The issue the Supreme Court will decide in June Medical Services LLC v. Gee is whether Louisiana’s law requiring physicians performing abortions to have admitting privileges at a local hospital conflicts with Supreme Court precedent.

If the legal issue in this case sounds familiar that is because it is. In 2016 in a 5-4 decision in Whole Woman’s Health v. Hellerstedt the Supreme Court struck down Texas’s admitting privileges law. In June Medical Services LLC v. Gee the Fifth Circuit upheld Louisiana’s law noting that the “facts in the instant case are remarkably different” from the facts in the Texas case.

Louisiana’s Unsafe Abortion Protection Act requires physicians performing abortions to have admitting privileges, meaning be a member of the hospital in good standing able to perform surgery on patients, at a hospital not further than 30 miles from the abortion clinic.

In Whole Woman’s Health the Supreme Court reiterated its previous holding that while the state has a legitimate interest in seeing that abortions are performed safely, unnecessary health regulations may not impose an undue burden on the right to seek an abortion. While the “purpose of the admitting-privileges requirement is to help ensure that women have easy access to a hospital should complications arise during an abortion procedure” the Supreme Court found no evidence Texas’s law accomplished this goal. The Court found an undue burden in this case noting that half the abortion clinics in the state closed as a result of the admitting privileges requirement meaning “fewer doctors, longer waiting times, and increased crowding.”

In June Medical Services LLC v. Gee the Fifth Circuit concluded the benefits conferred by the Louisiana law “are not huge.” But, unlike Texas, the Louisiana law promotes women's health because “the credentialing function performed by hospitals [is more rigorous than] the credentialing performed by clinics.”

The Fifth Circuit found no undue burden in this case. It concluded that if most of the abortion doctors in Louisiana put forth a good-faith effort they should be able to get admitting privileges. Unlike in Texas the majority of Louisiana hospitals do not have a minimum number of required admissions that a doctor must have to maintain privileges.

According to the Fifth Circuit, of the five abortion doctors in Louisiana one has admitting privileges, another put forth a good-faith effort and was denied, and three failed to put forth a good-faith effort but probably could receive admitting privileges if they did. If Louisiana was down one abortion doctor, the Fifth Circuit concluded, no clinics would close and the other abortion doctors in the state could absorb his capacity.

Over a 100-page dissent the entire Firth Circuit refused to rehear the three-judge panel’s decision in June Medical Services LLC v. Gee. Earlier this year the Supreme Court prevented the law from going into effect while the litigation continued in this case. Justices Thomas, Alito, Gorsuch, and Kavanaugh would have allowed the law to go into effect.