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U.S. District Court Ruling Upholds Louisiana's Right to Protect Health and Safety of its Residents

BATON ROUGE - The Louisiana Department of Health and Hospitals' was informed today that a federal court has dismissed a lawsuit challenging the state's right to fully protect women from unsafe abortion facilities.

"As the state health department, our first and foremost responsibility is protecting the health and safety of all Louisianians. To allow an abortion facility with known violations that are likely to pose significant health and safety risks to continue operating would be reprehensible," said DHH Secretary Bruce D. Greenstein. "The court's ruling recognizes that the state has a mandate from its citizens to take steps necessary to safeguard them from dangerous practices in facilities, and we will continue to use all the tools at our disposal necessary to fulfill that mandate."

Act 490 of the 2010 Louisiana Legislature, sponsored by State Sen. Fred Mills when he served in the House of Representatives, allows for the immediate suspension of an abortion facility's license if the DHH secretary determines that the violation or violations "pose an immediate threat to the health, welfare, or safety of a client or patient." Prior to Act 490, an abortion facility under licensure revocation would be allowed to continue performing abortions pending appeal of such revocation, which can take months.

Sen. Mills said, "Act 490 was an important step in protecting the health and safety of women in Louisiana. The Legislature approved it unanimously, which demonstrates how critical it is that the state be able to take the steps necessary to keep people safe. I am pleased to see the court respected the will of the Legislature by defeating this constitutional challenge."

DHH first used this right on September 3, 2010 when it issued a notice of license revocation to Hope Medical Group for Women in Shreveport and ordered the clinic to immediately cease performing abortions after an investigation of the facility found numerous violations, some of which were deemed by the department to put women at risk. The identified violations include the facility's failure to ensure that a physician performed and documented a physical exam on each patient prior to a procedure, failure to properly monitor vital signs of patients under anesthesia, failure to have proper procedures in place for administering anesthesia and failure to have properly trained professionals performing certain medical procedures related to the administering of anesthesia.

In a suit filed with the U.S. District Court, Middle District of Louisiana on November 17, 2010 against Secretary Greenstein in his capacity as DHH secretary, the Bossier Medical Suite, Inc., Choice Inc. of Texas d/b/a/ Causeway Medical Clinic; Delta Clinic of Baton Rouge, Inc.; Midtown Medical, LLC, Women's Health Care Center, Inc. and John Doe, M.D., questioned the constitutionality of Act 490 and the department's authority to issue an immediate suspension during a revocation process.

In his ruling, U.S. District Court Judge James J. Brady granted the department's motion to dismiss saying the plaintiffs will not suffer significant hardship and acknowledged that regardless of Act 490, the plaintiffs are required by both state and federal law to adhere to the statutes and regulations that govern medical facilities.

"It's always a good day when the court system rules in the best interest of the people we all serve," said Greenstein. "We are committed to fulfilling our mission, and we will continue to do everything in our power to ensure the health and safety of all Louisiana residents is protected."

The Louisiana Department of Health and Hospitals strives to protect and promote health statewide and to ensure access to medical, preventive and rehabilitative services for all state citizens. To learn more about DHH, visit <http://www.dhh.louisiana.gov/>. For up-to-date health information, news and emergency updates, follow DHH's blog at www.myhealthla.org, Twitter at http://twitter.com/La_Health_Dept and on Facebook at <http://www.facebook.com/LaHealthDept>.