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Marianne O'Hare: Welcome to Conversations on Health Care. This week we welcome two importing guests on the frontlines of the Roe v. Wade decision. Amanda Allen with The Lawyering Project and Robin Marty, Operations Director of the West Alabama Women's Health Center on working around abortion bans in red states.

Robin Marty: In a hospital, they or someone they love might end up investigated and in jail, so that's what keeps us going.

Marianne O'Hare: We hear from FactCheck.org's Managing Editor Lori Robertson and we end with a bright idea improving everyday lives. Now here are your hosts, Mark Masselli and Margaret Flinter.

Mark Masselli: It's a monumental reversal of a constitutional right. The US Supreme Court voted to overturn Roe v. Wade, a situation Surgeon General Murthy calls a major step backward for public health. There are only 20 states in the District of Columbia right now where abortion is legal and likely to be protected. The other states have so called trigger bands and other restrictions that have been activated are in the works.

Margaret Flinter: Joining us to discuss this situation is Amanda Allen. She's Senior Counsel and the Director of The Lawyering Project, which is a nonprofit that uses the law to improve abortion access and to uphold the rights and dignity of people seeking and providing abortion care. Robin Marty is also with us. She is the director of operations at the West Alabama Women's Center Inc., in Tuscaloosa. It has had to stop performing all abortions as results of the Supreme Court decision.

Mark Masselli: Well, Robin and Amanda, thank you both for joining us and Robin, let's start with questions for you. You're the author of the handbook for a Post-Roe America. Tell us what service your clinic is still offering. At this point, what options do Alabama women have? We really hate to ask this question, but is the so called back alley abortion what some will need to turn to?

Robin Marty: First of all, thank you for having me on. The clinic is actually still open. We closed for about a week and a half. We waited a few days after the decision came down because we still had patients that had come in for their first day appointment, which is an appointment in Alabama that requires them to have counseling and ultrasound and then they have to leave for at least 48 hours before they can return to have an abortion. We had more than 100 patients who had already had this first day and now no longer were able to get an abortion in our state. We decided that it was still our responsibility to help them figure out where to access an abortion, how to make sure that they had the resources to get there. Then we closed because we wanted to

make it very clear to the state that we were going to abide by all of their new laws.

We reopened last Monday as a reproductive health care center, we are expanding some services that we already did provide such as birth control, HIV care, some prenatal care. Then we're adding in more things as well. We've started an IUD program. We're working on Pay What You Can Emergency Contraception. We're definitely working more on making sure people have prenatal care and pregnancy confirmation so they are able to access Medicaid in our state. We'll keep doing that essentially until we run out of money or we run out of patients.

Margaret Flinter: Well, Robin are you concerned that it might become a crime to even give this kind of advice to patients on how and where they can access abortion? How is that affecting the family planning advice that you provide or that of other health care providers in the state?

Robin Marty: Yeah, it's very difficult. We chose to continue providing the referrals for the patients that we had already established relationships with because we felt that because we'd already begun medical care in those cases, that we had basically both a medical reason and a moral reason to make sure that they were able to finish that care. To not do that would be some form of medical malpractice. We were informed that that could be seen by our Attorney General as conspiracy. But we went ahead with it.

I specifically actually told my staff, my staff is primarily black women, single mothers, head of households for their family, and I specifically told the staff that I would fire them if they would not make these referrals. I did that because I wanted to make sure that if something did happen that all of the responsibility would be solely on me in case the Attorney General did decide to do something. Once we reopened, we are no longer providing referrals. We cannot tell people even as much as what is the next legal stage right now. We are only allowed to provide completely public information such as a website like www.ineedana.org where a person can then put in their information and get that for themselves.

Mark Masselli: Amanda, your organization says the decision is a national disgrace that will leave indelible stain on our democracy. The Lawyering Project focuses on expanding access to abortion services through telehealth and medication assisted technology. Tell us what advice you can share with Robin and her colleagues?

Amanda Allen: Well, there are a lot of legal uncertainties right now and that's why you're seeing clinics close, clinics move operations from a state where abortion is banned to a state where abortion is now legal, and a lot of fear around just the basic things like information sharing, providing

referrals, helping patients get out of states like Alabama to receive abortion care where it's legal. A lot of those questions are lingering, and they're huge because as Robin notes, these are real people whose freedom might be on the line if a grove prosecutor or other sort of enforcement official decides to go after someone for providing a referral or providing transportation assistance.

We are in a real legal gray area in some ways. But what is clear is that the other side is not going to stop at returning this issue to the States. We have already seen the playbook from the National Right to Life, they want to go after people who help people who need abortions cross state lines. They want to go after people who just share information or advertise for abortion services in states where it's legal, and so this is not going to end just every state gets to decide for itself. That was always a disingenuous line from Alito's opinion. It was always going to lead to this state versus state, these battles about what charges can be brought sort of for this cross state care that that we're going to be seeing more and more of.

Margaret Flinter: Well, Amanda, the governor of South Dakota has said that her state will not only prosecute doctors and presumably others like nurse midwives who perform abortions, but also work to restrict women's access to abortion pills. We are based in Connecticut, which recently passed a law shielding physicians who prescribe the pills through telehealth to patients in other states including the states that restrict abortion. What's your view on this? Does telehealth medication abortion preset one possible option for women in states like where Robin lives?

Amanda Allen: It could but it does pose a pretty big risk to the provider who's prescribing the drugs, and that's because the way telehealth laws work, the law of where the patient is located is what controls. It doesn't matter if the provider is based in a state like Connecticut or New York or California because the state where the patient is located is really the law that governs, and so South Dakota if it's has a total ban on abortion, that would include medication abortion, and so they could go after that provider.

Now, what states like Connecticut are doing with the law you mentioned, is trying to provide an extra layer of protection for that, so saying we won't cooperate in investigations for abortions that would have been legal if performed here in our state, so we won't commit any state resources to furthering any of those investigations or we won't comply with an extradition request. But these are untested bills right now. These are untested legal strategies, and I think the bottom line is that there's really no zero risk strategy right now.

Mark Masselli: Robin, the pro-life Mississippi Attorney General says as a result of the

decision the government should strive to pass and I quote, “laws that empower women, including an overhaul of child support child care.” The U.S. Conference of Catholic Bishops pledged to redouble efforts to support women facing unexpected or difficult pregnancies and to support young parents. Are these realistic options?

Robin Marty: They are, but they have always been realistic options. There have always been issues and policies that could have passed and that these very people have held up. The reality is that they have been holding these things hostage, promising that they would somehow release them and back them and support them if they got their real goal, which was to end legal abortion. They always could have done this, and they never did. Even in Texas where we've seen for almost a year now, what it looks like when there is almost no abortion access they have had 10 months now in order to try and put any of these things in place and still haven't. The idea that we would now suddenly believe them is like Charlie Brown trying to kick the football. It's never going to happen.

Amanda Allen: Mark, if I might just add. There is no plan for this. The National Right to Life could have put out a playbook that addressed all of these social support systems that you referenced. It could have addressed health insurance, making sure there's childcare available, making sure that school lunches are paid for, making sure that paid leave is available. Their playbook addressed how to triple down on these abortion bans and how to basically make sure that abortion is difficult to get in any state in this country and so that’s their playbook.

Robin Marty: I also need to add the fact that people don't completely understand that these are states that are banning abortion. They're also the same states that have yet to actually expand Medicaid. Alabama has not expanded Medicaid, refuses to expand Medicaid. When our lawmakers said, okay, so you are making abortion completely illegal, can we at least expand Medicaid now? The lawmakers came back and said actually, we still think it's too expensive. It's too expensive to give people health care, but you can still force them to give birth against their will.

Amanda Allen: And the Venn diagram between states with the highest maternal mortality rates and abortion bans is a complete circle.

Margaret Flinter: As the Biden Administration seems to be casting about to take steps that it can take in response to the ruling, I understand that they've directed the Centers for Medicare and Medicaid CMS to take every legally available step to protect family planning care. While Medicaid may not get the attention of leaders in the state, most hospitals live or die by Medicare and Medicare rules. Do you think that there's anything that CMS can do and it's known as the largest health care policy setting group to help?

Robin Marty: I mean, I want to be helpful, but no. The reality is that we live in a country right now where states get to opt out of anything that they choose to opt out of. The point is that the states have all the power at this moment. The one thing that Biden administration offered that could actually help us down here is expansion of birth control access and emergency contraception access. But that's not going to happen down here, because our states have already put a stranglehold over who gets Title X funding. For instance, in Alabama, Title X funding only goes to county health departments. It cannot go to any other clinic. It goes specifically to county health departments. We have patients who were waiting three, four months to try to get in to get an implant or an IUD, because those are the most expensive forms, and that's the only place where they can get it. Unsurprisingly, they ended up with our clinic pregnant instead.

Mark Masselli: You know, the decision has had such a profound impact all across the country. Maybe the both of you could just talk to us about the people who work in your organizations and how they're coping and how you're dealing with it as leaders, what are you hearing?

Amanda Allen: Yeah, I mean, I think for my organization, everyone is really devastated and it takes a toll, right. I mean, this work is not only long hours, but it's emotionally difficult. You're working directly with abortion providers or abortion funds, we're actually helping pay for people to get the care they need, book their bus tickets, get them on a plane, and it can be very overwhelming. Our focus has been on just doubling down on our efforts to help providers, to help the patients they serve and that's what keeps me going, and I think that's what keeps everyone in this movement going is knowing that there are people out there who need our help and that accessing an abortion is literally life changing.

Robin Marty: For us it’s almost like mourning a death. My career has been about assuming that Roe would be overturned. My staff --- and it was still a shock when it happened. We know that we have three months, essentially three months to get established to get grants to find funding, to be able to stay open, not just for all of these projects but because we know that no matter how much money and how many resources you give pregnant people there are some who are not going to be able to leave the state, and those people are going to try to medication, hopefully, to terminate their own pregnancy. They are going to be afraid that they're going to be arrested for it, and so we have to be there because we will be a safe place for them to come to in order to get that follow up care that in a hospital they or someone they love might end up investigated and in jail. That's what keeps us going is knowing we've got three months to figure out how to make that happen.

Mark Masselli: Thank you both for sharing.

Margaret Flinter: Well, we thank you for the work that you're doing. But I'd like to ask the two of you. It has been one after the other stories of what I would call only by the nearest of misses did women not die after experiencing a spontaneous miscarriage in the states where abortion is now illegal. I've been hearing about ectopic pregnancies that ruptured, a pregnancy that was never viable from the moment and implanted in that fallopian tube and where the only treatment is surgical to prevent death by hemorrhage. We've been hearing about people as spontaneous abortion who had to wait and wait until the heartbeat was no longer heard. That is going to result in deaths. Woman had absolutely nothing to do with experiencing a spontaneous miscarriage and yet may die because somebody withholds the necessary medical treatment due to a law now on the books in the state. Who is legally responsible for that death?

Amanda Allen: Well, it is terrifying what is happening and this was never just about abortion because when you try to regulate these things, then you're putting doctors and other health care providers, you're essentially tying their hands. I just read a story about a woman in Louisiana who was 16 weeks pregnant and was forced to labor her dead fetus because the hospital doctor's lawyer said that it would be an abortion under Louisiana law and they could be charged with a crime. That should never happen here. Yet, story after story is just painting this picture of this really horrifying reality that we're in where ectopic pregnancies is, as you said Margaret, which are never ever viable, are not being treated right away, where obstetric emergencies are getting drawn out to the point of near death. Because of the way these laws are written doctors don't know how much does a patient has to bleed out before I can provide her care. What I do know is that these are devastating, devastating implications and literally probably at this moment there is a doctor somewhere not sure whether they can provide the best care for their patient, it's unconscionable.

Mark Masselli: Amanda, let's just stay with you for a moment. The Lawyering Project has a number of active cases it's involved in. If you can give our listeners a general sense of the issues at stake here.

Amanda Allen: I'll first note that we did have a huge victory in one of our cases in Minnesota. About a week ago a judge struck down almost every single abortion restriction on the books in Minnesota as unconstitutional under the Minnesota Constitutions Protections of Privacy. That judge struck down a 24 hour waiting period, a requirement that doctors give patients a lecture that the state has written, a law that requires an adolescent patient to notify both their parents before they can get an abortion. That victory is really going to make a big difference because Minnesota as you know is right there in the middle of the country

where its neighboring states are about to ban abortion if they haven't already. It's going to become a major access point for people not just in the Midwest, but some clinics in Minnesota are seeing one-third of their patients from Texas right now.

Part of our strategy moving forward is to make sure that access is as unencumbered in states like Minnesota as possible, because those are going to be the hub stage. We want to make sure that people can get there and not have to deal with any of this state mandated waiting period. We really want to clear the way for providers to be able to really increase their services to meet the demand.

Margaret Flinter: I know the American Medical Association has advised medical professionals not to report a patient for the loss of a pregnancy which they say violates privacy laws and medical ethics. I wonder what advice is there for patients around how they can protect their own privacy. It does feel like there's a real risk to people being found out how can women protect themselves?

Amanda Allen: Well, I think one thing to know is that there is no reason to present at a hospital or an emergency room and say you've had an abortion and you need medical attention, because you never know if somebody that works at that hospital is going to be hostile to abortion and report you. That is likely what happened in the case a few months ago in Texas where a woman was charged with murder for her pregnancy outcome. It’s most likely going to be somebody reporting a person who presents with a pregnancy loss of some sort.

There is no medical difference between an abortion and a miscarriage. There is no blood tests that can be run to see if you have taken medications that would cause an abortion. I think just in terms of people knowing what they have to disclose and what they don't have to disclose is fairly important. Then there's Google and other websites that are tracking people's movements. There's a movement for people to delete some of these period tracking apps from their phones and limit the amount of data that these tech companies can collect. I think that's probably worth exploring.

Robin Marty: Yeah, and one of the things that we do definitely recommend is that if you are pregnant and ambivalent, it's often better just not to tell more people than you believe you can trust. Most people who are in some way shape or form prosecuted over their pregnancy outcomes usually find that it's their texts or their emails that are looked at that become sources of information to try and prosecute somebody. Looking at when they do Google searches, if they do Google searches, using private browsers for that only texting people over signal which is encrypted and using disappearing messages is a useful tool. It feels a lot of times like in the south we don't have a lot of power when it comes to political things we can do.

One thing that I am excited about is that I believe that Alabama is going to be looking at introducing a piece of legislation that essentially says that the state will not investigate people who have poor pregnancy outcomes. This is extraordinarily important not just for people who will end up trying to self-manage their care, but also because as I said, we don't have Medicaid out here, we don't have prenatal care. 50% of our pregnancies are unintended. That is a lot of unintended pregnancies that could potentially end up with unhealthy pregnancies and unhealthy people carrying them and potential miscarriages.

This is a type of legislation that could actually have some sort of legs in really red states like Alabama and Mississippi. Even if it still fails, at least then there are lawmakers who are on the record saying, yes I know, when we pass these bans we said we would never actually punish the person who was having the abortion. But look now we had an opportunity to put that in writing and we chose not to.

Mark Masselli: I want to pull the thread a little on the sort of politics of this in terms of states. What are you seeing in Alabama in terms of people rallying in support of the work that you're doing and how do you see all this maybe playing out in the November elections? Robin also Amanda as well, are we seeing any momentum? There's traction in terms of the types of candidates that are being put forward.

Robin Marty: I've been frankly astounded by how much reaction there has been in Alabama. Everybody has a National March Day, but Alabama kept going and in more and more cities. Even just last weekend there was another Reproductive Rights Rally in Huntsville, where there were some legislators who came and demanded that the governor have a special session to rescind the abortion ban. It obviously was not going to happen. But the fact that there's still all of these actions happening, there's rallies all the time. Our issue in Alabama isn't about enthusiasm or about what people believe when it comes to reproductive rights and civil rights in general. I mean, this is the birthplace of the civil rights movement.

Our issue is the way that our government has put together, the way that gerrymandering is done, not just on the state level. There's local gerrymandering in our city councils and in our counties, like everything has been put together in order to assume that white Republican men stay in power and so that is going to be a process that is going to take so long to undo. But there is a zeal for it now, and that this has actually pushed people to realize that they have become unempowered that they have lost any sort of real representation in their state and in their nation. And if we can start really moving how our districts are decided and divided, then we might have a shot going forward.

Margaret Flinter: Thank you Robin, thank you Amanda. Thank you for taking the time out of your very busy days as you work through this historic time to talk with us. We will continue to follow your work. To our listeners, you can learn more about Conversations on Health Care and sign up for our updates at www.chcradio.com. Amanda and Robin, thank you again so much for all that you're doing and for joining us today on Conversations on Health Care.

Robin Marty: Of course, any time.

Amanda Allen: Thanks for having me.

Mark Masselli: Thank you both.

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Mark Masselli: At Conversations on Health Care we want our audience to be truly in the know when it comes to the facts about health care reform and policy. Lori Robertson is an award winning journalist and Managing Editor of FactCheck.org, a nonpartisan, nonprofit consumer advocate for voters that aim to reduce the level of deception in US politics. Lori, what have you got for us this week?

Lori Robertson: The Food and Drug Administration and numerous peer reviewed academic studies have concluded that medication abortions are safe and effective, and that serious adverse events for medication abortions are relatively rare. Recent research was conducted on women who received abortion pills through the mail after a video conference with a clinician rather than in-person from a medical clinic. That research didn't appear to show an increase in “serious safety concerns”. But South Dakota Governor Kristi Noem who opposes abortion, defended her state's ban on prescriptions via telemedicine appointments by calling medication abortions “very dangerous medical procedures”, and claiming a woman is five times more likely to end up in an emergency room if they're utilizing this kind of method for an abortion.

Noem’s press office said Noem meant to say four times more likely, and it cited research on emergency room visits by women with Medicaid coverage who got medication abortions. The governor isn't citing the study correctly however. It found that women who got medication abortions were 53% more likely, not four times, to have a subsequent emergency room visit for an abortion related reason than a woman who received a surgical abortion. But other researchers warn that the study only tracked ER visits, not whether those visits required medical intervention.

One researcher noted that many people may visit emergency rooms because they don't have a primary care doctor, and this is particularly the case with Medicaid enrollees. Other research published in 2015

on women in the California Medicaid program tracked ER visits as well as diagnosis and treatment. It found that major complications were relatively rare in both medication and surgical abortion. Medication abortions are done early in pregnancies and now account for more than half of abortions in the United States. In South Dakota Noem signed into law the state's ban on medical abortion by telemedicine in March. That's my fact check for this week. I'm Lori Robertson, Managing Editor of FactCheck.org.

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Margaret Flinter: FactCheck.org is committed to factual accuracy from the country's major political players and is a project of the Annenberg Public Policy Center at the University of Pennsylvania. If you have a fact that you'd like checked, e-mail us at www.chcradio.com, we'll have FactCheck.org's Lori Robertson check it out for you here on Conversations on Health Care.

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Mark Masselli: Each week Conversations highlights a bright idea about how to make wellness a part of our communities and everyday lives. Of the 6.6 million births per year in this country over half are unintended, and among teens those rates are even higher. Colorado has been conducting an experiment for several years to examine what might happen if sexually active teens and poor women were offered the option of long term birth control such as IUDs or implants.

Dr. Larry Wolk: What was so striking was the word of mouth amongst these young women to each other and the network of support that was built to access this program through these clinics to help the tens of thousands of women over the course of the four to five years really did result in these significant decreases in unintended pregnancies and abortions.

Mark Masselli: Dr. Larry Wolk, Medical Director of the Colorado Department of Health and Environment.

Dr. Larry Wolk: The result in decrease is 40% in both categories pregnancy and abortion to more than 50% even approaching 60% reduction in those unintended pregnancies and abortions.

Mark Masselli: There was a significant economic benefit to the state as well.

Dr, Larry Wolk: We've seen a significant decrease in the number of young moms and kids applying for and needing public assistance. This will translate into better social and economic outcomes for these folks. Amongst young women 15 to 24 we've seen a decrease in sexually transmitted infections, and the rates are now below the national averages.

Mark Masselli: A free long term contraception program offered to at-risk teens and women trying to avoid the economic hardship of unplanned pregnancies leading to a number of positive health and economic outcomes. Now that's a bright idea.

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Mark Masselli: I'm Mark Masselli.

Margaret Flinter: And I'm Margaret Flinter.

Mark Masselli: Peace and Health.

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Marianne O'Hare: Conversations on Health Care is recorded in the Knowledge and Technology Center Studio in Middletown, Connecticut, and is brought to you by the Community Health Center, now celebrating 50 years of providing quality care to the underserved where health care is a right not a privilege, www.chc1.com and www.chcradio.com.

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