Reproductive Rights Project

The NYCLU’s model clinic escort handbook is meant to provide guidance with regards to the section of a clinic’s handbook relating to clinic access and protesters. The clinic’s escort handbook should also include information specific to the clinic such as the clinic’s protocol and guidelines for escorts.

**MODEL CLINIC ESCORT HANDBOOK**

The First Amendment of the Constitution gives everyone the right to demonstrate peacefully on public property outside of reproductive health facilities.

Protesters’ activities may include:

- holding signs or images
- distributing literature
- praying
- walking peacefully or marching
- talking (or even shouting in some cases)
- talking to escorts/patients unless they are asked to stop

However, federal, state, and city laws protect the rights of any person, including patients, facility-staff, and escorts, to enter and exit a reproductive health facility free from threats, intimidation, obstruction or from being followed in a harassing manner after they ask not to be followed. Staff and escorts are often in the position to observe protesters’ behavior. It is important to familiarize yourself with the following prohibited activities so that you can recognize and document when illegal conduct occurs.

The law prohibits the following activity:

- physically obstructing or blocking another person from entering the clinic
- behaving in a way that places another person in reasonable fear of physical harm
- damaging a reproductive health care facility
- interfering with the operation of a reproductive health care facility
• following and harassing another person within fifteen feet of the facility’s premises (which are defined as including the facility’s driveway, entrance, entryway, exit, and parking lot)

It is important to note that protesters may enter and demonstrate peacefully within the 15 foot zone, but they may not “follow and harass” people within that area. This provision of the law can raise complex questions about what behavior is or is not protected First Amendment speech. The following information is meant to help you identify specific activities that may fall within the prohibited conduct.

Obstructing or Blocking the Entrance includes:

• physically hindering;
• restraining;
• impeding;
• striking;
• shoving;
• grabbing;
• kicking;
• OR to “otherwise subject a person to unwanted physical contact, or attempt to do the same.”

For example, sitting down in front of a clinic’s entry doors to block people from entering and exiting the clinic may fall within the law’s definition of prohibited conduct.

Interfering with a Reproductive Health Care Facility includes:

• Interfering with medical procedures being performed at such facility;
• OR interfering with the delivery of goods to such facility

For example, because patients may not drink water before the procedure, a protester who offers bottled water to a patient in order to forestall their abortion procedure, may fall within the law’s definition of prohibited interference

Harassment:

• There are three parts of the legal definition that must exist to constitute harassment:
  o the person must have the intent to harass, annoy or alarm another person;
- the person must engage in a course of conduct or repeatedly commit acts which alarm or seriously annoy the other person;
- AND the acts must have no legitimate purpose.

- It is important to note that conduct which appears to be harassment often includes speech that may be protected by the First Amendment particularly when the person is trying to convey a message. However, threats are not protected by the First Amendment.
- Although an individual may approach and speak to clinic staff and patients within fifteen feet of the facility’s premises, it is against the law for an individual to follow and harangue the target if asked to desist or told that their target does not want the individual to continue.

For example, a protester approaches a patient entering a clinic as she walks out of the clinic parking lot, which is about 10 feet away from the clinic entrance, and walks toward the front door of the clinic. The protester offers the woman a flyer, and starts shouting at her that she is killing her baby. The woman says “leave me alone.” The protester continues to follow her as she walks away, thrusting the literature at her and shouting at her at increasing volume “you’re going to hell! You’re a baby killer!” This behavior would constitute prohibited conduct.

Another protester approaches a patient who is walking from the parking lot to the front door of the clinic and offers her a flyer. The woman says “no thank you.” The protester retreats. This constitutes protected, First Amendment activity, and does not violate the law.

When documenting possible protester misconduct, it is important to be as specific as possible. Often times, a single incident may not rise to the level of prohibited conduct such as harassment, but repeated incidences may be illegal.