FOR IMMEDIATE RELEASE:  February 25, 2016

Fifth Circuit Grants Emergency Stay Allowing Admitting Privileges Law to be Enforced

The Louisiana Coalition for Reproductive Freedom expresses concern over the impact to women's health and safety

New Orleans, LA (February 25, 2016) - The Louisiana Coalition for Reproductive Freedom expressed serious concerns today over the Fifth Circuit Court of Appeals decision to grant the Louisiana Attorney General's request for an emergency stay of the lower court's injunction blocking a Louisiana law requiring abortion providers to have admitting privileges at area hospitals. After a six-day trial, a federal district court judge ruled in January that the law was unconstitutional because it unduly burdens the right of Louisiana women to choose to terminate a pregnancy. The judge, therefore, preliminarily blocked the state from enforcing the requirement. The Fifth Circuit's emergency stay now allows the law to go into effect immediately -- even while the case works its way through the appeals process.

The Fifth Circuit's decision is out of step with leading medical experts, such as the American College of Obstetrics and Gynecology, who oppose admitting privileges requirements for abortion providers as medically unnecessary measures that, instead, jeopardize women's health and safety by closing clinics.

The emergency stay, which is a drastic legal remedy, comes amid the backdrop of only four remaining clinics operating in Louisiana. Now, additional clinics will be forced to close, and any clinic that can keep its doors open will be operating at severely diminished capacity -- with only one physician to serve the number of patients ordinarily served by two physicians, and patient waiting lists growing with the overflow from shuttered clinics.

“This decision is really troubling because it is unsustainable for Louisiana to be left with only two providers to assume the responsibility of care for all the patients needing services,” stated Kathaleen Pittman at Hope Medical Center. “This surely will cause delays in care and poses an immediate threat to access and the health of Louisiana's women.”

The Fifth Circuit's decision ignores the impact this law will have on patients in Louisiana. In the lower court's decision, the federal district court judge determined that if the law were enacted abortions will be unavailable to approximately 55% of women seeking abortion in Louisiana and over 99% of women of reproductive age. Many Louisiana women will also face additional burdens of increased travel distances in reaching an abortion clinic with sufficient capacity to perform their abortions. This burden compounds when taking into account the costs of childcare for women who have children and the cost of taking time off work to travel to a clinic. These burdens are likely to fall hardest on low-income women and women of color.
The Center for Reproductive Rights, who represents the health care providers in the case, has announced its intention to seek emergency relief from the U.S. Supreme Court. Without such an intervention, the lack of clinic access and strained capacity issues could persist for months or years, during the appeals process.

This action by the Fifth Circuit comes one week before the Supreme Court is scheduled to hear oral argument on a similar law passed in Texas in 2013 -- a case in which the Fifth Circuit also issued an emergency stay of an injunction, which the Supreme Court overturned. The Supreme Court, presumably operating now with its own capacity issues with only eight justices, will have to decide whether to allow Louisiana’s clinics to remain open pending appeal, or to allow the Fifth Circuit’s decision to stand.

A statewide alliance of organizations and individuals, the Louisiana Coalition for Reproductive Freedom works to ensure sexual and reproductive health, rights, and justice for all people through advocacy, law and policy change, and movement-building.

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Signed:
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