

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
WINNEBAGO COUNTY, ILLINOIS

THE PREGNANCY CARE CENTER OF)
ROCKFORD, incorporated as ROCKFORD)
AREA PREGNANCY CARE CENTER, an)
Illinois not-for-profit corporation; ANTHONY)
CARUSO, MD; A BELLA BABY OBGYN,)
INC., incorporated as BEST CARE FOR)
WOMEN, INC., an Illinois domestic)
Corporation; AID FOR WOMEN, INC., an)
Illinois not-for-profit corporation,)

Plaintiffs,)

v.)

BRUCE RAUNER, in his official capacity)
as Governor of Illinois; and BRYAN A.)
SCHNEIDER, in his official capacity as)
Secretary of the Illinois Department of)
Financial & Professional Regulation,)

Defendants.)

2016MR741

Case No. 2016-__ - _____

THOMAS A. KLEIN

***** ELECTRONICALLY FILED *****

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CASE NO : 2016MR741

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COMPLAINT

NOW COME Plaintiffs, The Pregnancy Care Center of Rockford (incorporated as Rockford Area Pregnancy Care Center), Anthony Caruso, MD, A Bella Baby OBGYN, Inc. (incorporated as Best Care for Women, Inc.), and Aid for Women, Inc., by and through their undersigned attorneys, for their Complaint for Declaratory and Injunctive Relief against the Defendants, Bruce Rauner, Governor of the State of Illinois, in his official capacity, and Bryan A. Schneider, Secretary of the Illinois Department of Financial & Professional Regulation, in his official capacity, and allege as follows:

INTRODUCTION

1. This case challenges the legality of Senate Bill 1564, an amendment to the Illinois Healthcare Right of Conscience Act, 745 ILCS 70/1 *et seq.* (“the HRC Act”). The amended Act

is referred to hereinafter as SB 1564. SB 1564 was signed into law by Governor Rauner on July 29, 2016. A copy of SB 1564, and the HRC Act as amended by it, is attached hereto as Exhibit A.

2. The Pregnancy Care Center of Rockford and Aid for Women (“Pregnancy Centers”) provide help and pro-life information to women in unplanned pregnancies so that they will be supported in choosing to give birth, and practical medical or non-medical support free of charge in support of Plaintiffs’ pro-life viewpoint.

3. The Pregnancy Centers’ religious convictions prohibit them from performing, assisting in, referring for, or participating in any way with abortion or abortion causing drugs.

4. Dr. Anthony Caruso practices medicine in conformance with his religious conviction prohibiting him from performing, assisting in, referring for, or participating in any way with abortion or abortion causing drugs. He does so at his private Ob/Gyn practice, Best Care for Women, Inc. (d/b/a A Bella Baby OBGYN Inc.), and also as a medical director for Aid for Women and other medical pro-life pregnancy centers.

5. The HRC Act protects the conscience rights of individuals and organizations like Plaintiffs, but SB 1564 recently amended it to impose government compelled speech and referral for abortion.

6. SB 1564 requires the Plaintiffs and other medical facilities and physicians to choose between referring for abortions, transferring a patient to an abortion provider, or provide a patient asking for abortion with a list of providers they reasonably believe may perform the abortion.

7. SB 1564 requires these actions even though patients have easy access to lists of abortion providers through internet searches and phone directories available both in print and online.

8. SB 1564 violates the Illinois Religious Freedom Restoration Act, 775 ILCS 35/1 *et seq.*, because it forces medical facilities and physicians including Plaintiffs to violate their religious convictions without serving a compelling government interest in a least restrictive way, and it treats some religious beliefs more favorably than others.

9. For the same reason, SB 1564 violates the religious freedom protections of Art. I, § 3 of the Illinois Constitution.

10. SB 1564 is also a classic example of compelled speech in violation of Plaintiffs' Free Speech rights as protected by Art. I, § 4 of the Illinois Constitution.

11. SB 1564 further violates the equal protection rights of the Plaintiffs under Art. I, § 2 of the Illinois Constitution by treating similarly situated individuals and organizations differently based upon their beliefs about abortion.

12. Plaintiffs seek declaratory relief under the Illinois Religious Freedom Restoration Act, 775 ILCS 35/1 *et seq.*, Article I §§ 3 & 4 of the Illinois Constitution, and the Declaratory Judgment Act, 735 ILCS 5/2-701.

13. Plaintiffs seek injunctive relief under the Illinois Religious Freedom Restoration Act, 775 ILCS 35/20.

14. Plaintiffs seek attorney's fees and costs under the Illinois Religious Freedom Restoration Act, 775 ILCS 35/20.

PARTIES

15. Plaintiff The Pregnancy Care Center of Rockford (PCCR) (incorporated as Rockford Area Pregnancy Care Center) is a religious not-for-profit corporation duly incorporated under the laws of Illinois, with its principal place of business at 4108 Morsay Drive, Rockford, IL 61107, in Winnebago County. PCCR's corporate agent and Executive Director is Tiffany Staman.

16. Plaintiff Anthony Caruso, MD is located in DuPage County, Illinois. His principal place of business is 4333 Main Street, Downers Grove, Illinois.

17. Plaintiff Best Care for Women, Inc., d/b/a A Bella Baby OBGYN, Inc. (“A Bella Baby”), is a domestic Illinois business corporation with its principal place of business at 4333 Main St, Downers Grove, IL 60515. A Bella Baby’s President is Plaintiff Dr. Anthony Caruso.

18. Plaintiff Aid for Women, Inc. is an Illinois not-for-profit corporation located in Cook County, Chicago, Illinois. Its principal place of business is 8 S. Michigan Ave., Suite 812, Chicago, Illinois. Aid for Women’s corporate agent and Executive Director is Susan Barrett.

19. Defendant Bruce Rauner is the Governor of the State of Illinois, is located in Sangamon County, 207 Statehouse, Springfield, Illinois 62706, and is being sued in his official capacity.

20. Defendant Bryan A. Schneider is the Secretary of the Illinois Department of Financial & Professional Regulation, 100 West Randolph, 9th Floor, Chicago, Illinois 60601, and is being sued in his official capacity.

21. Venue is proper in the Circuit Court of the Seventeenth Judicial Circuit, Winnebago County, Illinois under the pertinent statutes because one of the Plaintiffs, The Pregnancy Care Center of Rockford, is located here.

THE PREGNANCY CARE CENTER OF ROCKFORD

22. The Pregnancy Care Center of Rockford (“PCCR”) provides help and pro-life information to women in unplanned pregnancies so that they will be supported in choosing to give birth, and provides practical medical or non-medical support free of charge in support of the Center’s pro-life viewpoint.

23. PCCR provides pregnancy-related information and services without charge to its clients under the supervision of its executive director, Tiffany Staman.

24. PCCR provides limited obstetric ultrasound and non-medical information and services for no charge to women in unplanned pregnancies.

25. PCCR provides its free services to women in unplanned pregnancies pursuant to its pro-life viewpoint, desiring to inform, educate, and empower the women it serves to choose life for their child, rather than abortion.

26. PCCR is a location wherein some medical services are provided to some persons.

27. Medical services provided by PCCR include: urine pregnancy testing, limited obstetric ultrasounds, prenatal and children's vitamins, limited STD testing (chlamydia and gonorrhea), medical referrals, and educational classes pertaining to breastfeeding, nutrition, pre-natal care, etc.

28. The medical team at PCCR consists of two part-time registered nurses, four volunteer registered nurses (all licensed and certified in limited OB ultrasound), one volunteer diagnostic radiologist, and a medical director.

29. Non-medical services provided by PCCR include: peer mentoring for women and men, educational classes, emotional and spiritual support, practical resources and baby supplies, family support, and sexual risk avoidance education in local schools.

30. PCCR is a religious organization and pursues its pro-life message and activities as an exercise of its religious belief life is a gift of God that should not be destroyed by abortion.

31. PCCR believes that human life begins at conception, specifically the fusion of sperm and ovum at fertilization, and that any procedure, drug or device seeking to destroy a preborn life after that stage is an abortion, which they oppose.

32. PCCR's beliefs as a non-profit religious organization, and the beliefs of its employees, volunteers, and medical director, prohibit them from performing, assisting in, referring for, participating in any way with, or helping procure abortion or abortion causing drugs or devices.

33. The religious beliefs of PCCR and its employees, volunteers, and medical director, prohibit them from referring a patient for an abortion, transferring a patient to an abortion provider, or providing in writing information to the patient about other health care providers who they reasonably believe may offer the patient an abortion or abortion causing drugs or devices, and their religious beliefs prohibit them from employing or supervising persons who would do so.

34. The religious beliefs of PCCR and its employees, volunteers, and medical director, prohibit them from adopting protocols that would direct PCCR to refer a patient for an abortion, transfer a patient to an abortion provider, or providing in writing information to the patient about other health care providers who they reasonably believe may offer the patient an abortion or abortion causing drugs or devices.

35. At the request of a patient or a legal representative of a patient, PCCR is willing to and does provide copies of a patient's medical records to the patient or to another health care professional or health care facility designated by the patient in accordance with all applicable laws including laws protecting patient privacy.

36. Information about health care providers that offer abortions is readily available near PCCR, throughout Rockford and in Winnebago County.

37. Internet searches, and phone directories in print and online available near PCCR and throughout Rockford and Winnebago County, contain listings specifically for abortion providers

and, separately, for Ob/Gyns, family practitioners, public and community health clinics, and other health care providers.

38. Upon information and belief, phone directories are available at many stores, bars, and other establishments if a member of the public approaches the proprietor or an employee and asks to see the phone book.

39. Less than 1000 yards from PCCR, a person can walk to: ten restaurants, three banks or credit unions, four beauty or nail salons or spas, a florist, a women's clothing store, three food markets, three veterinary clinics, two additional retail stores, two auto repair centers, a car wash, a liquor store, a hobby shop, a gas station, a cell phone store, and two cigarette or e-cigarette stores.

40. Upon information and belief, a person at PCCR could go to one of the establishments referenced in the previous paragraph, ask to see a phone book, be allowed to look at the yellow pages, and find therein a list of doctors that may provide abortions.

41. Rockford Public Library has six locations, including one less than three miles from PCCR and one 3.5 miles away.

42. Upon information and belief, a person at PCCR may receive from any Rockford Public Library location access to internet searches, the yellow pages of area phone books, and to online phone directories, wherein she may obtain lists of doctors that may provide abortions.

43. One mile from PCCR is the library at Rockford University where, upon information and belief, a person at PCCR could be allowed to look at the yellow pages of a phone book and find a list of doctors that may provide abortions.

44. According to the Health Resources and Services Administration of the U.S. Department of Health and Human Services, there are five federally qualified community health centers in Rockford, all of them being seven miles or less away from PCCR.

45. Upon information and belief, a person at PCCR may obtain information about doctors that may provide abortions at any of the federally qualified community health centers in Rockford or Winnebago County.

DR. ANTHONY CARUSO AND A BELLA BABY OBGYN

46. For years, Dr. Anthony Caruso has served the well being of women, children, and families as a medical doctor in Illinois.

47. Dr. Caruso is licensed by the State of Illinois to practice medicine.

48. Dr. Caruso is Board Certified by the American Board of Obstetrics and Gynecology in both Obstetrics and Gynecology and Reproductive Endocrinology and Infertility.

49. Dr. Caruso's primary office is the medical practice at which he is the founder and President, A Bella Baby OBGYN, Inc. in Downers Grove, Illinois, incorporated as Best Care for Women, Inc.

50. Dr. Caruso is the only medical doctor at A Bella Baby OBGYN.

51. Dr. Caruso wrote the mission statement and affirmations of belief of A Bella Baby OBGYN, and he shares and exercises those beliefs in his practice there.

52. Where A Bella Baby OBGYN's mission statements and affirmations speak in the first person, they are referring to Dr. Caruso.

53. A Bella Baby OBGYN and Dr. Caruso are thoroughly pro-life and pro-fertility, and aligned with the ethical medical principles of the Hippocratic Oath and the Catholic Church.

54. A Bella Baby OBGYN and Dr. Caruso care for every preborn child as a patient, and give both mothers and their preborn children a full and equal amount of reverence and care.

55. A Bella Baby OBGYN and Dr. Caruso offer gynecology, obstetrics, reproductive health, and surgical services, including at their facility in Downers Grove.

56. Regarding its gynecology services, A Bella baby OBGYN states that it “provides a comprehensive array of general, preventive and specialized gynecologic care” from a woman’s “first gynecologic exam to post menopause.”

57. Regarding their obstetric services, A Bella baby OBGYN states, “I am constantly in awe of what a woman’s body can do, with childbirth being one of its greatest marvels. A Bella Baby OBGYN is committed to providing the best care for women during pregnancy. It all begins with a devotion to affirming the dignity of women and promoting respect for your unborn baby.”

58. Regarding their reproductive health services, A Bella Baby OBGYN’s mission “is to preserve women’s fertility when they are young, follow them through the creation of their families, and make gentle offerings to ease them through the changes of life. All means of Natural Family Planning are supported, however artificial means of contraception are not offered.”

59. Regarding their surgical services, A Bella Baby OBGYN “offers a gentle caring staff, the latest technology and expertise in providing the best in women’s care,” including laparoscopic and major surgery for endometriosis, removal of uterine fibroids, hysterectomy, tubal re-anastomosis, tubal repair procedures, hysteroscopy commonly performed to find the source of abnormal uterine bleeding, remove adhesions, or to diagnose the cause of repeated miscarriages, and laparoscopy commonly used to diagnose and treat chronic pelvic pain, endometriosis, to remove fibroids, ovarian cysts or an ectopic pregnancy.

60. According to their mission statement, “A Bella Baby OBGYN recognizes the dignity of each person, especially the most vulnerable: the sick, the poor, the unborn, and the elderly. Women in crisis pregnancies are received with compassion. A Bella Baby OBGYN does not recommend abortion, euthanasia, sterilization, or contraceptive services. More and more women are being hurt or having significant side effects from these services, and they deserve better.”

61. According to their mission statement, “Whether providing prenatal care to ensure a safe delivery or listening to and educating patients during well-woman visits, the services at A Bella Baby OBGYN are meant to support each woman in her particular state in life. I believe that women, present and active in all aspects of life, have a powerful, unique and dignified role in nurturing humanity.”

62. According to their mission statement, “Health requires attention to the entire person, so A Bella Baby OBGYN offers the best in current medical and surgical therapies to manage physical conditions and gently address spiritual, intellectual, emotional, and psychological concerns, providing referrals when indicated. I pray for our patients and with them as appropriate. A Bella Baby OBGYN also provides routine screening for health maintenance and encourage our patients to adopt healthy behaviors.”

63. According to their mission statement, “It is a privilege to serve each patient, and I endeavor to be truly present to those who come for care. All are welcome, no matter their state in life, or religious affiliation. Fertility is a gift, a power, and a responsibility. The therapies which are used cooperate with and seek to restore the body’s functioning. Natural family planning is advised and supported not only to help in the treatment of many gynecologic problems including infertility but also to strengthen their marriages and families.”

64. A Bella Baby OBGYN and Dr. Caruso believe that human life begins at conception, specifically the fusion of sperm and ovum at fertilization, and that any procedure, drug or device seeking to destroy a preborn life after that stage is an abortion, which they oppose.

65. Many women and families seek out A Bella Baby OBGYN and Dr. Caruso precisely because they offer a thoroughly pro-life and pro-fertility medical practice fully aligned with Catholic principles and A Bella Baby OBGYN's mission statement and affirmations.

66. Many patients of A Bella Baby OBGYN and Dr. Caruso want the freedom to be able to choose a health care professional who affirms their values and would not help someone find a doctor to abort a baby or promote contraception.

67. The religious beliefs of A Bella Baby OBGYN and Dr. Caruso prohibit them from referring a patient for an abortion, transferring a patient to an abortion provider, or providing in writing information to the patient about other health care providers who they reasonably believe may offer the patient an abortion, abortion causing drugs or devices, or contraception, and their religious beliefs prohibit them from employing or supervising persons who would do so.

68. The religious beliefs of A Bella Baby OBGYN and Dr. Caruso prohibit them from adopting protocols that would direct PCCR to refer a patient for an abortion, transfer a patient to an abortion provider, or providing in writing information to the patient about other health care providers who they reasonably believe may offer the patient an abortion, abortion causing drugs or devices, or contraception.

69. Dr. Caruso also serves as the medical director for various pro-life pregnancy centers including Plaintiff Aid for Women, Informed Choices in Crystal Lake and Grayslake, and LaGrange Women's Medical, LaGrange.

70. The pro-life pregnancy centers for which Dr. Caruso serves as the medical director hold moral and religious beliefs against referring women for an abortion, transferring them to an abortionist, or providing a woman with a list of providers they reasonably believe may provide the woman with an abortion, abortion causing drugs or devices, or contraception, that she requested.

71. It would violate the beliefs of Dr. Caruso to serve as a medical director for a pregnancy center to ensure or supervise the development of protocol or acts of personnel that refer a patient for an abortion, transfer a patient to an abortion provider, or providing in writing information to the patient about other health care providers who they reasonably believe may offer the patient an abortion, abortion causing drugs or devices, or contraception.

72. Information about health care providers that offer abortions and contraception is readily available near A Bella Baby OBGYN, throughout Downers Grove and in DuPage County.

73. Internet searches, and phone directories in print and online available near A Bella Baby OBGYN in Downers Grove and throughout DuPage County, contain listings specifically for abortion providers and, separately, for Ob/Gyns, family practitioners, public and community health clinics, and other health care providers.

74. Upon information and belief, phone directories are available at many stores, bars, and other establishments if a member of the public approaches the proprietor or an employee and asks to see the phone book.

75. Less than 1000 yards from A Bella Baby OBGYN along Ogden Avenue, a person can walk to dozens of restaurants, banks, beauty salons, food markets, retail stores, auto repair centers, gas stations, pharmacies, or other kinds of stores.

76. Upon information and belief, a person at A Bella Baby OBGYN could go to one of the establishments referenced in the previous paragraph, ask to see a phone book, be allowed to look at the yellow pages, and find therein a list of doctors that may provide abortions or contraception.

77. Downers Grove Public Library has a location 1.1 miles from A Bella Baby OBGYN.

78. Upon information and belief, a person at A Bella Baby OBGYN may receive from Downers Grove Public Library access to internet searching, to the yellow pages of area phone books, and to online phone directories, from which she may obtain lists of doctors that may provide abortions or contraception.

79. According to the Health Resources and Services Administration of the U.S. Department of Health and Human Services, there are nine federally qualified community health centers within five miles of A Bella Baby OBGYN.

80. Upon information and belief, a person at A Bella Baby OBGYN may obtain information about doctors that may provide abortions at any of the federally qualified community health centers within five miles of A Bella Baby OBGYN.

81. Upon information and belief, there are many establishments within 1000 yards of the pro-life pregnancy centers for which Dr. Caruso serves as a medical director, to which a person at the pregnancy center could go to obtain free access to a phone directory in which she could obtain lists of doctors that may provide abortions, abortion causing drugs or devices, or contraception.

82. Upon information and belief, there are several public libraries in close proximity to the pro-life pregnancy centers for which Dr. Caruso serves as a medical director, to which a person at the pregnancy center could go to obtain free access to internet searching, or to a print or online

phone directory, in which she could obtain lists of doctors that may provide abortions, abortion causing drugs or devices, or contraception.

83. Upon information and belief, there are multiple federally qualified community health centers within ten miles of the pro-life pregnancy centers for which Dr. Caruso serves as a medical director, to which a person could go to information about doctors that may provide abortions, abortion causing drugs or devices, or contraception.

AID FOR WOMEN

84. Aid for Women, Inc. provides help and pro-life information to women in unplanned pregnancies so that they will be supported in choosing to give birth, and practical medical or non-medical support free of charge in support of its pro-life viewpoint.

85. Aid for Women is a pregnancy help organization that exists to serve women and their unborn children.

86. Aid for Women has three pregnancy help center facilities in Illinois that offer medical services, at 8 S. Michigan Ave., Suite 812, Chicago; 5013 S. Hermitage Ave., Chicago; and 1400 S. Austin Blvd., Cicero.

87. Aid for Women also has two facilities providing residential assistance, one in Chicago and one in Des Plaines, to provide a safe and nurturing home where pregnant women and their children can live, and to provide new mothers more independence while they work toward completing their goals.

88. Aid for Women was founded in 1978 by a Roman Catholic Deacon, based on the faith and teachings of the Catholic Church.

89. Aid for Women states that at its facilities, "each woman is provided with the emotional, practical and spiritual support she needs to choose life for her unborn baby and to provide a

better future for her and her children. Our life-affirming services are offered to clients free-of-charge.”

90. Aid for Women describes its mission in this way: “With dozens of abortion clinics in the city of Chicago, Aid for Women’s pregnancy help centers are on the front line of the abortion battle. Aid for Women provides a safe refuge from abortion providers for thousands of women [annually] who are facing unexpected or difficult pregnancies.”

91. Aid for Women further describes its mission as follows: “Founded in 1978 on the faith and teachings of the Catholic Church, Aid for Women empowers women to make choices consistent with the dignity of the human person and the family. Our message — of positive alternatives to abortion, the value of chastity and the noble and sacred role of motherhood — serves an ethnically diverse population of women in the Chicago metropolitan area. Each client is given unconditional compassion and the emotional, material and spiritual support she needs to choose life for her unborn baby and to plan a brighter future for herself and her children.”

92. Aid for Women provides pregnancy-related licensed medical as well as non-medical information and services without charge to its clients under the supervision of its Executive Director, Susan Barrett, and consistent with its religious beliefs.

93. Aid for Women provides both medical and non-medical pro-life information and services for no charge to women in unplanned pregnancies.

94. Aid for Women performs ultrasound examinations under the direction of its medical director, Plaintiff Anthony Caruso, MD, a licensed physician in the State of Illinois.

95. Aid for Women provides its services to women in unplanned pregnancies pursuant to its pro-life and religious viewpoint, desiring to empower the women it serves to choose life for their child, rather than abortion.

96. Medical services provided by Aid for Women include: ultrasound examinations, medical referrals, information on STDs, and information on natural family planning.

97. The medical team at Aid for Women consists of one Obstetrician/Gynecologist and one Registered Diagnostic Medical Sonographer.

98. Non-medical services provided by Aid for Women include: pregnancy test kit, peer counseling and education, emotional support, maternity clothes, baby supplies, support groups, healthy family support and housing.

99. Aid for Women is a not-for-profit and religious organization and pursues its pro-life message and activities as an exercise of its religious belief that life is a gift from God that should not be destroyed by abortion.

100. Aid for Women is a religious charitable organization listed in the Official Catholic Directory of the Roman Catholic Church in the United States.

101. Aid for Women believes that human life begins at conception, specifically the fusion of sperm and ovum at fertilization, and that any procedure, drug or device seeking to destroy a preborn life after that stage is an abortion, which Aid for Women opposes.

102. Aid for Women's religious beliefs prohibit it from performing, assisting in, referring for, participating in any way with, or helping procure abortion, abortion causing drugs, or contraception.

103. The religious beliefs of Aid for Women and its employees, volunteers, and medical director, prohibit them from referring a patient for an abortion, transferring a patient to an abortion provider, or providing in writing information to the patient about other health care providers who they reasonably believe may offer the patient an abortion, abortion causing drugs,

or contraception, and their religious beliefs prohibit them from employing or supervising persons who would do so.

104. The religious beliefs of Aid for Women and its employees, volunteers, and medical director, prohibit them from adopting protocols that would direct Aid for Women to refer a patient for an abortion, transfer a patient to an abortion provider, or provide in writing information to the patient about other health care providers who they reasonably believe may offer the patient an abortion, abortion causing drugs, or contraception.

105. Abortion and contraception services and information about doctors who provide them are widely available in the Chicago area, including near Aid for Women's facilities.

106. Upon information and belief, there are many establishments within 1000 yards of Aid for Women's facilities to which a person at the facility could go to obtain free access to a phone directory in which she could obtain lists of doctors that may provide abortions, abortion causing drugs, or contraception.

107. Upon information and belief, there are several public libraries in close proximity to Aid for Women's facilities to which a person at the facility could go to obtain free access to internet searching, or to a print or online phone directory, in which she could obtain lists of doctors that may provide abortions, abortion causing drugs, or contraception.

108. Upon information and belief, there are multiple federally qualified community health centers within ten miles of Aid for Women's facilities to which a person could go to obtain information about doctors that may provide abortions, abortion causing drugs, or contraception.

SB 1564'S UNLAWFUL PROVISIONS

109. The primary policy furthered by the underlying HRC Act amended by SB 1564 is "to respect and protect the right of conscience of all persons who refuse to obtain, receive, or accept,

or who are engaged in, the delivery of, arrangement for, or payment of health care services and medical care....” 745 ILCS 70/2.

110. SB1564 recently amended the HRC Act to include the following statement: “It is also the public policy of the State of Illinois to ensure that patients receive timely access to information and medically appropriate care.” 745 ILCS 70/2.

111. Under the HRC Act’s underlying definition, “health care” is defined as “any phase of patient care, including but not limited to, testing; diagnosis; prognosis; ancillary research; instructions; family planning, counselling [sic], referrals, or any other advice in connection with the use or procurement of contraceptives and sterilization or abortion procedures; medication; or surgery or other care or treatment rendered by a physician or physicians, nurses, paraprofessionals or health care facility, intended for the physical, emotional, and mental well-being of persons.” 745 ILCS 70/3.

112. “Physician” is defined as “any person who is licensed by the State of Illinois under the Medical Practice Act of 1987.”

113. Dr. Caruso is a physician under the HRC Act.

114. “Health care professional” is defined as “any nurse, nurse’s aide, medical school student, professional, paraprofessional or any other person who furnishes, or assists in the furnishing of, health care services.” *Id.*

115. Dr. Caruso, and the licensed medical professionals working or volunteering at Plaintiffs’ facilities, are health care professionals under the HRC Act.

116. “Health care facility” is defined as any public or private hospital, clinic, center, medical school, medical training institution, laboratory or diagnostic facility, physicians office, infirmary,

dispensary, ambulatory surgical treatment center or other institution or location wherein health care services are provided to any person....” *Id.*

117. The Pregnancy Care Center of Rockford, A Bella Baby OBGYN, Aid for Women’s pregnancy help centers, and the pregnancy centers at which Dr. Caruso serves as medical director, are all health care facilities under the HRC Act.

118. “Conscience” is defined as “a sincerely held set of moral convictions arising from belief in and relation to God, or which, though not so derived, arises from a place in the life of its possessor parallel to that filled by God among adherents to religious faiths.” *Id.*

119. Plaintiffs’ provision of medical services in pursuit of and consistent with their pro-life and religious beliefs, and their objection to referring a patient for an abortion, transferring a patient to an abortion provider, or providing in writing information to the patient about other health care providers who they reasonably believe may offer the patient an abortion, constitute exercises of conscience under the HRC Act.

120. When SB 1564 was signed into law on July 29, 2016, it added, *inter alia*, a new § 6.1 to the HRC Act.

121. This new section § 6.1 of SB 1564 declares:

Sec. 6.1. Access to care and information protocols. All health care facilities shall adopt written access to care and information protocols that are designed to ensure that conscience-based objections do not cause impairment of patients’ health and that explain how conscience-based objections will be addressed in a timely manner to facilitate patient health care services. The protections of Sections 4, 5, 7, 8, 9, 10, and 11 of this Act only apply if conscience-based refusals occur in accordance with these protocols. These protocols must, at a minimum, address the following:

- (1) The health care facility, physician, or health care personnel shall inform a patient of the patient’s condition, prognosis, legal treatment options, and risks and benefits of the treatment options in a timely manner, consistent with current standards of medical practice or care.

- (2) When a health care facility, physician, or health care personnel is unable to permit, perform, or participate in a health care service that is a diagnostic or treatment option requested by a patient because the health care service is contrary to the conscience of the health care facility, physician, or health care personnel, then the patient shall either be provided the requested health care service by others in the facility or be notified that the health care will not be provided and be referred, transferred, or given information in accordance with paragraph (3).
- (3) If requested by the patient or the legal representative of the patient, the health care facility, physician, or health care personnel shall: (i) refer the patient to, or (ii) transfer the patient to, or (iii) provide in writing information to the patient about other health care providers who they reasonably believe may offer the health care service the health care facility, physician, or health personnel refuses to permit, perform, or participate in because of a conscience-based objection.
- (4) If requested by the patient or the legal representative of the patient, the health care facility, physician, or health care personnel shall provide copies of medical records to the patient or to another health care professional or health care facility designated by the patient in accordance with Illinois law, without undue delay.

See Exhibit A.

122. Section 6.1 requires Plaintiffs to refer to, transfer to, or provide information regarding, other health care providers that may provide surgical abortion, abortion causing drugs and devices, and contraception, and develop protocols to ensure the same.

123. It would violate Plaintiffs health care facilities' religious and moral beliefs and conscience to comply with SB 1564 § 6.1(3)'s directive that their "facility, physician, or health care personnel shall: (i) refer the patient to, or (ii) transfer the patient to, or (iii) provide in writing information to the patient about other health care providers who they reasonably believe may offer the health care service the health care facility, physician, or health personnel refuses to permit, perform, or participate in because of a conscience-based objection."

124. It would violate Plaintiffs' religious and moral beliefs and conscience to comply with SB 1564 § 6.1's directive that they "shall adopt written access to care and information protocols"

that “must, at a minimum, address” the requirement of § 6.1(3) that they “shall” refer to, transfer to, or give a patient information about other health care providers who may perform abortions.

125. SB 1564 forces Plaintiffs to speak in a way that contradicts the pro-life mission they were founded to promote, including forcing them to help women find abortion providers.

126. SB 1564 requires the Plaintiff facilities, and medical directors responsible for them, to expend resources now in order to develop the mandated protocols.

127. SB 1564 amends the HRC Act so that it conditions the Act’s conscience protections for Plaintiffs’ sincerely held religious convictions, found elsewhere in §§ 4, 5, 7, 8, 9, 10, and 11 of the HRC Act, upon their compliance with § 6.1 and § 6.1(3) in its referral/transfer/information provision requirement and requirement to adopt protocols requiring the same.

128. One of the authors of SB 1564, Lori Chaiten, an attorney for the American Civil Liberties Union, testified at the Human Services Committee Hearing on May 13, 2015, that the amendments of the law would require facilities like the Plaintiff facilities and the pregnancy centers for which Dr. Caruso is a medical director, and physicians like Dr. Caruso and medical personnel at Plaintiff facilities, to refer, transfer, or provide information regarding procuring abortion when a woman requests abortion, and not just to provide a list of pro-life doctors who do not offer abortion, nor a generic list of doctors without regard to whether they perform abortions. A transcript of this hearing is attached as Exhibit B.

129. Regarding how the new provisions of § 6.1 of SB 1564 work in practice, Ms. Chaiten testified, “Well, they will refer for abortion, or they will talk to the patient about all of their options. And if the patient says ‘I choose termination,’ they will assist that patient in – they will facilitate access to that care.” *Id.*

130. Dr. Caruso and the licensed medical personnel working or volunteering at Plaintiff facilities and at the pregnancy centers where Dr. Caruso is a medical director, are regulated by the Illinois Department of Financial & Professional Regulation (“IDFPR”), directed by Defendant Schneider.

131. The IDFPR under Defendant Schneider’s direction will consider it a violation of the conditions of the licenses of Dr. Caruso and the licensed medical personnel working or volunteering at Plaintiff facilities and at the pregnancy centers where Dr. Caruso is a medical director, if they do not provide the information or adopt the protocol that § 6.1 of SB 1564 says they “shall” provide and adopt.

132. SB 1564 and its enforcement and threatened enforcement by Defendants are actions taken under of color of state law.

133. Plaintiffs desire to continue engaging in their pro-life and religiously motivated medical services but fear penalization under SB 1564 and their medical licenses if they continue to do so.

134. SB 1564 is imposing and will continue to impose irreparable harm upon Plaintiffs’ free exercise of religion and free speech activities unless it is declared illegal or unconstitutional and enjoined.

135. Plaintiffs have no adequate remedy at law.

COUNT I

Violation of the Illinois Religious Freedom Restoration Act, 775 ILCS 35/1 *et seq.*

136. Plaintiffs incorporate by reference paragraphs 1–135.

137. Section 15 of the Illinois Religious Freedom Restoration Act of 1998, 775 ILCS 35/15 provides that:

Free exercise of religion protected. Governments may not substantially burden a person's free exercise of religion, even if the burden results from a rule of general applicability, unless it demonstrates that application of the burden to the person (i) is in furtherance of a compelling governmental interest and (ii) is the least restrictive means of furthering that compelling governmental interest.

138. SB 1564 §§ 6.1 and 6.1(3) directs that Plaintiffs and their facilities and health care personnel "shall" provide certain referrals, transfers, or information discussed above pertaining to other providers that offer abortion, abortion causing drugs, or contraception, and that they shall adopt protocols ensuring the same.

139. The Illinois Department of Financial & Professional Regulation will impose those directives of §§ 6.1 and 6.1(3) as a condition of the medical licenses of Dr. Caruso and health care personnel working for Plaintiffs, and impose penalties on them for non-compliance.

140. Those directives of §§ 6.1 and 6.1(3) burden the religious exercise of Plaintiffs and their facilities and health care personnel.

141. SB 1564, the Defendants, and the State have no compelling governmental interest to require Plaintiffs and their facilities and health care personnel to provide women information about other medical providers that is readily available to any patient by running an internet search or looking in any print or online phone directory.

142. Such compulsion by SB 1564, the Defendants, and the State, is not a least restrictive means of furthering a compelling government interest when information about other medical providers is readily available to any patient on the internet or in any print or online phone directory.

143. The HRC Act underlying SB 1564 provides an important governmental benefit to Plaintiffs by protecting them from liability and governmental retaliation for abiding by their religious convictions and refusing to participate in abortion.

144. SB 1564 and its amendments to the HRC Act condition those benefits upon the forfeiture of Plaintiffs' religious beliefs that prohibit them from referring for, or providing information regarding how to obtain, abortions.

145. Moreover, the HRC Act as now amended discriminates against individuals like Plaintiffs whose religious convictions require them to not participate in abortion, *and* not to refer for or provide information to facilitate abortion.

146. Individuals and organizations whose religious convictions prohibit participation in abortion but do not prohibit referring for or providing information to facilitate abortion are treated more favorably by the Act.

147. There is no compelling interest sufficient to justify this substantial burden on Plaintiffs' religious beliefs.

148. Requiring Plaintiffs to refer for or provide information to facilitate abortion is not the least restrictive means of furthering any interest the State has.

COUNT II

Violation of the Free Speech Protections of Art. I, § 4 of the Illinois Constitution

149. Plaintiffs incorporate by reference paragraphs 1–135.

150. SB 1564 §§ 6.1 and 6.1(3) directs that Plaintiffs “shall” engage in speech providing information about providers of abortion, abortion causing drugs, or contraception, and written speech adopting protocols to ensure the same.

151. SB 1564, the Defendants, and the State are prohibited by the free speech provisions of Art. 1, § 4 of the Illinois Constitution from imposing SB 1564 §§ 6.1 and 6.1(3)'s speech requirements, or penalizing Plaintiffs for failure to comply with the same.

152. The HRC Act underlying SB 1564 provides an important governmental benefit to Plaintiffs by protecting them from liability and governmental retaliation for abiding by their religious convictions and refusing to participate in abortion.

153. SB 1564 and its amendments to the HRC Act condition that benefit upon the forfeiture of their right not to engage in speech referring for or providing information to facilitate abortions, abortion causing drugs, or contraception, and adopting written protocols to ensure the same.

154. Defendants are prohibited by the free speech provisions of Art. 1, § 4 of the Illinois Constitution from conditioning the governmental benefits of the HCA Act upon the requirement that the recipient engage in speech contrary to their views.

155. Any interest Defendants have in compelling Plaintiffs to engage in such speech is outside the scope of the Act's purpose of protecting the right of conscience.

156. There is no essential nexus between forcing Plaintiffs to give up their free speech rights and a legitimate interest on the part of the State because there are multiple other avenues for the State to get the required information to women.

157. The significant burden on Plaintiffs' free speech rights resulting from being forced to speak in a way that facilitates access to services antithetical to their beliefs is not proportional to the State's limited interest in forcing these Plaintiffs to provide information to facilitate abortion since that information can be communicated in myriad other ways.

158. SB 1564 is a content based regulation of speech, and requires speech of particular content.

159. SB 1564 is a viewpoint based regulation of speech.

160. There is no compelling interest sufficient to justify this substantial burden on Plaintiffs' free speech.

161. There is no significant government interest to compel Plaintiffs to engage in such speech, nor is the compulsion narrowly tailored in furtherance of such an interest.

162. Requiring Plaintiffs to refer for or provide information to facilitate abortion is not the least restrictive means of furthering any interest the State has.

COUNT III

Violation of the Freedom of Religion Protected by Art. I, § 3 of the Illinois Constitution

163. Plaintiffs incorporate by reference paragraphs 1–135.

164. The HRC Act provides an important governmental benefit to Plaintiffs by protecting them from liability and governmental retaliation for abiding by their religious convictions and refusing to participate in or facilitate access to abortion.

165. But the amendments to the Act by SB 1564 condition that benefit upon the forfeiture of their religious beliefs that prohibit them from referring to or providing information to facilitate obtaining abortions and other services.

166. Moreover, the Act as now amended discriminates against individuals and organizations like Plaintiffs whose religious convictions require them to not participate in abortion and other services, *and* not to refer for or provide information to facilitate those services.

167. Individuals and organizations whose religious convictions prohibit participation in abortion but do not prohibit referring for or providing information facilitating abortion, abortion causing drugs, or contraception are treated more favorably by the Act.

168. There is no compelling interest sufficient to justify this substantial burden on Plaintiffs' religious beliefs.

169. Requiring Plaintiffs to refer for or provide information regarding abortion is not the least restrictive means of furthering any interest the State has.

COUNT IV

Violation of the Equal Protection Clause of Art. I, § 2 of the Illinois Constitution

170. Plaintiffs incorporate by reference paragraphs 1–135.

171. The Act as now amended treats similarly situated individuals and organizations differently based upon their religious convictions.

172. Organizations and individuals like Plaintiffs whose religious convictions require them to not participate in abortion, abortion causing drugs, or contraception, *and* not to refer for or provide information facilitating such services, cannot obtain protection of the Act without violating their convictions.

173. Organizations and individuals who have no religious convictions prohibiting them from referring for or providing information facilitating abortion, abortion causing drugs, or contraception, but only believe actual participation in abortion is immoral are protected by the Act without having to violate their convictions.

174. Individuals and organizations whose religious convictions prohibit participation in abortion, abortion causing drugs, or contraception, but do not prohibit referring for or providing information facilitating the same are treated more favorably by the Act.

175. This differential treatment is based on upon the fundamental right of freedom of religion.

176. There is no compelling interest sufficient to justify this differential treatment.

177. Requiring Plaintiffs to refer for or provide information facilitating abortion is not the least restrictive means of furthering any interest the State has.

WHEREFORE, the Plaintiff respectfully requests that:

A) This Court render a Declaratory Judgment, adjudging and declaring that SB 1564, the Amendment to the HRC Act:

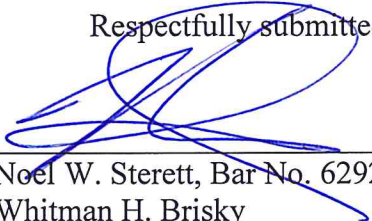
- 1) Violates the Illinois Religious Freedom Restoration Act, 775 ILCS 35/1 *et seq.*;
- 2) Violates Art. I, § 4 of the Illinois Constitution;
- 3) Violates Art. I, § 3 of the Illinois Constitution;
- 4) Violates Art. I, § 2 of the Illinois Constitution;

B) This Court enter an injunction permanently enjoining Defendants from enforcing SB 1564 in a way that violates the rights of the Plaintiffs.

C) This Court award Plaintiffs attorney fees and costs against the Defendants pursuant to, at least, Section 20 of the Illinois Religious Freedom Restoration Act.

D) This Court award such other and further relief as it deems equitable and just.

Respectfully submitted this 5th day of August, 2016.



Noel W. Sterett, Bar No. 6292008
Whitman H. Brisky
Mauck Baker, LLC
1 N. LaSalle, Suite 600
Chicago, IL 60602

Kevin H. Theriot*
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260
480.444.0020
480.444.0028 (fax)
ktheriot@ADFlegal.org

Matthew S. Bowman*
Alliance Defending Freedom
440 First Street NW
Washington, D.C. 20001
202.393.8690
202.347.3622 (fax)
mbowman@ADFLegal.org

Counsel for Plaintiffs

* Motions *pro hac vice* to be submitted