.uscourts.gov/opinarch/081819p.pdf>

- On Oct. 30, 2009, a 3-judge Circuit Court panel upheld the constitutionality of both operative provisions of the ordinance —a 15-foot fixed no-protest buffer zone around clinic entrances and a floating 8-foot personal bubble zone of protection around each person approaching the clinic – and determined that both zones are content-neutral and consistent with the First Amendment speech and free exercise clauses, the Equal Protection Clause, and the Pennsylvania Religious Freedom Protection Act. However, while noting that “the question is close” and that the Supreme Court's clinic buffer zone jurisprudence did not dispose of the issue, the appeals court concluded that the combination of the two zones was, “on this record,” insufficiently narrowly tailored and the City could therefore keep one but not both kinds of protective zones. On remand, Pittsburgh chose to enforce the buffer zone.
- On Dec. 17, 2009, the District Court for the Western District of PA entered a permanent injunction preserving the 15-foot buffer zone and directing the City of Pittsburgh to clearly mark the protected zones around clinics.

2011

REPRESENTATION OF WOMEN DENIED THE RIGHT TO GIVE BIRTH WITH DIGNITY WHILE IMPRISONED

Blades v. Brushaw

- A 2011 federal civil rights action by an incarcerated woman who gave birth while shackled with handcuffs and leg irons in the back of a prison van.

2011-2012

MEDIA OUTREACH AND MESSAGING ON KERMIT GOSNELL (CRIMINAL ABORTION) CASE IN PHILADELPHIA

http://www.huffingtonpost.com/kate-michelman/kermit-gosnell-abortion_b_2924348.html

http://www.womenslawproject.org/NewPages/More_news3.html

<http://www.womenslawproject.org/press/KermitGosnellverdictstatementv5%20copy.pdf>

http://www.womenslawproject.org/press/LI_Gosnell_052311pdf.pdf

- On January 19, 2011, a Philadelphia grand jury released a 261-page report exposing the horrifying details of a brutal criminal enterprise run by Dr. Kermit Gosnell. The grand jury reported that Gosnell and his staff drugged pregnant women unconscious at his West Philadelphia office and pumped them with drugs to coerce delivery of fetuses. The grand jury further found that Gosnell and his staff routinely severed the necks of the fetuses—and in some cases viable babies—with scissors in a process they called “snipping.” At least two women also died in his facility.
- Despite decades of complaints from consumers and abortion providers and a matrix of red flags, the PA Department of Health never inspected the dirty, unsafe facility. Gosnell was arrested and charged with murder and a host of other crimes.
- In 2013, Kermit Gosnell was convicted of three counts of first-degree murder of babies and involuntary manslaughter in the death of Karnamaya Mongar, as well as hundreds of violations of the Abortion Control Act.

2011-12

FEDERAL F.A.C.E ACTION ON BEHALF OF AN ABORTION CLINIC ESCORT ASSAULTED BY A PROTESTER

U.S. v. Parente

- WLP represented witnesses in a civil action under the Freedom of Access to Clinic Entrances Act, which prohibits the use of force against any person providing or obtaining reproductive health services, or those seeking to do so, with the intent to injure, intimidate or interfere with that person. The FACE action arose when a protester outside Planned Parenthood of Western Pennsylvania assaulted an escort.
- The case was settled prior to trial in the fall of 2012; the settlement agreement requires the assailant to remain at least 25 feet away from Planned Parenthood for at least five years.

2011-12

FIGHTING AGAINST AMBULATORY SURGICAL FACILITY (ASF) LEGISLATION

- In 2011, following the release of the Gosnell grand jury report, WLP and allies fought to prevent the Pennsylvania legislature from closing down all abortion facilities in the state. In December 2011, the legislature passed Act 122, which required all outpatient abortion facilities to adhere to ambulatory surgical facility standards.

2012

MAJOR REPORT: “THROUGH THE LENS OF EQUALITY: ELIMINATING SEX BIAS TO IMPROVE THE HEALTH OF PENNSYLVANIA’S WOMEN”

http://www.womenslawproject.org/resources/TLE_Chapter4A.pdf

http://www.womenslawproject.org/resources/Through_the_Lens_Equality.pdf

- Inspired by the public debate on health care, WLP embarked on an extensive examination of the relationship between women’s health and sex bias, and published its findings in this major report.
- The report links sex bias to adverse health outcomes in women, and examines the health impact of sexual and intimate partner violence, caregiving responsibilities, poverty, and bias in the workplace, school, and health care on women in Pennsylvania.
- *Through the Lens* deeply explores the politicization of women’s reproductive health care and shows how women are harmed by limited access to abortion, contraception, and maternity care. We emphasize that the ACA does not solve all of the gaps in women’s health care, including in particular the great need for access to abortion coverage.
- This first-time publication identifies numerous targeted interventions to both overcoming sex bias and improving women’s health. While written for PA, its findings and recommendations have nationwide application.
- This report formed the basis for the Pennsylvania Agenda for Women’s Health by providing the evidence-based data necessary to inform effective, necessary policy.

2012 - present

LEGAL REPRESENTATION TO KEEP FREESTANDING PA ABORTION PROVIDERS OPEN AFTER PASSAGE OF THE AMBULATORY SURGICAL FACILITY ACT

Act 122

- In 2011, the PA legislature passed Act 122, imposing a complex set of requirements designed for ambulatory surgical facilities on to providers of abortion care. These rules forced abortion providers to comply with financially burdensome and medically unnecessary regulations, a situation that threatened to shut them down. Act 122 went into effect in June 2012.
- Over 90% of abortion care in PA is delivered by a fragile network of 16 freestanding abortion providers. These providers offer high-quality care at low cost (relative to hospital-based care), an important consideration given the fact that Medicaid does not cover most abortion in PA, and every plan sold through the state exchange is prohibited from covering abortion, even to preserve the health of the mother. Many private insurance plans in PA do not cover abortion procedures.
- Together with attorneys from Planned Parenthood and the Center for Reproductive Rights, WLP worked with many freestanding clinics in PA to keep them open under the new requirements. Our work involved the legal analysis of a complex body of 143 regulations and hundreds of pages of

- incorporated construction guidelines, fire safety standards, and HVAC codes; extensive administrative advocacy with the Departments of Health and State; consultation with architects, fire safety experts, and engineers; drafting and submission of hundreds of pages of exceptions applications; administrative appeals of denials of exceptions applications; and extensive client counseling.
- This advocacy and legal guidance succeeded in obtaining provisional licenses in June 2012 and full licensure by early 2013 for all of Pennsylvania’s Planned Parenthood and NAF-affiliated freestanding clinics.
 - WLP continues to advise PA’s abortion providers on how to meet the challenges of the ambulatory surgical facility regulations.

2013

ADVOCACY AND SOCIAL MEDIA CAMPAIGN AGAINST MERGER THAT WOULD HAVE ELIMINATED ABORTION CARE AT SUBURBAN PHILADELPHIA HOSPITAL

- WLP advocated on behalf of a group of reproductive health providers against the merger of two hospitals that would have curtailed reproductive health care services for women at Abington Hospital.
- The campaign succeeded in persuading the hospital to cancel plans for the merger.

2015

FEDERAL JUDGE UPHOLDS PITTSBURGH BUFFER ZONE AFTER MCCULLEN V. COAKLEY

Bruni v. City of Pittsburgh

- In the 2014 U.S. Supreme Court case *McCullen v. Coakley*, the court struck down the 35-foot buffer zone established by the Massachusetts Reproductive Health Care Facilities Act as insufficiently narrowly tailored. In the wake of that decision, the organization that represented the plaintiffs vowed to challenge Pittsburgh’s buffer zone once again. WLP represented Planned Parenthood of Western Pennsylvania.
- In the case, five anti-choice protesters claimed that Pittsburgh’s 15-foot buffer zone prevented them from “sidewalk counseling.” They requested a preliminary injunction.
- U.S. District Judge Cathy Bissoon denied the preliminary injunction and held that the protesters were unlikely to be able to prove that the Pittsburgh ordinance was unconstitutional under *McCullen*. This case is significant because it represents the first federal ruling on the constitutionality of a buffer zone post-*McCullen*. The complainants dropped the remaining federal claim and are pursuing an appeal.

PART 2

COMBATING
RELIGIOUS REFUSALS
TARGETING WOMEN &
LGBTQ INDIVIDUALS

Alliance State Strategies, Models, Accomplishments and Resources for Combating Religious Refusals: 1996 - 2015

While refusals or conscientious objections have a long history in the U.S., individual and institutional refusals to provide information and services based on religious or personal objections are now proliferating in our communities, through the health care arena and beyond, especially targeting women and LGBTQ people. The 2014 U.S. Supreme Court ruling in *Burwell v. Hobby Lobby* has exacerbated this trend. In its wake, the frontier for advocacy to challenge overly broad religious refusals has moved even more squarely to the states, where an emboldened opposition is escalating efforts to enact ever-broader refusal provisions and exemptions allowing religious entities, or people claiming religious or personal objections, to deny health care, employment and services to women and LGBTQ people.

To stanch this burgeoning tide, we must advance state and local advocacy on many fronts, employing a diversity of legal, policy, messaging and cross-sector partnership strategies. This resource includes a range of strategies the Alliance organizations have developed and/or supported to effectively challenge religious refusals on the state and local levels since the mid-1990's, on which we are now building to challenge refusals in the post-*Hobby Lobby* landscape. This resource also includes selected Alliance state strategies to challenge gender discrimination in health care, employment and public accommodations, because these strategies may offer innovative approaches to challenge religious refusals, and to correct the worsening imbalance between the rights of women and LGBTQ people, and the right wing's broad claims that religious and personal freedom should allow individuals – and institutions – to be exempt from the law.

CALIFORNIA WOMEN'S LAW CENTER

COMBATING RELIGIOUS/CONSCIENCE REFUSALS IN CALIFORNIA CHRONOLOGY OF STRATEGIES, MODELS, ACCOMPLISHMENTS & RESOURCES

1996 – 2015

ARCH PROJECT: ADVOCATES FOR REPRODUCTIVE CHOICE IN HEALTH CARE

1996 – 2005

The ARCH Project Was A Comprehensive State/National Partnership Model For Fighting Religious Refusals In Health Care. In response to the rapid expansion of Catholic Healthcare West in California, and CHW's acquisition of non-sectarian community hospitals throughout the state, CWLC partnered with National Health Law Program (NHeLP) to protect women's access to health care and to share advocacy approaches developed in California with allies around the U.S. Through ARCH, CWLC pursued local strategies to address mergers in California communities, and NHeLP provided legal support on health care delivery, financing, managed care and translating local action into national advocacy.

ARCH strategies:

- Local fact-finding on the impact of religious health system expansion on access to services
- Briefings and materials for community members on the *Ethical and Religious Directives for Catholic Health care (ERDs)*, their consequences and how they are applied
- Creating and facilitating local community coalitions to challenge health care refusals, and community mobilization, consumer and provider education, local media campaigns and local advocacy
- Organizing/testifying at public hearings on the impact of religious health care expansion and the ERDs
- Briefings for press representatives, media commentary, and media campaigns to raise awareness
- Outreach with affected physicians; assistance with contracts to protect ability to provide full services
- Advocacy on behalf of affected communities with health system representatives and policymakers
- Representing affected communities in direct negotiations with health systems and facilities
- Providing legal counsel to local advocates
- Educating and mobilizing provider associations (e.g., California Medical Association)
- Developing local and national alliances to maximize outreach and create best practices
- Publishing materials, including community case studies, designed to educate a range of audiences
- Technical support to the California Attorney General to strengthen enforcement and accountability in health systems transactions

By June 2000, CWLC had intervened on behalf of more than 25 cities and counties in California where religious health care system expansion threatened reproductive health services.

ARCH community intervention case studies available on request

ARCH Project Resources and Accomplishments:

ARCH TOOLBOX: TOOLS TO SAVE REPRODUCTIVE HEALTH CARE IN YOUR COMMUNITY

- CWLC developed this "how-to" advocacy primer for local advocates on organizing and advocacy to challenge religious health care restrictions, and advocacy strategies, tools and resources:
- Facts about religious system expansions and religious health care restrictions
- Advocacy strategies and tools developed by the ARCH Project (sample Public Record Act request, managed care contract review checklist, obtaining information about patient services, etc.)
- Community organizing, education and media outreach tools (sample letters to the editor, testimony)
- Briefing information for consumers in affected communities (how to look at health insurance policies, questions to ask insurance carriers, how to demand employers cover all services)
- Bridge-building among local coalitions with strong activist bases
- Engaging and empowering community members as advocates for reproductive health rights
- How to work with medical professionals in affected communities
- Case studies of compromise strategies to preserve services in the context of such mergers
- The what, why and how of legislative and administrative reform
- Local government contacts: elected and appointed government officials, roles, contact information
- How CWLC can help

ARCH Toolbox available on request

1995

WOMEN'S CONTRACEPTIVE EQUITY ACT

Health and Safety Code § 1367.25; Insurance Code § 10123.196

- CWLC provided technical assistance in development of this bill to prohibit employers from discriminating against women by excluding prescription contraceptives from their prescription drug plans, by requiring health policies covering prescriptions to cover contraceptives.
- Once passed, the law was challenged by Catholic Charities of Sacramento, and resulted in the landmark California Supreme Court case upholding the contraceptive coverage requirement (see *Catholic Charities of Sacramento County v. Superior Court of Sacramento*, 2004, below)

1997

AMERICAN PUBLIC HEALTH ASSOCIATION RESOLUTION RECOGNIZING REPRODUCTIVE HEALTH CARE AS MAINSTREAM HEALTH CARE, AND SUPPORTING PRESERVATION OF SERVICES IN HEALTH SYSTEM MERGERS

<http://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.91.3.497>

- CWLC worked with allies to draft this APHA resolution, and conducted outreach to encourage its adoption at the APHA annual meeting. The resolution was adopted as official APHA policy.

BILL REQUIRING ATTORNEY GENERAL REVIEW OF NON-PROFIT TO NON-PROFIT HOSPITAL MERGERS**AB 254**

http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab_0251-0300/ab_254_bill_19990831_enrolled.html

- CWLC conducted advocacy, mobilized allies statewide, and provided technical assistance in developing this legislation to require that in any transaction involving a non-profit hospital, the seller must apply to the California Attorney General for review and consent.
- The legislation passed, and gives the Attorney General explicit authority to impose conditions on the transactions, which can include requirements to continue existing levels and kinds of care to avoid adverse effects in the community. The statute also requires the review process to include public meetings and, when necessary, preparation of expert reports including health impact reports.

FIRST BILL IN THE U.S. TO REQUIRE CONSUMERS BE INFORMED OF REPRODUCTIVE HEALTH SERVICES THAT MAY BE RESTRICTED BY RELIGIOUS SYSTEMS**AB 525**

http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab_05010550/ab_525_cfa_19990419_150349_asm_comm.html

Enacted version:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=199920000AB525&search_keywords=

- CWLC partnered with NHeLP to assist state legislator Sheila Kuehl (CWLC co-founder prior to running for state office) to develop this bill to amend the California Health & Safety Code to require health insurance, disability plans, and Medi-Cal managed care plans to clearly warn members that some providers do not offer a full range of reproductive health services, and provide a toll-free number for enrollees to call for information about specific providers.
- The bill provided specific language to be published by health plans for their members:
- “Some hospitals and other providers do not provide one or more of the following services that may be covered under your plan contract and that you or your family member might need: family planning; contraceptive services, including emergency contraception; sterilization, including tubal ligation at the time of labor and delivery; infertility treatments; or abortion. You should obtain more information before you enroll. Call your prospective doctor, medical group, independent practice association, or clinic, or call the health plan at (insert health plan’s membership services number or other appropriate number that individuals can call for assistance) to ensure that you can obtain the health care services that you need.”
- The original bill included additional provisions, including a requirement that applicants for state loan funds must provide a full range of reproductive health services. The bill drew organized opposition from the Catholic Health Association and the Catholic Church.
- The consumer education provisions were enacted; the other portions were deleted. CWLC and NHeLP promoted the bill as a model, with legal analyses and talking points for each component.

NATIONAL ADVISORY BOARD FOR RELIGIOUS REFUSALS IN HEALTH CARE CREATED WITH MERGERWATCH (NAB)

- CWLC partnered with Family Planning Advocates of NY (now MergerWatch) on our complementary projects on the West and East Coasts, to form and lead this nationwide network of providers and advocates on the local, state and national levels addressing religious health system expansions' threat to women's health care. The NAB convened at bi-annual meetings, through an active list serve, and periodic calls and trainings, focused on:
 - Monitoring & Sharing Information: web links among NAB, mechanisms to alert communities
 - Field Strategy: engaging new allies, sensitizing and mobilizing allied communities: religious communities, welfare and poverty advocates, attorneys general, LGBTQ advocates, etc.
 - Federal Regulations: researching Medicaid regulations, Medicare conditions of participation for hospitals; work with Department of Health and Human Services (Health Care Financing Administration - now Centers for Medicare and Medicaid Services) to enforce the law
 - Physician/Health Provider Outreach: educating doctors, medical students and other health care providers on the issue
 - Legal and Legislative Strategies: investigating and testing legal strategies to protect health services, and identifying model legislation for dissemination among advocates
 - Media Strategies: developing common, strategic messages to raise public awareness about the imposition of religious doctrine on women's health care
 - BioEthics/Medical Research
- Original NAB co-conveners, Susan Berke Fogel (former CWLC Legal Director, current NHeLP Director of Reproductive Health) and Lois Uttley of MergerWatch, continue to manage this vital network.

FEDERAL MEDICAID MANAGED CARE REGULATIONS INCLUDE PROVISIONS FOR LOW-INCOME WOMEN'S FREEDOM OF CHOICE FOR REPRODUCTIVE HEALTH CARE

- CWLC provided technical assistance to Health Care Financing Administration (HCFA) staff to develop final regulations to implement the Medicaid provisions of the Balanced Budget Act, to include that:
- Managed care organizations contracting with a state must clearly "identify, define and specify the amount, duration and scope of each service the MCO offers" so consumers see what services a plan does not provide;
- Managed care organizations must make basic information about benefits available to all participants at the time of enrollment, not just upon request;
- Enrollees must be able to dis-enroll for cause if a health plan does not meet their needs due to the plan's religious or moral objection;
- Managed care organizations must protect confidentiality of minors accessing services subject to applicable state and federal law.

2000

STATE AND NATIONAL MEDICAL ASSOCIATION RESOLUTIONS RECOGNIZING REPRODUCTIVE HEALTH CARE AS MAINSTREAM HEALTH CARE, AND SUPPORTING PRESERVATION OF REPRODUCTIVE HEALTH SERVICES IN MERGERS

- CWLC worked with California Medical Association and American Medical Women's Association to draft parallel resolutions for adoption at the CMA state convention and AMWA national convention.

2000

PUBLICATION OF "HEALTH CHOICE ALERT"

Sample issue available on request

- CWLC launched this newsletter tracking Catholic hospital mergers and takeovers in California; dissemination targets included local coalitions, advocates, and other progressive allied networks.

2000

ASSISTED FOUNDATION TO DEVELOP "REPRODUCTIVE HEALTH SERVICES POLICY AND PROTOCOL" TO ENSURE HEALTH CARE GRANTS WOULD NOT SUPPORT PROGRAMS RESTRICTING REPRODUCTIVE HEALTH RIGHTS

- CWLC provided technical assistance to the Los Angeles Women's Foundation to develop this policy that asserts the Foundation's commitment to ensuring that women have full access to reproductive health services, and that all grantees will be expected to demonstrate that the women they serve are provided that access through direct care or referral.
- The policy included a protocol requiring that a statement asserting the policy would be included in all guidelines for health funding. The Protocol also required that staff or volunteers reviewing proposals explicitly ask applicants and, where necessary, document responses to: 1) how they handle issues of reproductive health care, and 2) what their plan is to ensure their clients can obtain these services.

2001

REGULATIONS REQUIRING ATTORNEY GENERAL TO CONSIDER THE IMPACT OF HOSPITAL TRANSACTIONS ON REPRODUCTIVE HEALTH SERVICES

11 Cal. Code Regs. §999.5 et. seq.

- California's Attorney General convened a Task Force on Charity Health Care and appointed CWLC staff as reproductive rights representative. CWLC provided assistance on ways the AG could exercise better scrutiny over hospital mergers to ensure reproductive health services are protected, and testimony and comments on regulations implementing the non-profit to non-profit hospital merger law.
- The final regulations include CWLC recommendation that reproductive health services be included in all health impact assessments.

2002

**ROBBIE CONAL GUERILLA ART POSTER:
“WARNING: THE CATHOLIC CHURCH IS MAKING YOUR HEALTH CARE DECISIONS”**

- Guerilla artist Robbie Conal and Deborah Ross created a poster for CWLC of a woman being crucified, draped over the universal symbol of medicine (winged staff of Mercury with intertwining serpent).
- CWLC used the poster to create a mailer; the back showed a map of Catholic health care expansions in California, information on the impact on women and communities, calls to action, etc. Plans were to paste posters throughout Los Angeles County, mail 5,000 flyers around the state, and take the poster to a meeting of the U.S. Conference of Bishops in Chicago, where local contacts were ready to disseminate it. The CWLC Board of Directors had liability concerns and decided to stop dissemination.
- In February, 2012, The Center for the Study of Political Graphics cited the poster as “poster of the week”, noting that this 10-year old poster could have been made that week given current debate on insurance coverage for women’s health: http://cspgblog.blogspot.com/2012_02_01_archive.html

2003

FIRST STATE BILL TO PROHIBIT THE ATTORNEY GENERAL FROM CONSENTING TO A TRANSACTION BETWEEN A NONPROFIT AND FOR-PROFIT HEALTH CARE ENTITY IN WHICH THE SELLER RESTRICTS MEDICAL SERVICES TO BE PROVIDED

SB 932

<http://www.jurisearch.com/NLLXML/GetAct.asp?statecd=CA&sessionyr=2003&TOCID=150&userid=PRODSG&noheader=1&Interface=NLL&cvfilename=>

- CWLC supported this legislation, the first if its kind in the nation to ensure that the seller of a health facility cannot restrict the services that the buyer can provide, after Tenet for-profit hospital system began purchasing Catholic hospitals in California and agreeing to continue operating the non-sectarian hospitals under the Catholic Ethical and Religious Directives. This legislation states that the Attorney General cannot consent to a transaction if it includes restrictions on services.

2003

LANDMARK CALIFORNIA COURT OF APPEALS RULING THAT FEDERAL LAW DOES NOT EXEMPT HEALTH CARE PROVIDERS FROM STATE CIVIL RIGHTS LAWS

Benitez v. North Coast Women’s Care Medical Group

North Coast Women’s Care Medical Group v. Superior Court of San Diego County

- CWLC joined LAMBDA Legal Defense Fund and National Health Law Program in an amicus brief supporting Guadalupe Benitez's complaint against her doctors and their employer after the doctors, who initially treated her infertility for an 11-month period, ultimately refused to provide her additional treatments because of her sexual orientation. The doctors claimed their religious beliefs gave them a right to withhold care, and that because Benitez received her infertility treatments under an employee health benefit plan, her state claims were preempted by federal law (ERISA).
- Court of Appeals ruled unanimously that ERISA does not preempt state Unruh Act state law claims.
- Lambda Legal continued to support Ms. Benitez’s case through appeal to the California Supreme Court, which unanimously denied the defendants’ petition for rehearing in August 2008.

2004

LANDMARK CALIFORNIA SUPREME COURT CASE UPHOLDING WOMEN'S CONTRACEPTIVE EQUITY ACT

Catholic Charities of Sacramento County v. Superior Court of Sacramento

caselaw.findlaw.com/ca-supreme-court/1240089.html

CWLC amicus brief available on request

- Catholic Charities of Sacramento challenged the Women's Contraceptive Equity Act under the establishment and free exercise clauses of the federal and state Constitutions, and sought an injunction barring the law's enforcement, in this case brought against the state of California, its Department of Managed Health Care and Department of Insurance.
- CWLC wrote an amicus brief, signed by California Women Lawyers, Women Lawyers Association of Los Angeles, and Queen's Bench Bar Association of the San Francisco Bay Area.
- The State Supreme Court affirmed the Court of Appeal ruling that the WCEA does not impermissibly interfere with the autonomy of religious organizations, and that the interests served by the WCEA cannot be achieved by less restrictive means.

2009

MODEL LANGUAGE FOR HOSPITAL NOTICE OF REFUSAL TO PERFORM ABORTIONS

- CWLC intervened with Tarzana Hospital on behalf of an OB/GYN after the hospital was taken over by the Catholic Providence system, which wanted import the Ethical and Religious Directives into the doctor's office lease (in addition to the hospital).
- CWLC advocated, unsuccessfully, under the California Health & Safety Code refusal statute the hospital had an obligation to post notice of refusal to perform abortions. CWLC proposed this model language: *Providence Tarzana Medical Center is a Catholic-owned facility and follows the Ethical and Religious Directives for Catholic Health Care Services. This hospital may not provide some nonemergency services, including abortions, tubal ligations, in vitro fertilization, vasectomies, and birth control.*

2014

RULE THAT MERGER PROCESS INCLUDE INTERNET POSTING OF DOCUMENTS

- CWLC wrote comments to support rulemaking by the California Attorney General following a hospital take-over by Mercy Catholic in Orange County, in which the initial application to the AG indicated there would be no reduction in surgical procedures, after which the hospital agreed to stop doing non-therapeutic abortions, then "updated" the terms. The AG proposed the rule to require merger documents be published online to increase transparency and accountability.

2014

BILL TO ALLOW ATTORNEY GENERAL TO ALTER TERMS OF HOSPITAL SALES APPROVED WITH IMPROPER INFORMATION

SB 1094

leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB1094&search_keywords=

- CWLC lobbied legislators, and wrote support letters urging passage of this bill to allow the Attorney General to retroactively amend terms of a transfer agreement for up to 5 years when one of the parties has breached the contract or made material misrepresentations.
- The bill passed out of the legislature but was vetoed by Governor Jerry Brown.

2014

FAITH & REPRODUCTIVE JUSTICE: COMMUNITY DISCUSSION ON IMPACT OF HOBBY LOBBY

- CWLC was co-sponsor and moderator of this Planned Parenthood Young Professional's panel discussion, co-hosted by the National Council of Jewish Women/Los Angeles. The panel included a cross-section of faith leaders from throughout Los Angeles who work on reproductive justice issues.

2014

REPRODUCTIVE JUSTICE COALITION OF LOS ANGELES HOBBY LOBBY PROTEST: HOBBY LOBBY & CONTRACEPTION: WHAT SKELETONS DOES HOBBY LOBBY HAVE IN ITS CLOSET?

- CWLC staff and Board members participated in this local Hobby Lobby store protest with 25 ally organizations. The demonstration took place at the Burbank Hobby Lobby location in October; protestors encouraged people to shop for Halloween supplies at other craft stores.

2014

LANDMARK CONTRACEPTIVE COVERGE EQUITY ACT PASSED IN CALIFORNIA

SB 1053

<http://www.healthlaw.org/news/press-releases/280-gov-brown-signs-sb-1053-landmark-legislation-to-expand-birth-control-access-in-california>

- This model contraceptive equity bill was co-sponsored by National Health Law Program and the California Family Health Council to improve access to the full range of contraceptive methods approved by the FDA for all insured individuals in California without cost-sharing, delays or denial. CWLC joined allies in the RJ Coalition of LA to visit regional legislators to urge their support of the bill.
- The bill was signed by Governor Brown in September 2014, and will mandate coverage for all FDA-approved contraception, and prohibit co-payments, by all health insurance policies in California, including Medicaid managed-care plans, which were not expressly covered by California law.

GENDER JUSTICE

COMBATING RELIGIOUS/CONSCIENCE REFUSALS IN MINNESOTA CHRONOLOGY OF STRATEGIES, MODELS, ACCOMPLISHMENTS & RESOURCES 2012 - 2015

2012-2013, and ongoing as needed

PROMOTED UNDERSTANDING OF STATE PUBLIC ACCOMMODATIONS LAW PROTECTING LGBTQ INDIVIDUALS DURING DEBATE OVER MARRIAGE EQUALITY

Minn. Stat. § 363A.11 (prohibiting discrimination in public accommodations on the basis of sex, sexual orientation, or gender identity)

Minn. Stat. § 363A.17 (prohibiting “business discrimination” on the basis of sex, sexual orientation, or gender identity)

Report on ADF efforts to introduce “New Jim Crow” laws in MN and other states:

<http://www.tcdailyplanet.net/blog/sally-jo-sorensen/minnesotas-marriage-equality-opponents-offer-new-jim-crow-public-accommodation>

- Gender Justice participated in public discussions around the marriage equality campaign in Minnesota, in which business owners claimed a right to discriminate against same-sex couples on religious grounds, raising awareness about current LGBTQ rights under state law.
- We are drawing on these experiences in work against passage of anticipated “New Jim Crow” bills promoted in MN by Alliance Defending Freedom, Minnesota Family Council, Minnesota Catholic Conference, and others, designed to erase LGBTQ rights under the guise of religious freedom.

2012-2014

ADVOCACY FOR RE-ENVISIONED ENDA WITH LIMITED RELIGIOUS EXEMPTION

Materials from 2013 presentation at annual National Employment Lawyers Association conference:

http://www.academia.edu/5984426/Gender_Identity_and_Sex_Discrimination

Response to 2014 presentation at annual Law & Society Association conference:

<http://lawandsexuality.wordpress.com/2014/05/30/lsa-2014-trends-and-reflections/>

- Gender Justice delivered multiple presentations to the public and to legal audiences, analyzing flaws in the current federal Employment Nondiscrimination Act (ENDA) bill, particularly the broad religious exemptions, and proposing an alternative bill that would solidify the right directly under Title VII to be free from all forms of gender discrimination, including LGBTQ discrimination, and maintaining only the current, limited religious exemption under Title VII.

2013-Ongoing

TITLE VII LITIGATION COMPELLING LARGE MINNESOTA EMPLOYER TO ADOPT TRANS-INCLUSIVE POLICY FOR EMPLOYEES GOING FORWARD, AND RETROACTIVE COVERAGE OF TRANS-RELATED CARE FOR MINOR CHILD OF EMPLOYEE

Redacted appeal letter available on request

See also outline of Title VII argument in Gender Justice's 2013 NELA conference materials:

http://www.academia.edu/5984426/Gender_Identity_and_Sex_Discrimination

- Gender Justice represented employees using Title VII in a successful legal challenge to the trans-exclusive health care policy maintained by the large Minnesota employer, Health Partners.
- Building on this success, we are pursuing additional Title VII challenges against numerous other Minnesota employers.

2013-Ongoing

IMPACT LITIGATION TO ESTABLISH CORRECT INTERPRETATION OF RELIGIOUS EXEMPTIONS UNDER TITLE VII AND MINNESOTA HUMAN RIGHTS ACT

Relevant statutes: 42 U.S.C. § 2000e-1(a) (Title VII religious exemption); Minn. Stat. § 363A.26 (MN Human Rights Act religious exemption)

Redacted EEOC rebuttal letters available upon request

- Gender Justice is serving as legal counsel, along with OutFront Minnesota, for a transgender woman fired by a religious college and the secular staffing firm it used when she came out as transgender.
- We are seeking to establish correct interpretation of religious exemptions under Title VII and the Minnesota Human Rights Act, as applied to a non-ministerial transgender employee who was discriminated against on the basis of her transgender status by her joint employers (a religious college and the secular staffing firm with whom it contracts).
- The case is currently pending before the federal Equal Employment Opportunity Commission.

2013-Ongoing

ADVOCACY TO MAKE STATE MEDICAID PROGRAM BENEFITS TRANS-INCLUSIVE

Minn. Stat. § 256B.0625, subd.3a (providing that "sex reassignment surgery is not a covered service")

Background – fact sheet from NCTE on recent ruling removing similar restriction under Medicare:

<http://transequality.org/PDFs/MedicareFactSheet.pdf>

- Together with OutFront Minnesota and other allies, Gender Justice is working to eliminate statutory exclusion that bars state Medicaid coverage for gender confirmation surgery.

2014

COMMUNITY EDUCATION ON HOBBY LOBBY AND RELIGIOUS REFUSALS IN WOMEN'S AND LGBT HEALTH CARE

<http://web.wmitchell.edu/news/2014/10/teach-in-will-focus-on-hobby-lobby-aftermath/>

- Gender Justice conducted extensive community education following the Supreme Court *Hobby Lobby* ruling on the impact of religious refusals on women and LGBT communities
- Organized a 3-hour event in conjunction with William Mitchell law school, including a “teach in” with the Pro-Choice Resources Director and a representative of the Minnesota Advocates for Human Rights; Gender Justice staff analyzed Hobby Lobby from a reproductive justice perspective and explored responses including state contraceptive equity bills.

2014

ASSISTED TRANSGENDER WOMAN INCARCERATED IN MEN'S PRISON TO ENFORCE DEPARTMENT OF CORRECTIONS POLICY AND ACCESS APPROPRIATE HEALTH CARE

MN Dept. of Corrections Policy - Evaluation and Placement of Transgender/Intersex Offenders:

http://www.doc.state.mn.us/DocPolicy2/html/DPW_Display_TOC.asp?Opt=202.045.htm

- Gender Justice worked cooperatively with NAMI Minnesota and OutFront Minnesota, to assist a transgender woman inmate who was being denied appropriate medical and mental health care, including hormones and therapy, despite state policy that provides that “the department provides gender-related mental health services and other medical or mental health therapy, as necessary, throughout the offender’s incarceration.”
- Gender Justice provided legal advice to the inmate, and conducted administrative advocacy with the MN Department of Corrections on state policy requirements. The woman was transferred to another state before we could either formally win or lose.

2014-Ongoing

ADVOCACY FOR CONTRACEPTIVE EQUITY BILL RESPONSIVE TO HOBBY LOBBY

Contraception Health Equity & Employee Rights (CHEER) Act, by MN House Majority Leader Erin Murphy Press release on CHEER Act quoting Gender Justice co-founder Lisa Stratton:

<http://www.house.leg.state.mn.us/members/pressrelease.asp?party=1&pressid=8795&memid=15284>

- Gender Justice is providing expert legal analysis and drafting to finalize this MN bill, mobilizing stakeholder support, advocating for the bill’s passage, and preparing for its legal defense, including likely challenges under a RFRA-like Minnesota Supreme Court opinion, which held that “an interference with religious belief” is unconstitutional under the state Constitution.

IMPACT LITIGATION – COORDINATED IN THREE STATES – CHALLENGING DENIAL OF PLASMA DONATIONS BY TRANSGENDER DONORS

Scott v. CSL Plasma, Inc., Court File No. 13-CV-2616 JNE-JJK (D. Minn. 2013)

Case citations for cases in Nebraska and Washington still confidential.

Order in Scott (MN case) denying CSL motion to dismiss:

<http://genderjustice.us/wp-content/uploads/2014/04/ECF-35-Order-Denying-Defs-Mot-for-J-on-Pleadings.pdf>

Press coverage of Scott case:

<http://www.startribune.com/lifestyle/health/225353982.html>

- Together with co-counsel including Alliance partner, Legal Voice, Gender Justice is litigating impact cases under state law in Minnesota, Nebraska, and Washington State, challenging for-profit plasma company policies that deny plasma donors based on discriminatory, cis-normative/gender-policing stereotypes. Company policies flatly forbid any plasma donation by transgender donors and/or any donors whose “appearance or attire does not match their gender on file.”

2015

GROUNDBREAKING FEDERAL COURT RULING THAT THE ACA BANS DISCRIMINATION AGAINST TRANSGENDER PATIENTS BY PROVIDERS RECEIVING FEDERAL FUNDS

Order to dismiss:

<http://genderjustice.us/wp-content/uploads/2015/03/ECF-31-Order-Denying-Motion-to-Dismiss.pdf>

Rumble v. Fairview Health Services, Court File No. 14-CV-2037 SRN-FLN (D. Minn. 2014)

Report on prevalence of discrimination against transgender patients in health care:

http://transequality.org/PDFs/NTDSReportonHealth_final.pdf

- Gender Justice brought the first case in the country using the ACA civil rights provision (Section 1557) to challenge discrimination in health care, representing a transgender man who suffered discrimination in a Minnesota Emergency Room.
- The March 2015 decision in by U.S. District Judge Susan Richard Nelson is believed to be the first extensive federal court analysis of Section 1557 of the 2010 Affordable Care Act prohibiting discrimination by health care providers and is the first federal civil rights law barring sex discrimination in health care.
- In the wake of this legal victory, we are considering a case under Section 1557 that would challenge sexual orientation discrimination by a provider. Whether the statute reaches sexual orientation is up in the air, since no regulations have been issued and the administration has made contrary statements, but we may have a good impact case to push that question.
- We presented an hour-long program on ACA Section 1557 and transgender discrimination, using this case as an example of potential use of the statute, for the 2015 **Lavender Law Conference** (annual conference and continuing legal education seminar of MN LGBTQ affinity bar).

LEGAL VOICE

AKA NORTHWEST WOMEN'S LAW CENTER (NWLC) UNTIL 2009

COMBATING RELIGIOUS/CONSCIENCE REFUSALS IN THE NORTHWEST CHRONOLOGY OF STRATEGIES, MODELS, ACCOMPLISHMENTS & RESOURCES 2000 – 2015

2000

WA

ADVOCACY TO ENSURE ACCESS TO ABORTION AFTER A SECULAR HOSPITAL ACQUIRED PROPERTY FROM A RELIGIOUS SYSTEM

- Swedish Hospital in Seattle acquired the Cherry Hill campus from Sisters of Providence health care system; the original transaction would have left the Catholic Ethical and Religious Directives in place at the non-sectarian hospital campus and an additional facility after the deal closed.
- Nancy Sapiro of NWLC led the negotiation team of reproductive health and rights advocates to prevent the cessation of abortion services. Swedish Hospital ultimately agreed to form a separate entity, governed by a new board, to provide “non-therapeutic, elective” abortions.

2002

WA

EC IN THE ER (EMERGENCY CONTRACEPTION IN THE EMERGENCY ROOM) BILL PASSED AND ENACTED

RCW 70.41.350

<http://apps.leg.wa.gov/rcw/default.aspx?cite=70.41.350>

- This law requires that all Washington hospital emergency rooms, whether or not religiously-affiliated, must give sexual assault victims truthful information about EC, and must provide EC if requested.
- NWLC advocacy included blocking amendments and a subsequent rulemaking effort to insert religious refusal language into the law.

2006

AK

BILL PASSED AND ENACTED TO ALLOW A PHARMACIST TO DISPENSE EC WITHOUT A PHYSICIAN'S PRESCRIPTION UNDER A COLLABORATIVE PRACTICE AGREEMENT

AK Statute 12 AAC § 52.240

<http://www.touchngo.com/lglcntr/akstats/aac/title12/chapter052/section240.htm>

- NWLC conferred with Alaska advocates and provided input about similar Washington efforts, in support of advocacy to pass this bill.

BOARD OF PHARMACY “POSITION STATEMENT” ADOPTED THAT PHARMACISTS WANTING TO REFUSE EC MUST REFER TO A NEARBY PHARMACY, AFTER VERIFYING THAT THE PHARMACY HAS EC IN STOCK AND WILL DISPENSE IT

http://www.oregon.gov/pharmacy/Pages/Position_Statements.aspx

- NWLC worked with advocates in Oregon to develop a pharmacy board policy that limited its original interpretation of a broad refusal clause, and established pharmacists’ collaborative prescribing authority for EC.
- The compromise to allow for limited referral was reached at the request of Oregon advocates (NARAL PC-OR and PP affiliates) who strongly desired to maintain good relations with pharmacists in Oregon so they could forge collaborative agreements permitting pharmacists to dispense contraception.
- The position statement and model protocol were drafted by Sara Ainsworth at NWLC.

EC IN THE ER (EMERGENCY CONTRACEPTION IN THE EMERGENCY ROOM) BILL PASSED AND ENACTED

ORS 435.250, 435.252, 435.254 and 435.456

- This law requires Oregon hospitals to provide unbiased, medically and factually accurate written and oral information about EC to female victims of sexual assault, and for the Oregon Health Authority to develop and approve informational materials, for possible civil penalties against any hospital that does not comply.

PHARMACIST TRAININGS ON NEW OREGON PHARMACY REFUSALS POLICY

- NWLC partnered with the Oregon Pharmacist Association and Don Downing, University of Washington Professor of Pharmacy, to train pharmacists throughout Oregon on EC and the new Board of Pharmacy policy’s legal requirements and practical applications.
- We conducted six training sessions, in all parts of the state, and trained more than 300 pharmacists, most of whom indicated post-training they had learned new things about EC and were more willing to prescribe and dispense it as a result of the training.

BOARD OF PHARMACY RULE ADOPTED MANDATING ALL WASHINGTON PHARMACIES’ DUTY TO DISPENSE ALL LAWFUL DRUGS AND DEVICES ON SITE WITHOUT DISCRIMINATION OR DELAY

WAC 246-863-095, WAC 246-869-010

<http://apps.leg.wa.gov/wac/default.aspx?cite=246-863-095>

<http://app.leg.wa.gov/wac/default.aspx?cite=246-869-010>

- These Washington Pharmacy rules were the first state mandate requiring pharmacies to dispense *all* lawfully prescribed drugs and devices, regardless of individual pharmacists’ personal or moral beliefs.

- The WA rules were also the strongest in mandating complete access to lawful birth control and EC without discrimination or delay, and in not permitting pharmacies to refuse and refer.
- NWLC and allies in the pro-choice and LGBTQ communities advocated over 16-month period for their adoption, through multiple meetings and hearings:
 - As the issue of refusals by pharmacists to dispense EC began to attract national attention, NWLC commenced legal and community research to assess the problem in the Northwest.
 - Simultaneously, the Washington Board of Pharmacy (BOP) received inquiries from pharmacists about their obligation to dispense. While NWLC believed the authority to require dispensing existed under existing law/regulations, the BOP disagreed and initiated rulemaking.
 - NWLC and allies presented information to the BOP about the need for stringent dispensing regulations; anti-choice groups also testified to the BOP. The Washington State Pharmacy Association argued that referrals were an appropriate pharmacy practice.
 - After numerous meetings and drafts, BOP proposed a rule permitting refusals. Governor Christine Gregoire intervened, at the request of NWLC and allies, issuing a statement that this was unacceptable, and threatened to replace BOP members who voted for referrals.
 - BOP adopted a rule that all pharmacies (but not pharmacists) must dispense all lawful medications and devices on site, without discrimination or delay. The rule prohibits pharmacists from interfering with a patient’s prescription, and from discriminating or delaying access to medication.

2007– present

WA

LITIGATION TO DEFEND WASHINGTON PHARMACY RULE CONSTITUTIONALITY AGAINST RELIGIOUS FREEDOM CLAIM

Stormans v. Selecky; now Stormans v. Wiesman

- The day before the Washington Board of Pharmacy rule was to take effect, an anti-choice pharmacy and two pharmacists sued the State of Washington in federal court, alleging the rules infringe their constitutionally protected freedom of religion. NWLC and Planned Parenthood of the Great Northwest intervened in the lawsuit, representing 5 women of reproductive age and two HIV-positive individuals. The litigation is ongoing, currently pending before the 9th Circuit Court of Appeals.

See end of this section for a chronology of this litigation, and links to legal briefs, summary judgment motions/responses, trial briefs, pre-trial motions, supplemental briefs, media outreach and coverage.

2008-2009

AK

ALASKA PHARMACIST AND MEDICAL STUDENT TRAINING ON REFUSAL AND EC

- NWLC trained pharmacy and medical students about emergency contraception laws and regulations.

ADVOCACY TO BLOCK BILL ALLOWING ANY HEALTH CARE PROVIDER TO REFUSE ANY “ABORTIFACIENT” DEFINED SO BROADLY IT INCLUDES EMERGENCY CONTRACEPTION AND HORMONAL CONTRACEPTION

HB 216

Letter to Idaho House of Rep to Reject HB 216:

http://docs.legalvoice.org/HealthCareRefusals_LetterOpposingID_HB216.pdf

- Legal Voice worked closely with allies in Idaho to prevent passage of this bill, but failed.
- We offered to support Idaho advocates in a lawsuit, or to bring it ourselves; however, deferred to local advocates when they decided not to sue.

BILL PASSED AND ENACTED ALLOWING HEALTH CARE PROVIDERS TO DISPENSE A DRUG DIRECTLY TO PATIENTS IF THE LOCAL PHARMACY DOES NOT CARRY IT

Montana Code Annotated § 37-2-104(c)

- Legal Voice conferred with Montana advocates in response to a pharmacy in Broadus refusing to stock the Emergency Contraceptive, Plan B.
- We provided technical assistance in advocacy to resist a very broad refusal bill, which died in committee, then to helped pass this bill allowing providers to directly dispense, aimed at Broadus but applying statewide.

AMICUS CURIAE IN MONTANA SUPREME COURT IN CASE ESTABLISHING THE RIGHT TO AID-IN-DYING UNDER THE STATE CONSTITUTION

Baxter v. Montana

<http://law.justia.com/cases/montana/supreme-court/2009/114a49a4-b6fb-42b4-a9a0-b805297edb6c.html>

- The Legal Voice brief focused on health care refusals and reproductive freedom as they relate to the aid-in-dying right; it is our position is that end-of-life decisions are comparable legally and analytically to reproductive rights and freedom decisions.

ADVOCACY FOR STATE REPRODUCTIVE PARITY ACT TO REQUIRE INSURERS THAT COVER MATERNITY CARE TO COVER ABORTION

HB 2148

<http://apps.leg.wa.gov/documents/billdocs/2013-14/Pdf/Bill%20Reports/House/2148%20HBR%20APH%2014.pdf>

- Legal Voice led advocacy for this first bill of its kind in the U.S. to require all health insurance policies that cover maternity care to also cover abortion care.
- Legal Voice helped to draft the bill, testified in support at hearings in 2012/13, and defended the bill from proposed amendments to add expanded religious and conscience clause exemptions.
- The bill passed the House three time but was not given a vote in the Senate.

CONVENER, NOW MEMBER OF HOSPITAL MERGERS AND REFUSALS COALITION

- Legal Voice was an initial convener of this cross-sector coalition of Washington advocates, and continues in a collaborative leadership role to advance coalition advocacy to protect abortion access, LGBTQ care, and end-of-life care threatened by hospital mergers and religious refusals.
- The coalition includes grassroots citizen advocacy groups, Compassion & Choices, MergerWatch, NARAL Pro-Choice WA, Planned Parenthood Votes NW, PFLAG, WA Women for Choice, ACLU, and women’s health providers.
- Legal Voice work with the coalition includes research on legal theories, e.g., anti-trust, Equal Rights Amendment claims, to develop potential litigation challenging refusals following hospital mergers.
- Collaborative advocacy has included submitting comments and meeting with hospital officials regarding several proposed Catholic-secular hospital transactions and providing technical assistance for community activists regarding transactions and how to protect against institutionalizing refusals.
- Currently work includes development of “Consumer Report Cards” to educate the public about which hospitals refuse certain health care services.

ATTORNEY GENERAL OPINION INTERPRETING RCW 9.02 (WA STATUTE CODIFYING ROE) AND ITS APPLICATION TO PUBLIC HOSPITAL DISTRICTS THAT CONTRACT WITH PROVIDERS THAT DECLINE TO PROVIDE CERTAIN SERVICES

AGO 2013 No. 3

<http://www.atg.wa.gov/AGOOpinions/opinion.aspx?section=archive&id=31350#.VlifzHF9kk>

- Legal Voice worked with allies (NARAL-WA, Planned Parenthood Votes Northwest, and ACLU-WA) to educate a state senator and the Washington Attorney General’s office about the meaning and requirements of RCW 9.02 and state constitution, to position the senator to request this formal Attorney General Opinion relating to public hospital districts’ obligations regarding abortion care.
- The AG Opinion was obtained, stating that public hospital districts must comply with non-discrimination provisions of the statute: if maternity care benefits, services or information is provided, substantially equivalent abortion care benefits, services or information is required.

GOVERNOR’S DIRECTIVE TO THE DEPARTMENT OF HEALTH TO ASSESS TRANSPARENCY OF HOSPITAL MERGER TRANSACTIONS AND DISCLOSURE REQUIREMENTS THROUGH RULEMAKING

Governor’s Directive 13-12

http://www.governor.wa.gov/office/directives/2013/dir_13-12.pdf

- Legal Voice sought moratorium on approval of certificate of need requests from Governor, which resulted in this Directive.

BLOCKED LEGISLATION TO ALLOW ELECTED OFFICIALS TO PERFORM MARRIAGES WHILE IMMUNIZING THEM FROM LIABILITY IF THEY REFUSED TO MARRY A COUPLE BECAUSE OF RELIGIOUS OR PERSONAL OBJECTIONS

HB 1589

- Legal Voice was the only organization to testify against the bill, and successfully organized opposition to prevent the bill from moving forward.

PROPOSED DEPARTMENT OF HEALTH RULES TO BROADEN APPLICATION OF CERTIFICATE OF NEED REVIEW TO A LARGER GROUP OF TRANSACTIONS AND REQUIRE HOSPITALS TO DISCLOSE CERTAIN POLICIES, INCLUDING ANTI-DISCRIMINATION, REPRODUCTIVE HEALTH, AND END-OF-LIFE CARE

WAC 246-320-141(6) Hospital policies disclosure rule (Policies available on DOH website:

www.doh.wa.gov/DataandStatisticalReports/HealthcareinWashington/HospitalandPatientData/HospitalPolicies)

WAC 246-310-010 (Certificate of Need rules) <http://app.leg.wa.gov/wac/default.aspx?cite=246-310-010>

- Legal Voice participated in the rulemaking process and is participating as amicus in the WA Supreme Court to defend the rules in a hospital association lawsuit challenging the rules.

FOUNDING MEMBER OF COALITION FOR INCLUSIVE HEALTH CARE, WORKING TO END HEALTH CARE DISCRIMINATION AGAINST TRANSGENDER PEOPLE

- Successful coalition efforts to date include:
 - Obtained a statement from state Insurance Commissioner affirming that denials of coverage for transgender patients constitutes discrimination. <http://www.insurance.wa.gov/about-oic/news-media/news-releases/2014/documents/gender-identity-discrimination-letter.pdf>
 - Advocated before the Washington Public Employees Benefits Board to include benefits for transition surgery and related transgender health care.
- Advocacy with WA Medicaid office to eliminate ban on coverage for transgender transition surgery; worked with coalition to develop comments and testify on proposed rules. Awaiting final rules.

www.hca.wa.gov/rulemaking/Lists/RulemakingActivity/DispForm.aspx?ID=73&ContentTypeId=0x010099CEF BBD68A6A0429732F76F7A42B3CF

AMICUS BRIEF IN WASHINGTON SUPREME COURT CASE ADDRESSING STATE ANTI-DISCRIMINATION LAW AND RELIGION

Ockletree v. Franciscan Health System

http://docs.legalvoice.org/Ockletree_v_FHS_LegalVoiceAmicus.pdf

http://www.gth-law.com/files/88218-5_opinion_-_ockletree_feb_6_2014.pdf

- Legal Voice’s brief argued that granting exemption from state’s anti-discrimination laws to large non-profit hospital associations violates the Washington Constitution Privileges and Immunities Clause.
- The State Supreme Court ruled that the anti-discrimination law may apply to employees of otherwise exempt religious institutions if employee’s job duties are not tied to the religious purpose.

AMICUS BRIEF AND WASHINGTON SUPREME COURT RULING THAT ANTI-DISCRIMINATION LAW INCLUDES ONLY LIMITED DUTY TO ACCOMMODATE RELIGION

Kumar v. Gate Gourmet

www.courts.wa.gov/content/Briefs/A08/880620%20Brief%20of%20Amicus%20Curiae%20Legal%20Voice.pdf

<http://www.courts.wa.gov/opinions/pdf/880620.pdf>

- Legal Voice joined this case to ensure that while the state anti-discrimination law should be read broadly to include a duty to accommodate religion, as employees of faith (especially women with socially disfavored faiths) might suffer discrimination, unbridled religious accommodation can permit other forms of discrimination by employers, such as refusals of service (see *Stormans*) based on individual beliefs.
- The court adopted our position, finding that employers do have a duty to accommodate religion, but that duty is limited by the employers’ business needs and the need to avoid other forms of discrimination.

COMMUNITY EDUCATION ON HOBBY LOBBY AND RELIGIOUS REFUSALS

- Legal Voice conducted extensive community education, including many invited speaking engagements, following the Supreme Court *Hobby Lobby* ruling for a range of legal, faith, and community audiences, and hosted a “salon” on the impact of *Hobby Lobby* for Legal Voice supporters.

OFFICE OF INSURANCE COMMISSIONER RULE TO AMEND NETWORK ADEQUACY RULES TO ADDRESS CONCERNS ABOUT RESTRICTED ACCESS TO REPRODUCTIVE HEALTH (AND OTHER) SERVICES RESULTING FROM HOSPITAL MERGERS

<http://www.insurance.wa.gov/laws-rules/legislation-rules/proposed-rules/2014-08/>

- Legal Voice is participating in the rulemaking process and working with allies to identify ways to ensure access to a full range of services through new network adequacy requirements post-ACA.

IMPACT LITIGATION CHALLENGING DENIAL OF PLASMA DONATIONS BY TRANSGENDER DONORS

- Legal Voice represents a transgender woman told by a plasma donation center in Washington that she was ineligible to donate plasma solely because she is a transgender person. The FDA has no blanket prohibitions on blood or plasma donations by transgender people and the client has not engaged in any activity that would disqualify her from donating blood or plasma under FDA rules.
- Legal Voice filed this Washington case in coordination with co-counsel Gender Justice, which is litigating parallel impact cases under state law in Minnesota and Nebraska, challenging for-profit plasma companies policies that deny plasma donors based on discriminatory stereotypes.

2015

WA

ADVOCACY FOR BILL TO PROHIBIT HEALTH CARE FACILITIES FROM LIMITING PROVIDERS' PATIENT CARE

HB 1787:

<http://app.leg.wa.gov/billinfo/summary.aspx?bill=1787&year=2015>

- Legal Voice helped draft and, along with key allies including PP Votes NW, NARAL-WA, ACLU-WA and Compassion & Choices, supported legislation to prohibit health care entities that employ health care providers (HCPs), provide staff privileges, or enter into contractual agreements with HCPs, from limiting or prohibiting HCPs provision of patient-centered care.
- The bill aimed to address the problem of hospital system policies that prohibit providers from providing certain types of care, particularly reproductive health and end-of-life care. Legal Voice strongly supports the rights of HCPs to deliver patient-centered, evidence-based, and medically accurate care.

The bill did not pass this session.

2015

WA

ADVOCACY TO CHALLENGE DENIAL OF MEDICALLY NECESSARY HEALTH CARE TO TRANSGENDER PEOPLE

Janovich v. Sound Health & Wellness Trust

- Legal Voice successfully advocated to overturn a union trust fund's denial of coverage for sex reassignment surgery for a transgender woman insured by the trust's health plan. The trust had denied coverage on the grounds that sex reassignment surgery was "cosmetic."
- An independent external review organization reversed the denial of coverage, finding that the surgery was medically necessary.

2015

HUFFINGTON POST OP-ED ON EXPANDING CONSCIENCE CLAUSES TO RECOGNIZE PROVIDER'S RIGHT TO PROVIDE REPRODUCTIVE AND OTHER HEALTH SERVICES

http://www.huffingtonpost.com/janet-chung/whose-health-care-conscie_b_6154530.html

- Legal Voice attorney Janet Chung published this piece for a national audience.

CHRONOLOGY OF LITIGATION TO ESTABLISH & DEFEND THE WASHINGTON PHARMACY RULE

STORMANS V. SELECKY; NOW STORMANS V. WIESMAN

2005-PRESENT

Washington Board of Pharmacy Rulemaking (2005-07)

- BOP adopted a rule that all pharmacies (but not pharmacists) must dispense all lawful medications and devices on site, without discrimination or delay (see detailed advocacy process, above)

<http://app.leg.wa.gov/WAC/default.aspx?cite=246-869-010>

<http://app.leg.wa.gov/WAC/default.aspx?cite=246-863-095>

Stormans v. Selecky (2007-08)

- The day before the BOP rule was to take effect, anti-choice pharmacy and two pharmacists sued the State of Washington in federal court, alleging the rules infringe their constitutionally protected freedom of religion.
- Legal Voice (then NWLC) and Planned Parenthood of the Great Northwest (PPGNW) intervened in the lawsuit, representing five women of reproductive age and two HIV-positive individuals.
- In November 2007, a federal judge in Tacoma, WA, issued a preliminary injunction temporarily suspending the rules with respect to EC only, finding that the plaintiffs' religious freedom was unconstitutionally infringed, and ordering that the rule was to take effect except as to EC.
- Legal Voice and WA State appealed the preliminary injunction treating EC differently to the 9th Circuit.

http://docs.legalvoice.org/Stormans_v_Selecky_OpeningBrief.pdf

Legal harassment by Alliance Defense Fund (now Alliance Defending Freedom) (2008-09)

- In September 2008 Legal Voice and our advocacy partners in securing the BOP rule, Planned Parenthood of the Great Northwest and NARAL Pro-Choice WA, were served with subpoenas by Alliance Defense Fund (ADF) ordering us to produce all internal and external documents related to communications about the BOP rules with the WA Governor's Office, Department of Health, Board of Pharmacy and Human Rights Commission - **NOT in our capacity as attorneys in the litigation but in our role as "third party" advocacy organizations that had been involved in rulemaking.**
- We filed objections to this harassing, unprecedented demand on grounds including First Amendment privilege, attorney-client privilege, relevance, undue burden and expense of complying.
- Although the court ruled in our favor on some extreme requests, we were required to produce many of the requested documents, including our **communications with state agencies involved in the rulemaking and all documents related to health care refusals anywhere in the country.** ADF demanded these extensive documents (many thousands of pages) within 48 hours and maintained it need not reimburse us for the costs to comply, in violation of Federal Rule 45(d).

- We repeatedly petitioned the court for clarification and relief from this burden, and recruited local and national allies such as Alliance for Justice to submit amicus curiae briefs on the First Amendment issue, while also working to comply.
- The trial court refused to order plaintiffs to pay our reasonable costs in complying.
- Under most circumstances, interlocutory appeals are not permitted, so we did all we could to establish the record for potential appeal of this far-reaching order to the 9th Circuit (which had issued an opinion in another case favorable to our position).

9th Circuit ruling reverses trial judge preliminary injunction singling out EC (2009)

- A panel of the 9th Circuit ruled the WA trial judge was wrong when he issued an injunction suspending the Pharmacy rule for pharmacies and pharmacists who object to dispensing Plan B, noting that the rules are neutral and generally applicable, and therefore subject to rational basis review.
- The anti-choice plaintiffs (now represented primarily by the Becket Fund for Religious Liberty) asked the court to rehear the case, or in the alternative, to have the full 9th Circuit rehear the case *en banc*.
- The trial was scheduled for July 2010.

http://docs.legalvoice.org/Stormans_v_Selecky_Opinion.pdf

Washington State & Board of Pharmacy backpedal; Advocacy campaign to protect strong Pharmacy Rule (2010)

- Three weeks before trial date, the BOP and plaintiffs entered into an agreement, signed by the judge, delaying the trial indefinitely while the BOP undertook new rulemaking; based on the stipulation, the Board appeared ready to adopt a rule to permit broad, perhaps unlimited, refusals.
- Legal Voice convened a broad coalition of reproductive justice, anti-violence, LGBTQ, traditional pro-choice, disability rights, and social justice organizations and activists in a coordinated advocacy campaign aimed at keeping the current rule. This was the first time of which we were aware that allies other than the traditional pro-choice organizations joined to champion a state rule that affects patients (or anyone else, for that matter).
- Over five months of intensive advocacy, three public hearings, and media coverage, the Board first announced it would revise the rule, then, unexpectedly, voted in December 2010 to leave it in place.

Stormans v. Selecky Trial and Decision (2011-12)

- The anti-choice plaintiffs (at the judge's suggestion) moved for partial summary judgment based on the Stipulation into which they and the State entered in 2010 to avoid a trial.
- To our surprise, the judge denied their motion, and scheduled the trial for November 28, 2011.
- The judge did, however, permit the plaintiffs to amend their complaint to include *ella* (the new post-intercourse contraception that works for up to seven days), even though it did not exist when the rules were enacted, and additional discovery.
- Pre-trial activities included preparing witnesses for trial, ensuring they understood the likely hostility of the judge and providing tips about appropriate ways to respond.
- The trial was held over 11 days. Legal Voice participated, working with cooperating counsel and coordinating advocacy with the State's attorneys, to ensure the highest quality defense of the rule.
- We conducted affirmative media outreach and responded to press inquiries from around the country during and after the trial, resulting in 37 press articles that were neutral or positive. Our opponents

(ADF, Becket Fund) escalated their “attacks on religious liberty” rhetoric, which required us to develop new and more nuanced messages.

- On February 22, 2012, the trial court ruled that the rules were unconstitutional (expected from that judge) in a lengthy opinion that adopted almost verbatim the findings of fact proposed by plaintiffs, and was filled with assertions unsupported by the record introduced at trial and numerous hostile statements about the right of women to receive emergency contraception.

9th Circuit Appeal (2012-14)

- We joined the State in appealing the trial court ruling to the 9th Circuit Court of Appeals briefing, response briefing, and supplemental briefing regarding whether the FDA decision to make Plan B One-Step available without identification or prescription renders the case moot.
- Legal Voice brief: http://docs.legalvoice.org/Stormans_v_Selecty_OpeningBrief.pdf
- We also appealed the judge’s denial of our motion for costs incurred in responding to their subpoena to Legal Voice. Plaintiffs argued we were required to file our appeal on that issue at the time of the order requiring compliance; this would have been an interlocutory appeal, ordinarily frowned upon.
- Oral argument was scheduled for October 10, 2013, for both cases. On the day before the argument, one judge on the panel recused himself, rendering it impossible to have the argument. He did sit on the discovery case panel. Argument for the substantive case was set for to December 10, then December 9, 2013, but the Court abruptly canceled the argument pending the outcome in *Burwell v. Hobby Lobby*, 573 U.S. (2014), in which the U.S. Supreme Court ruled that a closely held private corporation could invoke religious belief to deny employees access to contraception under the company’s insurance plan.
- When *Hobby Lobby* ruling came down (June 30, 2014) 9th Circuit asked for briefing about how the ruling affects *Stormans*, which we submitted July 28, arguing *Hobby Lobby* has no effect (our case is constitutional, with no RFRA implication). *Stormans* plaintiffs said *Hobby Lobby* shows they win.
- Oral argument was held November 20, 2014; awaiting decision.
- Still fighting over discovery (2014)
- In January 2014 the 9th Circuit ruled in our favor on the discovery issue, holding a) we were permitted to wait until final orders in the underlying case had been issued, rather than being forced to bring an interlocutory appeal; 2) Rule 45(d) is mandatory, and requires the party seeking discovery from a non-party to pay the reasonable costs of complying with a discovery request.
- Legal Voice and its attorneys submitted briefing and documentation to the trial judge, showing hard costs of \$20,000 and more than \$300,000 in attorneys fees.
- Plaintiffs argued Legal Voice was actually a party, and that our request was an improper fee shifting mechanism (a proposition rejected by the 9th Circuit). They also argued both our staff time and our attorneys’ time and expense was unreasonable.
- Hearing held before the trial judge October 24, 2014.
- January 15, 2015, the judge ruled that Legal Voice was entitled to approximately 50% of the costs incurred, and that Legal Voice’s attorneys should receive less than 50% of the fees they requested. Because the trial judge committed clear errors of law in the standard used to determine costs and fees, Legal Voice filed an appeal to the 9th Circuit.
- On February 27, 2015, the plaintiffs offered to settle the case; after negotiations, plaintiffs paid Legal Voice and our attorneys more than \$141,000. In return, Legal Voice dismissed its appeal.
- Legal Voice cashed its check on April 1, 2015 (no April Fools).

SOUTHWEST WOMEN'S LAW CENTER

COMBATING RELIGIOUS/CONSCIENCE REFUSALS IN NEW MEXICO CHRONOLOGY OF STRATEGIES, MODELS, ACCOMPLISHMENTS & RESOURCES 2006 - 2015

2006

PHARMACY REFUSAL STRATEGY GROUP FORMED TO WORK WITH PHARMACISTS' ASSOCIATION AND NATIONAL EXPERTS TO ADDRESS REFUSALS IN NEW MEXICO

- SWLC convened key advocacy partners (ACLU NM, PPNM, RCRC and NARAL NM Foundation) to work with State Pharmacists' Association and national experts to address pharmacist refusals problem.
- SWLC provided legal and policy analysis for NARAL on NM pharmacy laws, regulations and religious conscience clauses and analyzed pharmacy refusal proposals and policies from other jurisdictions.
- The group held numerous meetings the New Mexico Pharmacists Association to explore strategies for regulating how pharmacies dispense EC, and how pharmacy staff handles refusals and referrals.
- The group partnered with the EC Working Group, NM Pharmacists Association, and researchers at the University of New Mexico Medical School to compile data and anecdotal evidence regarding refusal and failure to stock EC in pharmacies throughout the state.
- SWLC drafted a pharmacy board regulation, with input from MergerWatch and National Health Law Program, which was edited by the Refusals Group, and presented to and discussed with the Pharmacists' Association Director until consensus was reached on a draft to be presented to the Association Board. The Pharmacists' Association Board objected to several critical elements of the proposed regulation, and we learned that staff did not believe there was a refusal problem in NM.

2006-2008

CROSS-SECTOR EMERGENCY CONTRACEPTION WORKING GROUP AND EVOLUTION INTO CONTRACEPTIVE ACCESS WORKING GROUP

Strategic plan available on request

- The EC Working group was an informal coalition supporting community education on EC, chaired by the Medical Director of Planned Parenthood of NM, comprising staff from the Department of Health, UNM School of Medicine, several clinicians, NM Pharmacists' Association, NARAL NM and SWLC.
- In 2007, Advocates for Youth contacted members about working with the group to develop a strategic plan to increase both EC and birth control access in NM. Advocates for Youth agreed to support this effort as demonstration/pilot project to explore how EC coalitions can move into larger advocacy coalitions focusing on contraceptive access issues for low-income women and teens.
- In 2008, SWLC served as fiscal agent and manager of the strategic planning process to broaden the EC Working Group's mission and transition into the NM Contraceptive Access Working Group; Advocates for Youth provided resources and technical assistance.
- SWLC efforts with the Working Group produced a Strategic Plan to implement a multi-year Contraceptive Access Initiative targeting young people 14-24, through provider training, consumer education and non-legislative advocacy.

2007

STATE-SPONSORED STUDY OF EC AVAILABILITY IN NEW MEXICO AND RECOMMENDATIONS FOR INCREASING ACCESS

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=H&legtype=M&legno=%20%2010&year=07>

Report available upon request

- To address the apparent perception by the NM Pharmacist Association and policymakers that there was no EC access or refusals problem in NM and to investigate what is happening in individual pharmacies, SWLC, NARAL NM Foundation, and PPNM collaborated to draft and advocate for passage of a “memorial” in the NM House authorizing a statewide study of the availability of EC in pharmacies throughout the State. The memorial directed the NM Health Policy Commission to survey every pharmacy in the state to ascertain their stocking and dispensing policies with respect to EC, and specifically Plan B in its dual labeling status.
- SWLC drafted the memorial and the Executive Director was the expert witness at the hearing that approved adoption.
- SWLC served on the Advisory Committee to the NM Health Policy Commission, providing technical assistance and support on its survey of pharmacies and health clinics, and in development of its report and recommendations to the Legislature on increasing EC and birth control access.

2007

FIRST-TIME CONFERENCE ON REFUSALS, REPRODUCTIVE HEALTH AND END-OF-LIFE ISSUES

Conference Agenda and materials available upon request

- SWLC convened a diverse group of approximately 50 advocates, medical providers and public officials to learn about health care refusals and challenges to patient self-determination, with a local panels of experts addressing reproductive health and end-of-life issues in New Mexico.
- This meeting and subsequent discussions established the relationships that made it possible to engage a diverse coalition quickly when the merger between a Catholic system and secular hospital in Northern NM was announced the following year.

2008

”HEALTH CARE REFUSALS IN NEW MEXICO: NEW MEXICO LAW AND A CASE STUDY ON EMERGENCY CONTRACEPTION AND COALITION BUILDING”

Report available upon request

- SWLC wrote and presented this analysis of coalition efforts to combat refusals and increase EC and contraception access in NM, and lessons learned from NM, for National Summit on Health Care Refusals, convened in Seattle by Planned Parenthood.

CO-CONVENED BROAD BASED HOSPITAL MERGER COALITION AND CAMPAIGN TO CHALLENGE HEALTH CARE REFUSALS

- SWLC organized the coalition, co-convened with ACLU of NM, in response to merger between St. Vincent Regional Medical Center (only community hospital in Santa Fe) and Catholic CHRISTUS Health.
- We engaged Equality New Mexico Foundation to help educate/engage LGBT community members;
- Conducted community education and meetings to maintain pressure on St. Vincent to keep promises on no changes re: reproductive health and same-sex spouses; advocacy with state and county officials on monitoring written assurances re: continuity of care and enforcement of NM Family Planning Act; media outreach when the hospital was discovered to be circulating contract to require medical staff to follow U.S. Bishops' Ethical & Religious Directives – contradicting written assurances made before the merger. The hospital removed the requirement from the contracts.
- The campaign theme was “get it in writing.” New merged hospital leadership kept saying the merger was essential to ensure the hospital could continue to provide health care services in Santa Fe, that nothing would change, and that making too much noise about it would invite conservatives to require them to be more rigid. It was only when the “get it in writing” campaign went public that pressure was great enough to provide support for the public officials – who had the greatest leverage but still could not stop the merger – who ultimately did get a lot in writing.

MOBILIZED NEW MEXICO ALLIES IN OPPOSITION TO PROPOSED FEDERAL REGULATIONS TO EXPAND HEALTH CARE REFUSALS

Comments by SWLC, NM officials, and allies available upon request

- SWLC coordinated statewide advocacy in opposition to proposed Bush Administration regulations to expand health care refusals, engaging over 30 organizations to sign SWLC comments opposing the regulations, and enlisting the NM Attorney General, Lieutenant Governor, and two Cabinet Secretaries to issue formal comments.
- SWLC prepared detailed analyses of the draft regulation, and advocated privately with numerous state officials to provide technical assistance in submitting formal comments opposing the regulation.
- SWLC advocacy emphasized that the regulation would impact LGBT patients and end-of-life care, not only reproductive health services, and the impact on New Mexico's Uniform Health care Decisions Act. We made a broad health access argument that public policy should promote access to care not create more barriers to it. We aimed to define abortion to include common forms of birth control and use rulemaking to dramatically expand federally recognized refusals in the abortion context.
- SWLC also prepared comments on behalf of allies that helped them frame their particular concerns.
- In 2009, when the Obama Administration formally proposed rescinding the regulation, SWLC submitted additional comments on behalf of the broad coalition and successfully advocated for the NM Health Secretaries to formally support rescission of the regulation.

2009

CONFERENCE ON HEALTH CARE REFUSALS: “WHEN PATIENTS’ RIGHTS CONFLICT WITH HEALTH CARE PROVIDERS PERSONAL BELIEFS”

Conference agenda and materials available upon request

- SWLC hosted this first-time conference in Northern New Mexico, bringing together regional and national experts. Over 50 community members attended.
- Speakers included Lois Uttley of MergerWatch, Kathryn Tucker, national Legal Director of Compassion & Choices, Jenny Pizer of Lambda Legal; one of the attendees was a member of the Santa Fe County Commission who, a month later, helped to organize a public meeting of the County Health Commission to address patient care at St. Vincent hospital. Representatives from Compassion & Choices who attended the SWLC conference also testified at that hearing.

2012

COMPELLED WALGREENS TO CHANGE REFUSAL POLICY NATIONWIDE AND REQUIRING THEIR PHARMACIES TO PROVIDE SEAMLESS SERVICE TO CUSTOMERS SEEKING BIRTH CONTROL, AND PLACE PHARMACISTS WITH RELIGIOUS OBJECTIONS AT STORE LOCATIONS WITH DOUBLE STAFFING

Contact SWLC regarding Walgreens letter outlining Policy Change on Religious Refusals of Pharmacists

- SWLC conducted collaborative advocacy with ACLU of NM in response to a Walgreens pharmacist refusal in Albuquerque. SWLC received the complaint; SWLC and ACLU negotiated with Walgreens’ corporate office; ACLU publicized the story and circulated a petition to have Walgreens change policy.
- Advocacy included notifying Walgreens’ District Office that their Albuquerque pharmacist’s refusal was unlawful under the NM Human Rights Act, and that allowing pharmacists to refuse and refer delays patient access to time-sensitive medication and burdens them with onerous travel. We provided detail on what a refusal policy must include to ensure seamless patient care and prevent discrimination.

2013

DEFEATED BILL TO ADD A RELIGIOUS CONSCIENCE EXEMPTION TO THE NEW MEXICO HUMAN RIGHTS ACT

Proposed legislation:

<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=H&legtype=B&legno=%20%2098&year=13>

- This exemption would have given carte blanche to individuals, including medical professionals, to refuse services to women and LGBT individuals in NM.
- SWLC worked with Coalition for Choice allies to block this bill: ACLU of NM, Religious Coalition for Reproductive Choice, Strong Families New Mexico, Young Women United, Planned Parenthood NM.
- SWLC testimony before the legislature addressed the legal authority of the NM Human Rights Act, current religious exemptions, and repercussions of exempting doctors from providing care to patients based on religious belief, especially in rural areas.

2013

“KNOW YOUR REFUSALS RIGHTS” MATERIALS AND PRESENTATIONS FOR LGBT COMMUNITIES

<http://www.swwomenslaw.org/our-programs/rights-for-trans-new-mexicans/>

- SWLC shared a Law Fellow with the Transgender Law Center and ACLU NM to develop outreach and education to address the knowledge gap in among LGBT communities about religious/conscience refusals, and what is legal/illegal for medical providers and employers to refuse.
- SWLC also monitors outreach efforts for stories about religious refusals and need for intervention.

2013-2014

TRANS (AND LGB) SENSITIVITY TRAININGS FOR CATHOLIC HOSPITAL STAFF AND CLINICIANS

Presentation available upon request

- SWLC worked with Transgender Resource Center in New Mexico to develop and provide these trainings for the merged Christus St. Vincent Hospital system in Santa Fe and Espanola, and Holy Cross Hospital in Taos.

2014

FIRST LGBTQ HEALTH SUMMIT TO EDUCATE HEALTH PROVIDERS AND COMMUNITY ADVOCATES ON NON-DISCRIMINATION PROVISIONS IN THE ACA

Summit Agenda and short power point presentation available upon request

- SWLC partnered with the LGBTQ Health Collaborative, which included UNM research groups conducting survey/town halls on religious discrimination in health care and mental health care, to discuss discrimination/refusals issues in health care in New Mexico. The summit focused on refusals issues in the trans* community for transition care, hospital non-discrimination policies, and conversion therapy provided in lieu of mental health and substance abuse treatment.
- SWLC is now partnering with Equality New Mexico Foundation on potential advocacy on religious discrimination/conversion therapy issue.

2014

PRESENTATIONS ON HOBBY LOBBY'S IMPACT ON RELIGIOUS REFUSALS IN WOMEN'S AND LGBT HEALTH CARE

PowerPoint presentations available upon request

- SWLC conducted extensive community education following the Supreme Court *Hobby Lobby* ruling, for audiences ranging from political groups, community organizations, candidates and members of public office, to college and law school students, and community groups and members.

2014

SECRET SHOPPER PROJECT TO MAP EC ACCESS AND REFUSALS IN ALBUQUERQUE

Albuquerque EC Access Research Report available upon request

- SWLC engaged a UNM student doing her thesis on contraception access to do a systemic “mystery shopper”-style survey of Albuquerque pharmacies’ policies on providing emergency contraception access, especially to minors (using age 16). She had already had personal experience with a 16 year-old family member being denied emergency contraception by a Target pharmacist in Albuquerque.
- She visited or called all the pharmacies in the City, and systematically documented the following: whether EC is available OTC, and whether available OTC to individuals under 17, or available through the pharmacist, and whether available to individuals under 17 through the pharmacist. She also documented whether she was asked her age, made to feel judged for asking for EC, whether EC was out of stock, and noted any other pertinent observations.
- She produced a comparative chart documenting her experience, and identified refusal issues at 2 national chains and 1 regional chain with in-store pharmacy franchises in Albuquerque. SWLC shared findings with our Coalition, and began research to identify systemic strategies to address the problem.
- SWLC shared these findings with the American Society of Emergency Contraception meeting at the EC Jamboree in New York City in September 2014.

2014-ongoing

SECRET SHOPPER PROJECT TO MAP AND ADDRESS PHARMACY REFUSALS STATEWIDE

Survey script available upon request

- Building on our Albuquerque project, SWLC is working with Young Women United and Planned Parenthood NM to develop a statewide secret shopper project to expose pharmacy refusal issues in rural NM and pursue advocacy to address the issues. Elements will include:
 - Calls to pharmacies statewide about EC stocking and access for minors and Medicaid recipients
 - A “Report card” grading all pharmacies and making public awards to those with excellent ratings
 - Advocating for Pharmacy Board rules and training on EC OTC (using report card findings)
 - Exploring ways to leverage successful Walgreens refusal advocacy in Albuquerque, and Walgreens’ change of policy nationwide to require seamless service for birth control and EC

2015

DEFEATED ABORTION BILLS WITH RFRA COMPONENTS IN THE 2015 LEGISLATURE

Talking points to support this advocacy are available on request

- SWLC and NM Coalition for Choice allies successfully defeated a 20-week abortion ban and forced parental notification bill that included RFRA components that would have allowed any health care provider, hospital or pharmacy in NM refuse reproductive health services for any moral or religious objection. Our campaign included extensive pre-session legislator education; a press conference with doctors, patients and religious leaders; a grassroots lobby day; and mobilization of 100 community members to oppose the bills at hearing. Successes included moving on-the-fence legislators to not only vote against the bills, but also share their stories and use Coalition talking points.

WOMEN'S LAW PROJECT

COMBATING RELIGIOUS/CONSCIENCE REFUSALS IN PENNSYLVANIA CHRONOLOGY OF STRATEGIES, MODELS, ACCOMPLISHMENTS & RESOURCES 2001 - 2015

2001-2008

PENNSYLVANIA PRESCRIPTION CONTRACEPTIVE EQUITY ACT

<http://womenslawproject.wordpress.com/2008/10/22/contraceptive-equity/>

<http://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=HTM&sessYr=2007&sessInd=0&billBody=S&billTyp=B&billNbr=0038&pn=0070>

- WLP advocated in collaboration with Pennsylvania allies in the Campaign for Contraceptive Coverage, to expand insurance coverage of contraceptives. A survey performed by NARAL-PA had revealed that 21% of insurance companies in Pennsylvania covered no method of birth control, and 43% did not cover all five methods of contraception. The campaign supported passage of the Prescription Contraceptive Equity Act to require health insurance policies that cover prescriptions generally to provide equivalent coverage for prescription contraceptive drugs and devices.
- Though not passed, HB 2756 and SB 38 offer proactive bill/statutory language.

2008

REGULATIONS LIMITING REFUSALS UNDER PENNSYLVANIA "EC IN THE ER" LAW

Pa. Code tit. 28 § 117.53, § 117.55 and § 117.57

<http://www.pabulletin.com/secure/data/vol38/38-4/170.html>

- WLP worked with the Pennsylvania Department of Health on regulations governing provision of emergency contraception in hospital emergency rooms. We succeeded in securing final regulations with a very limited refusal clause: If a hospital claims a religious or moral exemption, that hospital must still provide written information about EC, and arrange for a victim who requests EC to be transported to a facility that provides EC. Hospitals must also ensure each member of the hospital personnel providing sexual assault emergency services is provided with written informational materials about EC.

2008

COMMENTS OPPOSING PROPOSED FEDERAL PROVIDER CONSCIENCE REGULATION

http://www.womenslawproject.org/testimony/DHHS_Regs_ProviderConscience.pdf

- WLP submitted comments opposing proposed Bush Administration regulations to expand health care refusals, detailing their impact on access to family planning, including medically necessary health care, lack of exceptions in cases of emergency, and that the regulation itself is overly vague and broad, as well as unnecessary, given constitutional protections for freedom of religion.

2009

EC PHARMACY ACCESS PROJECT: SECRET SHOPPER OUTREACH AND PHARMACIST EDUCATION

http://www.womenslawproject.org/NewPages/wkRepro_policyPlanB.html

- Following newly issued guidance from the PA Board of Pharmacy (BOP) requiring refusing pharmacists to ensure seamless provision of EC, WLP interns and staff phone-canvassed 404 pharmacies in western PA and made in-person visits to 27 that did not stock EC to discuss the new BOP requirements.
- The visits were successful. After visiting 27 pharmacies, 17 (63%) had either ordered Plan B and had it in stock as a result of our earlier phone call or expressed a willingness to order it for a customer who came in. Of the pharmacies that still did not have it in stock or were unwilling to order it, most of them said that they referred customers to other pharmacies if they asked for it.
- WLP conducted extensive public education and speaking about pharmacy refusals.

2013

ADVOCACY AND SOCIAL MEDIA CAMPAIGN OPPOSING HOSPITAL MERGER THAT WOULD HAVE ELIMINATED ABORTION SERVICES IN SUBURBAN PHILADELPHIA

- WLP advocated on behalf of a group of reproductive health providers against the merger of two hospitals that would have curtailed reproductive health care services for women at Abington Hospital.
- The campaign succeeded in persuading the hospital to cancel plans for the merger.

2014

PRESENTATIONS ON HOBBY LOBBY AND RELIGIOUS REFUSALS IN HEALTH CARE

- WLP responded to *Burwell v. Hobby Lobby* by partnering with community groups to co-host forums to reach young women and women of color with information and resources on the new health care law.

2014-2015

PATIENT TRUST ACT BILL

www.womenslawproject.org/NewPages/lgLegislative_Action.html

http://www.womenslawproject.org/NewPages/lgLegislative_Action.html

- This bill would protect patients by prohibiting government directives that require medical providers to give patients information that is not medically accurate or to practice medicine in a manner not in accordance with evidence-based standards.
- The bill was introduced in June 2014 as part of the second phase of PA Agenda for Women's Health, through which WLP collaborates with other allies to advance comprehensive legislation and messaging to link women's health, reproductive rights and economic security. The bill did not pass in 2014.
- The Patient Trust Act has received the endorsement of the Pennsylvania Section of the American College of Obstetricians and Gynecologists. A cosponsor recruitment effort is currently underway, and the bill is expected to be reintroduced summer 2015.

ALLIANCE CONTACTS

Please contact us for further information, technical assistance in adapting our strategies in other states, and additional partnership opportunities.

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