

Catholic Health Care State Reports: Texas

Introduction

In 1973, the United States Supreme Court struck down a Texas law banning abortion and affirmed that a woman has a constitutional right to choose abortion. In spite of being home to *Roe v. Wade*, Texas has a long history of encroaching upon women's reproductive freedom. Not only has the state enacted pervasive antichoice laws, it has consistently included antichoice language in the biennial appropriations bills, most recently in 2003, when language was adopted that prohibited the state from contracting for family planning services with any entity that provided or paid for abortion services. This language would have defunded six Planned Parenthood affiliates and the City of Austin, which pays for care for poor women through their Medical Assistance Program. A suit was filed by the six Planned Parenthood affiliates, and they have won twice in court. They are now awaiting

a ruling from the US Fifth Circuit Court of Appeals.

The hostile climate Texas women face was recently exacerbated when a Texas judge declared unconstitutional the Freedom of Access to Clinic Entrances Act—a federal law to combat violence against and intimidation of abortion providers, staff and patients at reproductive health clinics—departing from an accepted standard of at least nine US Courts of Appeal.¹¹ Today, Texas women face a wide array of barriers to reproductive health:

- Limited abortion providers (95 percent of Texas counties do not have a provider),
- Impeded access to services (there is a mandatory waiting period before an abortion can be obtained),
- Insufficient public funding for reproductive health services (currently public funding for abortion is restricted to cases of life endangerment, rape or incest).

The Catholic church plays a prominent role in shaping the culture and availability of reproductive health care in Texas. Many of the women in Texas facing restrictions are prospective patients of Catholic hospitals, where stringent rules govern access to reproductive health services. More than four million people, including undocumented workers and individuals from out of state, rely on Catholic hospitals for medical treatment each year in Texas.¹² The Catholic church operates 35 of 513 hospitals in Texas, as well as 92 health care centers in the state.¹³ Additionally, the bishops and members of the Texas Catholic Conference (TCC), the public policy arm of the Catholic church in Texas, play an influential behind-the-scenes role in the state's legislative process on issues pertaining to reproductive rights.

The surfeit of antichoice legislative initiatives and the diminished access to reproductive health services align

Texas at a Glance

Catholic population	5,665,053 ¹
Total population	21,074,207 ²
Percent of total population that is Catholic	27% ³
Catholic hospitals	35 ⁴
Patients served annually by Catholic hospitals (includes admissions and outpatient visits)	4,158,451 ⁵
Total hospitals in Texas	513 ⁶
Percent of hospitals that are Catholic	6.8 ⁷
Catholic health care centers	92 ⁸
Patients assisted annually at Catholic health care centers	726,107 ⁹
Patient served annually by all hospitals	33,914,964 ¹⁰

to deny women in Texas full reproductive health options.

Reproductive Health Care in Texas:

Only five percent of Texas counties have an abortion provider.¹⁴ Any woman living outside of the 13 counties where abortion is available (out a total of 254) may have to travel long distances to obtain services.

Texas has the highest percentage of uninsured women in America.¹⁵ Between 2001 and 2002, approximately 31 percent of women in Texas between the



ages of 15 and 44 lacked health insurance. Although there is a network of almost 400 state and federally funded, community-based family planning clinics in Texas that provide basic health care services and contraceptives for low-income women, including undocumented residents, limited funding only allows 25 percent of those in need to receive these essential services.¹⁶

Insufficient health care coverage affects women and girls from varied back-

Texas Abortion Statistics, 2002	
Percent of pregnancies among women of childbearing age*	11.2%
Percent of pregnancies resulting in abortion	16%
Number of women obtaining abortions in Texas**	89,160
Percent of abortions in Texas of all abortions in US	6.8%
Percent of women residing in counties with no abortion provider	32%
Percent of women in the Texas region traveling at least 50 miles for abortion services	32%
Percent of women in the Texas region traveling at least 100 miles for abortion services	10%

* Total number: 531,920

** Some women obtaining abortions in Texas reside in other states, and some women in Texas seek services out of state.

Source: Alan Guttmacher Institute, *State Facts About Abortion: Texas*, New York: AGI, 2003.

grounds. Large numbers of women from working poor families are uninsured, as are many whose employers do not provide health insurance benefits and those who have lost their health insurance with the loss of their job. Women who once possessed health benefits through a spouse who has died or has been divorced also lose benefits. Still more are poor, undocumented residents whose legal status disqualifies them from Texas' Medicaid program and services, with the exception of "emergency" Medicaid delivery services. While Medicaid will pay for the cost of labor, it will not cover expenses for prenatal care, screening for breast and cervical cancer, diabetes and hypertension.¹⁷

From 2001-02, only 7.5 percent of women between the ages of 15 and 44 were insured by Medicaid or the State Children's Health Insurance Program (SCHIP). In August 2003, Texas reduced the Medicaid eligibility for pregnant women over the age of nineteen from 185 percent above the poverty level to 158 percent.¹⁸ While Texas already severely restricted public funding for abortion services, this move stripped Medicaid coverage for

services such as family planning and prenatal care from approximately 18,000 women.¹⁹

Abortion and Pregnancy Rate

In Texas, 493,560 of the 4,405,800 women of child-bearing age (11%) become pregnant each year. Eighteen percent of these pregnancies result in abortion.²⁰ Texas' lower abortion rate is likely attributed to the difficulty in finding and accessing abortion providers, the laws requiring parental notification for minors and the lack of funding for low-income women. Although the Texas teenage pregnancy rate is higher than the national average and ranks fifth in the nation, the teen abortion rate is lower and the birth rate higher.²¹ Considering Texas' emphasis on abstinence-based sexuality education and the restrictions that encumber minors' access to abortion (see *Legislation*), it is not surprising that the numbers trend in these directions.

Directives for Catholic Health Care

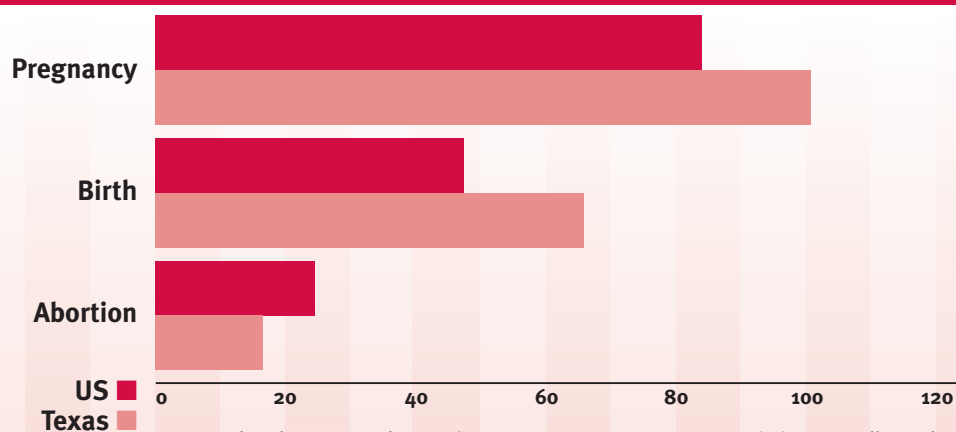
The Catholic church controls approximately seven percent of acute care hospitals in Texas. Religious

mandates have been set for these hospitals through the *Ethical and Religious Directives for Catholic Health Care Services* (the *Directives*). The most recent edition of the *Directives*, issued in June 2001 by the United States Conference of Catholic Bishops (USCCB), reaffirms the religious basis of Catholic health care. The *Directives* claim that they present "a theological basis for the Catholic health care ministry."²² For the bishops, this basis mandates that Catholic health care concern itself with the protection of human life with a strong emphasis on fetal life. Part One of the *Directives* describes the centrality of this belief for their mission:

...(First) Catholic health care ministry is rooted in a commitment to promote and defend human dignity; this is the foundation of its concern to respect the sacredness of every human life from the moment of conception until death.²³

The *Directives* establish very specific guidelines governing the types of care offered to patients served by Catholic facilities. Their mission is to implement the church's moral and ethical teachings in all Catholic-affiliated

Rates of Pregnancy, Birth and Abortion per 1,000 Women Aged 15-19



Source: The Alan Guttmacher Institute, *US Teenage Pregnancy Statistics: Overall Trends, Trends by Race and Ethnicity and State-by-State Information*, New York: AGI, February 2004.

institutions, so the *Directives* stress “the sanctity of human life from its very beginning, and ... the dignity of marriage and the marriage act by which human life is transmitted.”²⁴

Catholic hospitals explicitly prohibit contraceptive practices, abortion services, assisted reproduction and voluntary sterilization. Other prohibitions outlined in the *Directives* are worded more vaguely and interpretation of them is often left to the hospital in consultation with the local bishop. These include exclusions of reproductive technologies such as fertility treatments, the provision of emergency contraception to women who have been raped and education about and provision of condoms to prevent HIV/AIDS and other sexually transmitted diseases.

Catholic Health Association of Texas

The Catholic Health Association (CHA) of Texas owns, operates and/or leases a large number of health care

facilities in Texas. Its mission is to respond “to the call of the Gospel by advocating for health care policies and programs that provide quality, affordable and accessible health care for everyone in Texas.” The CHA of Texas claims to focus primarily on the needs of the poor and vulnerable persons in the state and promote collaboration among Catholic health care providers and other ministries and organizations. Its vision is “that Catholic health care ministry is a stronger and more viable component of a comprehensive and sustainable health care system for Texas.”²⁵

The CHA of Texas is enormously influential in health care, and it frequently finds its perspective successfully informing a range of issues. As a trade association it has a primary interest in obtaining favorable financial conditions for its members, including levels of reimbursement for services, freedom from government regulation and access to funds from many branches

of government. It also has a strong and positive interest in advocating for underserved populations. It claims that advocacy is the most important activity that it undertakes as a unified ministry, and one of the 2004–2010 strategic goals of the CHA of Texas is “to conduct an effective advocacy campaign that supports adequate funding for health care safety net programs.”²⁶ Its goals also state that it is imperative that Catholic hospitals, health systems and other health ministries work together to address the growing issue of health care for the uninsured in the state. The association has an Advocacy Committee that manages the CHA’s legislative priorities and serves as its liaison to public policy makers.²⁷

The CHA of Texas’ Board of Trustees are key members of Catholic health care facilities and Catholic social service agencies. Texas Catholic Conference Executive Director Brother Richard Daly is a member of the Board of Trustees, as is Dean

Terrebonne, the Executive Director of the Catholic Charities of Beaumont, and presidents and CEOs of various Texas Catholic hospitals.²⁸

CHA’s influence extends beyond its own programmatic initiatives; the Catholic hospitals who are members of the CHA also join the Texas Hospital Association (THA). As members of the CHA, Catholic hospitals are organized and can coordinate strategies, and thereby exert a greater influence on their colleagues and the THA. This pressure was felt by the Texas Campaign for Women’s Health, a project funded in part by the Open Society Institute to organize and advocate for basic women’s health care services including family planning and services for older women such as mammography. When the Campaign approached the THA for support, marginal support was offered because of a compromise that the THA had to reach with its Catholic members. While the THA could co-sponsor the project, they could not offer financial support because of the Campaign’s family planning component.²⁹

Hospital Mergers

Throughout the United States, patients’ rights are being threatened as a result of Catholic sponsored health systems acquiring non-Catholic hospitals. The restrictions at Catholic sponsored hospitals are significant, particularly those involving reproductive health. Since the *Ethical and Religious Directives for Catholic Health Care Services* govern the types of services offered at Catholic

hospitals, patients whose nonsectarian hospitals merge with Catholic hospitals often find themselves denied services such as abortion and contraception. Not only are hospitals affected, but clinics and doctor's offices across the country are also being circumscribed in their practices as Catholic hospitals merge with or acquire medical office buildings and physicians' practices.³⁰

In the rush to accommodate Catholic hospitals' demands for special rights that exempt them from providing health care services they find objectionable, policy makers have ignored the rights of patients. According to the MergerWatch project, "Some religious systems are also using their market power to force competing non-sectarian hospitals out of business, leaving patients with no choice. Further, many religious hospitals are helping to create sectarian managed care plans that refuse to cover those reproductive health services deemed immoral." Such restrictions are threatening patients' rights to complete medical information and informed consent, and they are reducing consumer access to a full range of health care services and choices.³¹

In addition to formal mergers, Catholic hospitals are consolidating their power by aligning in powerful regional health care systems or establishing leasing agreements. This enables these systems to become the dominant health care provider for an entire area. There are 10 Catholic health

systems based in Texas, not including the Ascension Health system, the largest Catholic and not-for-profit health system in the country, which owns several Catholic hospitals and health care centers in Texas.^{32,33} A number of mergers have occurred in Texas with varying effects on the provision of reproductive health care in the state.

Brackenridge

In 1995, Seton Healthcare signed a 30-year lease to operate Brackenridge Hospital, an Austin-based public hospital.³⁴ This merger, one of the country's most controversial, began the previous year when the Austin City Council and City Manager became increasingly worried about the projected financial losses of Brackenridge. Although a committee had been developed to explore the formation of a hospital district with taxing authority, the city manager suggested allowing Catholic-owned Seton hospital, which is operated by Daughters of Charity Healthcare, to manage the city hospital (in 1999, Daughters of Charity Healthcare and St. Joseph Health System joined to form the Ascension Health system).

Reproductive rights and health care advocates in the community objected, citing concerns about continued access to reproductive health care services at the hospital. Brackenridge, a provider to the community's poor and low-income families, was supported by city tax dollars and had high community investment. Regardless, the

committee was disbanded, and the majority of the council embraced the contract with Seton to manage Brackenridge and its Austin Children's Hospital as a financial win for the city.³⁵

Several city council members that felt strongly about reproductive health services being provided at the hospital formed an advocacy group. They reached an agreement with Seton to maintain the reproductive health care services that had been available at Brackenridge, including tubal ligations, contraceptives and post-partum contraceptive counseling. Although both Seton and the city council signed the lease agreement, within a year problems arose. Some conservative Austin Catholics who were displeased with the arrangement wrote the Vatican.³⁶

Much to the surprise of many, the Vatican directly intervened in this matter in a way that showed a lack of understanding of the principle of separation of church and state that is a bedrock of American constitutional law. In a letter to US Bishop John McCarthy of Austin, Texas, the Vatican's Congregation for the Doctrine of the Faith instructed the bishop to terminate all access to contraception and sterilization at Brackenridge Hospital. The June 1997 letter was part of a series of correspondence regarding the leasing arrangement between Seton and Brackenridge. "This Congregation," the letter reads, "directs Your Excellency to ensure that

direct sterilizations, as well as any other contraceptive programs, immediately and permanently cease at Brackenridge Hospital."³⁷ In September 1997, McCarthy wrote that "the completed lease agreement is the result of a slow and cautious process and one in which every effort has been made to seek conformity with Church teaching."³⁸ It was clear that McCarthy understood the profound problem that denying such services on the basis of a directive from the Vatican would create in what was in essence a public institution. Indeed, the subsequent denial of such services at Brackenridge is to our knowledge the only instance in which a public hospital has denied services based on a religious test.

Demands from the Vatican continued, making it increasingly difficult for Seton and the bishop to find a workable compromise. Sterilization services continued for several years in a separate suite at Brackenridge, which performs approximately 400 voluntary sterilizations annually, based on the 1995 management agreement that required Seton to allow reproductive services but no abortions on site at Brackenridge.^{39,40} Despite the original agreement, Seton requested that the salaries and benefits for staff involved in providing tubal ligations be paid for with city funds; the city council agreed.⁴¹

In 2001, Seton again decided to renegotiate the terms of the lease to conform with the *Directives*. In June of 2001, the USCCB revised the *Directives* to eliminate

sterilization services at all hospitals affiliated with Catholic hospitals—even if those hospitals were not directly owned by the Catholic church. This came after the Vatican had over-turned permission for mergers or joint agreements at three hospitals where sterilization services had been preserved in hospital mergers, including Brackenridge—a public hospital financed by public funds.

The Vatican decision rocked the Catholic health care world and had been fought vigorously by the national Catholic Health Association, which noted fourteen problems in a memo to its members and the US bishops that would ensue if sterilization services were categorized as forbidden in the same way abortion was forbidden. The memo cited a number of “doomsday scenarios” which included: “the undoing of partnerships; loss of Catholic sole provider hospitals; discontinuation of OB/GYN services in many Catholic hospitals; increased anti-Catholic sentiment; alienation of Catholic healthcare from other providers, patients and payers; and the elimination of Catholic healthcare in some areas.”⁴²

Nonetheless, The Vatican insisted on revising the provisions of the *Directives* that had been used to justify the continuation of sterilization services in Catholic-owned, managed or affiliated hospitals in the US. *Directive 70*, which previously said that hospitals should consider the

possibility of scandal when applying the principles concerning cooperation, was revised to ban immediate material cooperation with sterilization.⁴³ The new directive reads:

“Catholic health care organizations are not permitted to engage in immediate material cooperation in actions that are intrinsically immoral, such as abortion, euthanasia, assisted suicide, and direct sterilization.”

This is the first time the bishops placed sterilization in the same category with abortion as an act that is “intrinsically immoral.”⁴⁴

After negotiations with reproductive health advocates, city staff and representatives of Seton, the decision was made to operate a separate hospital within Brackenridge called The Austin Women’s Hospital. The hospital, run by the state’s University of Texas Medical Branch (UTMB), operates on the fifth floor of Brackenridge with separate entrances and elevators. In spite of the fact that this change is not optimal in terms of patient care and represents a departure from the agreement for the benefit of the Catholic partner, the city agreed to use public funds to repay Seton the \$9 million in renovation and building costs for the creation of the hospital-within-a-hospital. Thus, the taxpayers will foot the bill to accommodate a religious refusal to provide legal and needed services to the community.⁴⁵

In 2004, residents of Austin voted for the creation of a health care district to support indigent care that is scheduled to begin operation October of 2004. The district will assume ownership of Brackenridge and Children’s hospitals from the city of Austin, though Seton will still run Brackenridge, and the *Directives* will remain in place and continue to restrict the provision of sterilization services.⁴⁶

Seton Edgar B. Davis Hospital

In February 1999, Seton Healthcare Network signed a 30-year lease agreement with the City of Luling to operate what became called the Seton Edgar B. Davis Hospital. Seton Edgar B. Davis serves more 35,000 area residents and is one of the 22 health care service facilities operated by the Seton Network.⁴⁷ Included in this agreement was \$1 million from Seton to save Edgar B. Davis from having to close its doors, as long as, they were willing to abide by the *Directives*. Prior to the agreement, Edgar B. Davis did not provide abortions, but provided tubal ligations. By joining with Seton, patients now have to travel close to 20 miles to receive that procedure.⁴⁸

CHRISTUS Health System

In February 1999, the Sisters of Charity of the Incarnate Word in San Antonio and Houston combined their health care systems to form the CHRISTUS Health System. The conjoined organization labels itself a “Catholic, faith-based ministry,” and it includes more than 40 hospitals and

facilities nationwide, 18 of which are located in Texas.⁴⁹ CHRISTUS Health System also maintains an advocacy branch, asserting that their “commitment to advocate for systemic change, with a preference for the poor, requires [them] to be active at the state and national level where far-reaching health care policy decisions are made.”⁵⁰ CHRISTUS Health system has headquarters in Irving, Texas and is the eighth largest health care system in America.⁵¹

Funding of Texas Catholic Hospitals

Catholic hospitals and health centers in Texas are independent, religious, nonprofit institutions that provide valuable and much needed services to their communities. Catholic hospitals, like other US hospitals, are funded through various federal and public sources, such as Medicaid and Medicare reimbursements. Although Catholics hospitals receive a large amount of public funding for services, the *Directives* prohibit them from offering basic, essential medical services such as abortion, even those that are medically necessary, or contraceptives. While the public affairs departments of these institutions present the hospitals and other services as a gift from the Catholic community to public well being, in fact few church-related dollars are spent on these institutions. They often generate net revenue that is used to support other religious activities—either of the religious orders that sponsor them, such as the care of elderly members of

the order, or educational and advocacy efforts of the church that taxpayers may or may not support.

While many Catholic hospitals in Texas have large net revenues, they do not offer as high an amount of charity care as other hospitals in the state.⁵² According to data provided by the *American Hospital Association*, the average net patient revenue for 429 reporting non-Catholic Texas hospitals in 2001 was \$58,020,411.⁵³ In this same year, the average net patient revenue for 31 reporting Catholic hospitals in Texas was \$92,107,242.⁵⁴ These figures clearly show that Catholic hospitals are highly solvent in Texas and receiving significant revenue from patients, government funds and other programs at a rate higher than that of non-Catholic hospitals.

Catholic hospitals are expected to provide services to low-income and uninsured individuals through charity

care and are not generally viewed as revenue-generating operations. According to the Robert Wood Johnson Foundation, a funder of programs designed to enhance public health, “In lieu of property, sales, income, and other tax revenues to local, state, and federal government, these hospitals are expected to provide services that benefit the community, including free health care to the indigent and uninsured.”⁵⁵ The Institute for Health and Socio-Economic Policy (IHSP) has researched hospital profit margins. By comparing the amounts that hospitals charged for services to their actual costs, the organization defined the “most expensive hospitals” as those that charged the greatest amounts in relation to their costs. Trinity Medical Center, a Catholic hospital, was found to be one of the most expensive hospitals in Texas, charging exorbitant fees. Their charge to cost ratio was 469.1 percent

(compared to the national average of 205.8 percent).⁵⁶

Another indicator of charitable services is the amount of Disproportionate Share Hospital (DSH) payments made via Medicare and Medicaid to institutions that serve low-income and uninsured patients; the higher the payment, the greater the hospital’s provision free or un-reimbursed care. According to an issue brief authored by the National Association of Public Hospitals and Health Systems, “DSH payments are a critical component of financing care for the uninsured and the underinsured.” The Centers for Medicare and Medicaid Services report that 166 reporting non-Catholic hospitals in Texas received an average of \$7,716,447 in DSH payments for fiscal year 2003. For the 15 Catholic hospitals that reported DSH payments, an average of \$5,054,977 was received for fiscal year 2003.⁵⁷ While most Catholic hospitals include in their mission a commitment to the poor and underserved, non-Catholic hospitals are the ones providing more charitable services to those in need.

The executive salaries of some Catholic hospital administrators also demonstrate the degree to which Catholic health care has distanced itself from a priority commitment to the poor. While it is understandable that Catholic hospitals need qualified professionals running the hospitals and to a substantial degree need to be competitive in compensating

these professionals, few hospitals are actually run by the sisters that are members of the religious orders that sponsor these hospitals. They are run by the same MBAs that run profit-making hospitals and pay the same high salaries that have contributed to rising health costs for all. For fiscal year 2001–2002, Bob Salem, Senior Vice-President of Covenant Health System reported compensation of \$907,000. For this same fiscal year, Jake Henry, Jr., former president of CHRISTUS Spohn Health System, reported compensation of \$582,240. A survey by Modern Healthcare found the average total compensation in 2002 for top US healthcare executives (administrator/president/CEO) to be \$274,400.⁵⁸

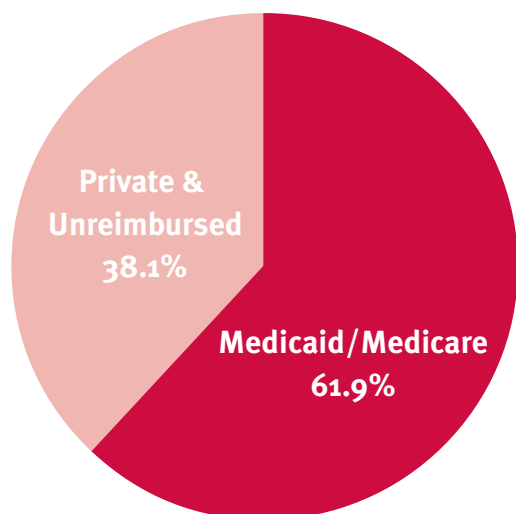
Legislation

The Texas state constitution does not provide greater protection for reproductive choice than the federal constitution, nor does the state provide public funding for medically necessary abortions except in cases of rape, incest, or to save a woman’s life.⁵⁹ It is reasonable to believe that if the Supreme Court were to overturn *Roe v. Wade*, the Texas case that gave women in the US the right to choose, abortion would be illegal in Texas within a matter of weeks.⁶⁰

The “Woman’s Right to Know Act”: An Undue Burden By Any Other Name

A 1992 case, *Planned Parenthood of Southeastern Pennsylvania v. Casey*, enabled individual states to pass

Average Total In-Patient Days for Catholic Acute Care Hospitals in Texas 2002



Catholic Hospital Executive Salaries, Fiscal Year 2002*

<i>Name</i>	<i>Title& Employer (Hospital System)</i>	<i>Compensation**</i>
Bob Salem	Senior VP, Covenant Health System	\$907,000
Jake Henry Jr.***	President, CHRISTUS Spohn Health System	\$582,240
Ed Meyers	President, CHRISTUS Health Southeast Texas	\$387,552
Sally Jeffcoat	President, CHRISTUS Health Gulf Coast	\$352,823
Don Beeler	President, CHRISTUS Health ARK-LA-TEX	\$338,162
<i>National Average</i>	<i>Top US Hospital Administrator/President/CEO</i>	<i>\$274,400</i>

* Figures are for fiscal year beginning 07/01/2001 and ending 6/30/2002.

** Includes direct employee compensation, contributions to employee benefit plans, expense accounts and other allowances.

*** Resigned 2002.

Source: Internal Revenue Service Form 990 (2001): CHRISTUS Health ARK-LA-TEX, CHRISTUS Health Gulf Coast, CHRISTUS Health Southeast Texas, CHRISTUS Spohn Health System, Covenant Health System

legislation restricting access to abortion.⁶¹ The court decision for Casey has been interpreted to mean that laws that restrict access to services by means such as informed consent requirements, waiting periods, judicial bypass options for minors and regulation of facilities, do not constitute an “undue burden” on women and are therefore constitutional.⁶²

In 2003, the Texas Department of Health and the State Board of Health published guidelines for the “Woman’s Right to Know Act.” The Act imposes an onerous 24-hour waiting period on abortion. This law states that a woman may not obtain an abortion until at least 24 hours after the physician orally:

- (1) informs her of the probable gestational age of the “unborn child”,
- (2) describes the possible medical risks associated with the proposed abortion procedure, and
- (3) describes the risks of carrying the pregnancy to term.

In accordance with this law, all abortions after 16 weeks must take place in hospitals or ambulatory surgical centers, despite the fact that there is no evidence that this results in greater safety for women. It does, however, succeed in limiting access as there are almost no ambulatory surgical centers in Texas that provide abortion services, nor are there many abortion facilities that are licensed as ambulatory surgical centers.⁶³

In addition, at least 24 hours prior to an abortion, the woman must receive a state-mandated lecture by the physician or physician’s agent, by telephone or in person, which must include:

- (1) that medical assistance benefits may be available for prenatal care, child-birth, and neonatal care;
- (2) that the “father” is liable for child support even if he has offered to pay for the abortion; and
- (3) that she has a right to review state-prepared materials that describe the “unborn child” and list agencies that offer alternatives to abortion.⁶⁴

Many women are not aware that they are required to call ahead and make an appointment for service, and they arrive at a clinic to learn there is a 24-hour waiting period to obtain an abortion. This can be a devastating disclosure as many have missed work and/or have gone through great pains to find transportation and child care for the trip. “Although seemingly neutral, the waiting period negatively impacts poor, rural women, who must travel to one of the [13 counties] in Texas that provide abortions.”⁶⁵

In addition to the waiting period and lecture, a woman must receive biased state-prepared materials that include enlarged color photographs of fetuses.

TRAPs and Other Laws that Obstruct Access

Texas has a TRAP (Targeted Regulations against Abortion Providers) law that obstructs abortion access by more stringently regulating the medical practices of abortion providers than those of other health care providers. In Texas this law requires providers, including private physicians, who perform

more than 50 abortions per year to have their professional facilities become licensed as abortion facilities.⁶⁶ This requirement is difficult for physicians because not only are licensing fees very high, perhaps even prohibitive, for doctors who provide a limited number of abortions, but also doctors fear unreasonable inspections based not on health needs but as an effort to intimidate. Ultimately, the costs and the inconvenience will likely deter even more doctors from providing abortions.⁶⁷

Texas Abortion Facility Reporting and Licensing Act

In 2003, a woman sued the state for its failure to enforce the Texas Abortion Facility Reporting and Licensing Act (Health and Safety Code chapter 245), a typical TRAP law. As part of the settlement for the plaintiffs in *Elizabeth Herrera et al. v. The State of Texas*, the State Board of Health received “suggestions” that exceeded the parameters of the law, including requirements that a woman seeking abortion services must present photo identification to be included in her medical chart. The Board of Health implemented the suggestions.⁶⁸

Mandatory Parental Consent and Notification

The Mandatory Parental Consent and Notification law restricts minors’ access to abortion services by requiring a woman under the age of 18 to obtain the permission of a parent prior to the procedure. While voluntary efforts by

counselors and other health professionals aimed at assisting adolescents in discussing a pregnancy with their parents is a very important element of comprehensive reproductive health care, it is unlikely that mandating notification or consent without careful counseling and assistance to both teens and their parents will have a positive effect on young women's well being. Instead, such blatantly political laws increase young women's risk of physical and emotional abuse, interfere with access to confidential medical care, create delays in access to medical care and impose forced teen parenting.⁶⁹ According to Diana Philip, former Executive Director of Texas-based Jane's Due Process, a non-profit information and advocacy center dedicated to promoting fair and equal access for Texas teenagers seeking legal services in order to make a reproductive choice, the notification law is making the abortion process even more arduous for young women. In one instance, a pregnant 17-year old girl seeking a medically necessary abortion faced a huge dilemma when informed she needed to notify her physically abusive parents; she was certain if they found out that she was pregnant she would be kicked out of her home. Already 14 weeks pregnant, the young woman did not have a great deal of time to obtain the abortion under Texas law. Because of the critical nature of the abortion, the young woman sought a judicial bypass.⁷⁰ Many teenagers choose this option to avoid parental

confrontation. For some young women, this is an even more stressful task because many do not know how to get a lawyer, they must take time off from school to go to court, and they must face a judge.⁷¹

Third Trimester Abortion

Under *Roe v Wade*, abortions in the third trimester of pregnancy can be prohibited by the state so long as there is an exception for the life and health of the woman. Texas legislation bans third trimester abortions if the fetus is viable. This statute leaves the judgment of viability completely to the attending physician, specifying exemptions for fetal anomalies and both the physical and mental health of the woman.⁷² This legislation also contains a refusal clause enabling certain individuals or entities to refuse to provide abortion services.⁷³ For a review of Texas' recent bills and statutes, see Table III.

Access to Emergency Contraception

Emergency contraception (EC) works to prevent ovulation or inhibit the implantation of a fertilized ovum if ovulation has already occurred. EC is most effective when used within the first 24 hours following unprotected intercourse, however, it is highly effective and has normally been administered in the first 72 hours, and recent studies have suggested it could be effective up to 120 hours (or five days) after intercourse.⁷⁴ The National Institutes for Health, the American College of Obstetricians and

Gynecologists (ACOG), and the American Medical Women's Association (AMWA) all define pregnancy as beginning at the time of implantation. EC is recognized as a contraceptive device; the pills do not impact an existing pregnancy.

A Scripps Howard Data Center Texas poll conducted in November 2001 surveyed 1,000 adult Texans by telephone in a random sample. The poll showed that 58 percent of Texans surveyed support making emergency contraception widely available to Texas women.⁷⁵ Eighty-one percent of respondents favored requiring hospital emergency rooms to make emergency contraception available to rape and incest victims.

Texas attempted to enhance access to emergency contraception, with EC pharmacy access legislation that was introduced in 2003. A broad coalition of organizations including the Texas Pharmacy Association supported this bill. There was significant interest in this effort, and the Texas Legislature invited pharmacists to testify on

the bill which contained Continuing Education requirements for pharmacists that included patient counseling and drug therapy management. Two of the states largest newspapers, the *Austin American-Statesman* and the *Houston Chronicle*, ran editorials in support of the bill. In the end, the bill died in Committee. The EC legislation cannot be re-introduced until 2005.⁷⁶

Emergency Contraception at Texas Hospitals

One of the most essential services denied by Catholic hospitals is emergency contraception (EC). Women have a relatively small window in which to locate and contact a provider to prescribe the EC and to find a pharmacist to fill the prescription. Any delay and the chance of pregnancy increases. In Texas, out of 34 Catholic hospitals surveyed, none provide EC upon request, and only one provides it at a doctor's discretion. Only 10 offer a referral for EC.⁷⁷

Texas Catholic Conference

The Texas Catholic Conference (TCC), established in 1963, is the association of the 15 Roman

Provision of EC in 35 Catholic Hospitals in Texas	
On request	0
At doctor's discretion	1
If a woman has been raped but is not pregnant	5
Not sure/don't know	5
Never provide EC	24
Offer a referral	10
Offered a referral that directly or eventually led to EC	3

Source: Catholics for a Free Choice, *Second Chance Denied: Emergency Contraception in Catholic Emergency Rooms* (Washington, DC: Catholics for a Free Choice, 2002)

The State of the State: Reproductive Rights and Restrictions in Texas

Bill/Law	Status	Description
Parental Consent and Notification for Abortion	In effect since January 2000	<p>Restricts minors' access to abortion services by mandating parental notice.</p> <ul style="list-style-type: none"> • No unemancipated minor under 18 may obtain an abortion until at least 48 hours after actual notice has been delivered by a physician, in person or by telephone, to one parent. • Judicial bypass option available.
"Prenatal Protection" Act (SB319): Redefining Personhood	Enacted June 2003	<p>Provides full legal personhood to a zygote and embryo from the point of fertilization.</p> <ul style="list-style-type: none"> • Uses religious and political definition rather than a medical one.
A Woman's Right to Know (HB15)	Enacted January 2003	<p>Subjects women to biased counseling and mandatory delays.</p> <ul style="list-style-type: none"> • Imposes 24-hour mandatory waiting period. • Requires state-mandated lecture by attending physician regarding risks, medical assistance benefits, child support. • Provides biased, state-prepared material.
Refusal Clause	Enacted 2003	<p>Permits providers at all levels to refuse services based on personal objection to abortion.</p> <ul style="list-style-type: none"> • May not be a basis for discrimination in employment or education. • No private hospital or health care facility may be required to provide an abortion unless a woman's life is immediately endangered.
DeFund Planned Parenthood (Rider 8)	Enacted June 2003	<p>Cuts funding for family planning clinics that directly or indirectly provide abortion services.</p> <ul style="list-style-type: none"> • Budget rider to 2004-2005 Appropriations bill.
Ban on abortion procedures or "Partial Birth Abortion Ban"	Enacted November 2003	<p>Bans third trimester procedures on viable fetuses</p> <ul style="list-style-type: none"> • Includes exceptions for life and health endangerment and grave fetal anomalies.
TRAP: (Targeted Regulations against Abortion Providers) Restrictions on abortion providers	Enacted August 2003	<p>Providers, including private physicians, who perform more than 50 abortions per year must become licensed as abortion facilities.</p> <ul style="list-style-type: none"> • Abortion facilities must also comply with dozens of administrative and professional qualification requirements or be subject to fines of up to \$1,000 per day, per violation.
Public Funding of Abortion: <i>Low-Income Women of Tex. v. Bost</i> ; <i>Bell v. Low-Income Women of Tex</i>	Enacted December 2002	<p>Does not have to provide public funding for medically necessary abortions.</p> <ul style="list-style-type: none"> • Texas prohibits public funding for abortion with exceptions for life endangerment or when the pregnancy is the result of rape or incest.
EPICC: Contraceptive Coverage in Texas	Enacted August 2001	<p>Requires equal coverage of FDA-approved contraceptive drugs and devices.</p> <ul style="list-style-type: none"> • Contains religious refusal clause.
Virtues Education Program	Enacted June 2003	<p>Directs the Texas Education Agency and the State Board of Education to adopt and promote a "virtues education program." The resolution outlines various components of what the program will include such as citizenship, faith, friendliness and purity, among many others.</p>

Catholic dioceses in the state. The mission of the TCC is to encourage and foster cooperation and communication among the dioceses and ministries of the Catholic church in Texas. As the public policy arm of both the Conference's Board of Directors and the bishops of Texas, its members lobby in front of the Texas Legislature, the Texas Delegation in Congress, and state agencies.⁷⁸ The organization has great influence over health care legislation and administration.

The Conference addresses public policy issues pertaining to the institutional concerns and social teachings of the Catholic church, including abortion and emergency contraception. TCC has become more active on reproductive rights, and this may be in part because of changing bishops. Executive Director Richard Daly has been the Texas Catholic Conference lobbyist for the past twenty years and historically has been most visible in advocating for increased funding for a breath of health and human services. However, in recent years and during the last few legislative sessions, he has signed witness affirmation cards in support of anti-choice legislation. These are read into the record of the legislative committee, but do not carry the same weight as actual testimony. Additionally, some Texas bishops have begun to pressure Catholic legislators and call into question any prochoice votes.⁷⁹ At the 78th legislative session in 2003, the TCC lobbied on

bills regarding “the sanctity of human life from conception until natural death,” “A Fetal Pain Protection Act,” and “Informed Consent for Women Seeking an Abortion.”⁸⁰

While the TCC has developed a significant presence at the state capital, they did not register to testify regarding the “Woman’s Right to Know Act.” Additionally, the TCC is not on record as having testified for any of the other reproductive rights bills – it is all done behind closed doors. There are multiple theories that suggest why the TCC is not more public in its advocacy against reproductive rights. It has been suggested that the TCC has special access to the legislators and need not go through the conventional channels; it is possible that since promoting public policy is a newer initiative for the TCC, they are not driving the opposition to reproductive rights; one activist suggested that Brother Richard Daly is not keen on pursuing these issues; and general consensus is that given the conservative bias of the Texas State Legislature, it is unnecessary for the TCC to take a public role.

The Dioceses of Texas

All of the dioceses in the state of Texas with the exception of Dallas, San Angelo, and Victoria, maintain or list a Respect Life, Pro-Life Activities, or Family Planning office on their websites.⁸¹

The archdiocese of San Antonio operates an Office of Natural Family Planning that “helps couples plan their pregnancies effectively, safely and in accordance with God’s plan for marital sexuality.” It also operates a residence called Seton Home that provides a residence for homeless, pregnant young women by means of a 24-hour shelter, food and clothing.⁸² The diocese of El Paso operates a Family Life/Natural Family Planning office,⁸³ and the diocese of Fort Worth manages a Family Life office that offers a Natural Family Planning program that provides information for couples that want to learn to understand and appreciate their fertility.⁸⁴

The Galveston-Houston diocese operates a Respect Life Office that supports the Gabriel Project, a program that helps women in crisis pregnancies “by offering Christian love and practical solutions at the parish.” The diocese claims that more than 90 parishes in the Houston area participate in this program by placing a sign of life outside their church to advertise their commitment to helping women with difficult pregnancies. Pregnancy counseling is also offered through a toll-free hotline. The diocese also operates a local chapter of Project Rachel, an outreach program for women who have had abortions.⁸⁵

No information is available on the amount of financial assistance actually provided by these dioceses to pregnant

women who choose to continue their pregnancies.

Catholic Charities

Catholic Charities, a national network of agencies and institutions offering services to people in need, is a very large service provider in Texas. There are 13 Catholic Charities agencies in the state that deliver millions of dollars in services annually.⁸⁶ As a Catholic organization, Catholic Charities adheres to the principles outlined in the *Directives* and upholds Catholic bans on abortion, sterilization and contraception, including condoms. These restrictions limit the services Catholic Charities can provide and hinder their efforts on behalf of HIV/AIDS relief.

The government contributes significant public funds such as Medicare and Medicaid to each of the three reporting Catholic Charities branches in Texas, ranging from \$10,000 to more than five million dollars.

For fiscal year ending in 2002, Catholic Charities of the diocese of Galveston-Houston received \$3,491,370 in government grants to provide services to Catholic and non-Catholics alike. During that period, it reported earning more than \$448,000 in revenue from its Children and Family Services program, \$132,894 from Community Outreach and \$123,867 from its Immigration and Refugee Services program.⁸⁷ Since the reported expenditures were almost \$9 million, it is clear that public funds were

essential to the provision of 16 different programs for more than more than 100,000 people.

For the fiscal year ending 2001, Catholic Charities of Fort Worth received \$5,259,687 in public funds to administer their programs which cost almost \$9 million (they reported a total of \$688,882 in program service revenue).⁸⁸ The organization currently serves more than 48,000 individuals, and in 2002, Fort Worth's Catholic Charities claims to have provided assistance to one in three of Tarrant County's residents.

Although Catholic Charities of Beaumont does not report the number of individuals it serves, it received more than \$10,000 in government funds in fiscal year 2002. It also collected \$29,884 in revenue from its Immigration services, \$27,428 in revenue from Child Care Services, and just over \$8,000 from its Social Services program.⁸⁹

The three reporting Catholic Charities provide services for families and children, immigrants, the elderly, the disabled and African American and Latino communities. Galveston-Houston and Fort Worth also provide relief services for those affected by HIV/AIDS. Their efforts include case management, financial assistance, support groups, and in the case of Galveston-Houston, an AIDS prevention education program that serves school and community groups.⁹⁰

In 2002 there were at total of 57,772 AIDS cases and 3,140 new AIDS cases reported in Texas.⁹¹ Ironically, while Catholic Charities receive significant government funds for their HIV/AIDS education and support work; their counseling and education programs do not include condom awareness and education to prevent the spread of the disease. Thus public funds are provided to health care centers that offer substandard medical care and may actually contribute to the spread of AIDS.

In 2000, there were 7,856 forcible rapes reported in Texas.⁹² In 2003, 11,545 adults sought state shelter from their abusive relationships, and 140 Texan women were killed as a result of domestic violence.⁹³ Women who have raped, battered and abandoned often need reproductive services, counseling and sometimes emergency contraception. Many of these women turn to Catholic Charities for assistance, yet Catholic Charities, who accepts government funds, will not provide the critical services their patients need. Additionally, the three reporting Catholic Charities deny their employees basic health care coverage as they refuse to provide contraceptive coverage to their Catholic and non-Catholic employees.

Catholic Universities

There are nine Catholic colleges and universities in Texas. Catholics for a Free Choice surveyed five of the nine colleges and found that none offered students any form of contraception,

though two did refer for the service. Despite the attendant issues and needs that arise when one is sexually active, students at Catholic universities are frequently denied basic reproductive health care services, such as HIV screening, sexuality education, annual exams, contraception, and STD screening and education.⁹⁴ While the schools vary in terms of what services they offer students, only St. Edwards University in Austin offers comprehensive reproductive health screening, including pap smears, HIV testing and breast exams.⁹⁵

Only one of the schools offered sexuality education, despite the fact that approximately three-quarters of all men and women have experienced sexual intercourse by their late teens.⁹⁶ As a result, students are at increased risk of unwanted pregnancies, sexually transmitted diseases, and other health problems.

Reproductive Health Services at Catholic Universities in Texas

College/University	Pap Smear	Annual Exam	Breast Cancer Screen	HIV Screen	STD Screen	STD Education	Contraception	Sexuality Education	Brochures	Pregnancy Counseling
Our Lady of the Lake University	Y	Y	Y	N	N	Y	N	N	Y	N
St. Edwards University	Y	Y	Y	Y	Y	Y	N*	N	Y	Y
St. Mary's University of San Antonio	N	N	N	Y	Y	Y	N	N	Y	Y
University of Dallas	N	N	N	N	N	N	N	N	Y	N
University of the Incarnate Word	N	N	Y	N*	N*	Y	N*	Y	Y	N*

* Refers for service

Source: Catholics for a Free Choice, *Student Bodies: Reproductive Health Care at Catholic Universities* (Washington, DC: Catholics for a Free Choice, 2002).

Conclusion

Health care and access to reproductive rights in Texas are permeated by the influence of the Catholic church. Through the ownership and operation of 34 hospitals and 92 health care centers, the Catholic church provides medical treatment to more than 4 million patients – both Catholic and non-Catholic – each year. The church also impacts the lives of Texas residents through Catholic Charities and its other social service work. Although it rarely intervenes in public policy in an overt manner, the hierarchy enjoys prestige and access to those who shape and curtail reproductive health legislation.

Women in Texas need to be aware of reproductive health care restrictions and policies in order to access the health care services they want and need. Not only must a woman make advance appointments and endure waiting periods and biased counseling before obtaining an abortion, but she also needs to know if a Catholic hospital merger will alter the services she has come to rely on at her community hospital. As the Texas Catholic Conference becomes more involved in reproductive rights legislation, Texans must ensure the Conference's stealth operations do not further impede women's access to comprehensive reproductive health services.

State Organizations and Resources

TARAL

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Austin, TX 78768
(512) 462-1661
(512) 462-2007 (fax)
info@taral.org
www.taral.org

Planned Parenthood of the Texas Capital Region, Inc.

707 Rio Grande Street
Austin, TX 78701
(512) 275-0171
plannedparenthood@ppaustin.org
www.ppaustin.org

Religious Coalition for Reproductive Choice (RCRC) – Texas

PO Box 3934
Austin, TX 78764-3934
(512) 694-1075 (fax)
(512) 445-2755
mail@rcrctexas.org
www.rcrctexas.org

ACLU of Texas, Inc.

PO Box 12905
Austin, TX 78711
(512) 478-7309
(512) 478-7303 (fax)
info@aclutx.org
www.aclutx.org

Women's Health and Family Planning Association of Texas (WHFPT)

PO Box 3868
Austin, TX 78764
(512) 448-4857
(512) 448-3373 (fax)
mail@whfpt.org
www.whfpt.org

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About Catholics for a Free Choice

Catholics for a Free Choice shapes and advances sexual and reproductive ethics that are based on justice, reflect a commitment to women's well-being and respect and affirm the moral capacity of women and men to make sound decisions about their lives. Through discourse, education and advocacy, CFFC works in the United States and internationally to infuse these values into public policy, community life, feminist analysis and Catholic social thinking and teaching.

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