The following article was available on HoustonChronicle.com on Wednesday, September 3, 2014:

Abortion provider to open New Mexico clinic to serve Texans


New Mexico clinic will open to serve Texans

By Brian M. Rosenthal

AUSTIN - The biggest independent abortion provider in Texas has come up with a new way to serve state residents amid tighter restrictions: open a clinic in New Mexico.

Whole Woman's Health, which once ran five Texas abortion facilities but recently closed three because of new regulations, announced Wednesday it will open a facility this month in Las Cruces, 45 miles northwest of El Paso.

"When Texas legislators tried to close the doors of abortion providers in our state, they didn't anticipate the renewed energy and the new generation coming forward to protect women's health," spokeswoman Fatimah Gifford said in a conference call announcing the Sept. 15 opening. "But that's exactly what happened."

The move is the latest effort by abortion-rights supporters to keep the procedure available to Texas women in the face of a fierce and largely successful campaign against it. New Mexico is a logical location for a clinic because it has far looser abortion laws than Texas and the other bordering states - Louisiana, Arkansas and Oklahoma.

About two dozen clinics around Texas have closed in the year since the state's most recent abortion law took effect, including all but one south or west of San Antonio. That one, in El Paso, and another dozen clinics are expected to shutter if the law's last provision survives an ongoing legal challenge. That would leave just seven facilities.

The law, known as House Bill 2, banned abortions after 20 weeks; put tight restrictions on the use of pills to do the procedure; required abortion doctors to obtain admitting privileges at a nearby hospital; and said facilities offering the procedure must meet the standards of hospital-style surgical centers.

Lawmakers who supported the bill insisted that it aimed to improve the safety of abortion, not to reduce the availability of the procedure. But statements by some in less guarded settings have repeatedly belied that.

A federal judge last week ruled the intent was to reduce access and threw out the surgical center requirement, as well as at least partially rejecting the admitting privileges requirement. An
appeals court is considered likely to reverse that ruling and uphold the law, however. A hearing on the issue is scheduled for next week.

If the appeals court acts on the day of that hearing to allow enforcement of the law, the last El Paso clinic would be forced to close just before the New Mexico clinic opens, potentially offering an early rush of business for the new clinic.

The new clinic will not be subject to the requirements of House Bill 2 or any of Texas' other abortions restrictions. New Mexico largely defers to federal law concerning the procedure and does not even set a time limit for how late an abortion can be performed.

Whole Woman's Health officials said the clinic will serve New Mexico residents and women from "surrounding areas." In their announcement, a quote from a Texas lawmaker made clear that includes the Lone Star State.

"Since House Bill 2 passed, many areas across the state have seen clinics close, including El Paso County," said state Rep. Mary Gonzalez, D-Clint. "We have lost access to important reproductive health care services which are absolutely crucial to a healthy community. I am happy to welcome Whole Woman's Health out west."

**Move criticized**

Anti-abortion advocates in Texas and New Mexico criticized the move.

Emily Horne, a lobbyist with Texas Right to Life, called it a "clear effort to cut around the protective measures put in place by House Bill 2."

Dauneen Dolce, executive director of the Right to Life Committee of New Mexico, said, "It's terrible. They're coming over here because Texas laws are tougher than ours are."

"However," Dolce added, "we hope to have a more conservative Legislature in place soon so our laws will be tougher and so we can also close these down."

Joe Pojman of Texas Alliance for Life said the anti-abortion community expected the opening of the New Mexico clinic and anticipates more similar openings in the future.

Whole Woman's Health, which was among a coalition of providers that challenged House Bill 2, has not discussed opening other clinics aimed at serving Texans from across the border, said Gifford, the spokeswoman. Rochelle Tafolla of Planned Parenthood Gulf Coast said her group has not, either.

**A rare move**
It is rare for businesses to open with the express purpose of providing a service to residents of another state where it is harder to get, said Aaron Bruhl, a professor at the University of Houston Law Center.

"People will sometimes go across the state border to buy something that is taxed higher or get something that is illegal in their state, but this is different," Bruhl said. "I can't think of any closely analogous situation."

Tafolla said the necessity of a Texas abortion provider to open a clinic in New Mexico to serve its community triggers memories of long ago, before the 1973 Roe vs. Wade decision established a nationwide right to abortion, when women often had to cross state or national borders to obtain the procedure.

"Tragically, these laws are pushing women's health back decades," she said.