

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS- CHANCERY DIVISION

THE WOMEN’S CENTERS OF)
GREATER CHICAGOLAND, a not-for-)
profit Illinois corporation, and HOPE LIFE)
CENTER, INC., a not-for-profit Illinois)
corporation)

Plaintiffs,)

v.)

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

Defendants.)

Electronically Filed
Feb 02 2017 05:11PM
Paul Palazzolo
Clerk of the Circuit Court
Case Number: 2017CH000052
Transaction ID: 60156370

CASE NO.

VERIFIED COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

Plaintiffs, The Women’s Centers of Greater Chicagoland, and Hope Life Center (“Plaintiffs”), through counsel, file this complaint against the Defendants, BRUCE RAUNER, in his official capacity as Governor of Illinois, BRYAN A. SCHNEIDER, in his official capacity as Secretary of the Illinois Department of Financial and Professional Regulation (“Defendants”), and respectfully request that this Honorable Court enter a judgment providing the relief requested herein. In support of their Complaint, Plaintiffs allege:

NATURE OF THE CASE

1. The Plaintiffs are pregnancy resource centers (commonly referred to as PRCs) who reach out to pregnant women who may be contemplating abortion. Plaintiffs provide information and counseling to pregnant women about alternatives to abortion, including adoption and parenting, in the hope that the women so informed and counseled will choose life for their unborn children. Plaintiffs operate in accordance with Christian principles, which teach that an unborn child is a human being entitled to continued life, and that drugs, devices, and procedures which end the life of the unborn child are morally wrong.

2. Effective January 1, 2017, the Illinois Health Care Right of Conscience Act, 745 ILCS 70/1 et seq. (“IHRCA”), was amended by Public Act 99-690 (“P.A. 99-690”). See Complaint, **Exhibit 1**. The amendment prevents Plaintiffs from fulfilling their constitutionally protected work by requiring them, against their sincerely held religious beliefs, and under pain of state sanctions and discrimination, to give their clients a state-mandated message about abortion, contraception and sterilization that frustrates their efforts to assist them to make a life-affirming choices for their unborn children.

3. This lawsuit challenges P.A. 99-690 on the grounds that it violates Plaintiffs’ rights guaranteed them by the laws and Constitution of the State of Illinois.

PARTIES, JURISDICTION, AND VENUE

4. Plaintiff The Women’s Centers of Greater Chicagoland (referred to hereafter along with its board members, officers, staff and licensed and unlicensed volunteers, as “TWC”) is a not-

for-profit corporation organized under Illinois law. It has offices in Chicago, Des Plaines, and Evergreen Park, Illinois.

5. For over 32 years TWC has been reaching out to women contemplating abortion. TWC provides these women with information, advice and services affirming their dignity as mothers and the dignity of their unborn children, and encouraging them to make a life-affirming decision for their unborn child. TWC estimates it has assisted over 39,000 expectant mothers to choose life for their babies over these 32 years.

6. TWC's efforts are inspired by the teachings of Roman Catholic faith, a Christian religion, and TWC has a sincere religious belief in its principles and values and believes they are beneficial to pregnant women. TWC therefore objects to providing women with counseling and information that would contradict these principles and values, and objects, on the basis of its Christian and Catholic principles, to informing or counseling pregnant women about supposed "benefits" of abortion, sterilization, or contraception, or notifying clients of names of abortion or contraceptive providers, the actions of which could contribute to ending a human life or interfering with God's plan for human sexuality as set forth in Catholic teaching.

7. Since TWC follows the Christian teachings of the Roman Catholic faith, it cannot, because of its sincerely held religious beliefs and conscience, comply with the provisions of P.A. 99-690 that compel speech and actions contrary to its sincerely held religious beliefs.

8. For the same reason TWC's board, officers, staff, and volunteers who further its mission also cannot comply. Because it cannot comply, the law has forced TWC to suspend operations pending this litigation and it will be required to cease operations if P.A. 99-690 remains in effect

to compel, on pain of liability and sanctions, TWC's speech and conduct in conflict with its religious beliefs and conscience.

9. Hope Life Center (referred to hereafter along with its board members, officers, staff and licensed and unlicensed volunteers, as "HLC") is an Illinois not-for-profit corporation with offices in Sterling and Ottawa, Illinois.

10. Since 1986 it has been providing women assistance in seeking alternatives to abortion. Its charitable assistance encourages on average over eighty percent of its pregnant clients to choose to give birth to their unborn child.

11. HLC follows Christian principles which uphold the inherent dignity of each human being, born and unborn, and teach that abortion, contraception through drugs and devices, and sterilization, are morally wrong. These principles cause HLC to object to providing women with information about the supposed benefits of abortion or contraception. HLC does not, because of its religiously based objection, counsel women to have an abortion, to use contraceptive drugs or devices, and it does not facilitate its clients' procurement of such drugs, devices, or procedures by referring them to, or even providing information about, entities or individuals who sell such items and services.

12. Since HLC follows the Christian faith, it cannot, because of its sincerely held religious beliefs and conscience, comply with the provisions of P.A. 99-690 that compel speech and actions contrary to its sincerely held religious beliefs.

13. For the same reason HLC's board, officers, staff, and volunteers who further its mission also cannot comply. Because it cannot comply, the law has forced HLC to suspend operations

pending this litigation and it will be required to cease operations if P.A. 99-690 remains in effect to compel, on pain of liability and sanctions, HLC's speech and conduct in conflict with its religious beliefs and conscience.

14. Defendant Bruce Rauner, sued in his official capacity, is the Governor of Illinois. He is the chief executive officer of the State of Illinois. He is ultimately responsible for the enforcement of the IHRCA. He is responsible for the enforcement activities of Defendant Bryan A. Schneider, and any other state official who may seek to enforce the requirements of the IHRCA, as amended by P.A. 99-690.

15. Defendant, Bryan A. Schneider, also sued in his official capacity, is the Secretary of the Illinois Department of Financial and Professional Regulation ("IDFPR"), the agency which is primarily responsible for enforcing the IHRCA, as amended by P.A. 99-690.

16. This case arises under the Constitution and laws of the State of Illinois. This Court has subject matter jurisdiction pursuant to the State of Illinois Constitution. (Ill. Const. of 1970, Article 1, §§ 2, 3, 4, 6; 735 ILCS 35/1, et seq.)

17. This Court has power to issue the requested declaratory relief pursuant to 735 ILCS 5/2-701 of the Illinois Code of Civil Procedure. The Court has power to award the requested injunctive relief under 735 ILCS 5/11-101 of the Illinois Code of Civil Procedure.

18. Venue is proper in this Court pursuant to 735 ILCS 5/2/105 because Defendants have their principal offices in Sangamon County.

GENERAL ALLEGATIONS

Plaintiff - TWC

19. Founded 32 years ago, TWC is a faith-based ministry inspired by Roman Catholic Church teachings, particularly the command of Jesus Christ to love our neighbor by serving them in time of need. TWC's mission is to reach out to pregnant women considering abortion to empower them with information, emotional support, advice, and material resources so they feel encouraged to choose life for their unborn child.

20. In its three offices (Chicago, Des Plaines, and Evergreen Park, Illinois) TWC provides counseling, guidance, and support during pregnancy and throughout the newborn's first year of life. Services offered include pregnancy testing; ultrasound; material assistance (such as clothes, diapers, and baby furniture); and financial support for the mother's education, medical needs, and employment. TWC also offers sexual integrity education, post-abortive counseling and adoption agency referrals. All of its services are free. TWC has a "Limitations of Service" form which is signed by each client before services are delivered. It provides that TWC does not provide or refer for abortion, contraception, or sterilization.

21. Since 1984, TWC has helped over 100,000 teens, women and families. Its prime concern is for the physical and emotional well-being of its clients. Seventy-seven percent of its clients are single mothers, and fifty-one percent of those are between the ages of fifteen and twenty-four.

22. In 2015, about 3,000 women came to TWC for help, and as a result of its assistance, over seventy percent of those chose life for their child. In 2015 TWC distributed more than \$500,000 in material support, aiding at least 1,500 mothers and 2,600 children.

23. TWC's staff includes licensed professionals and lay people devoted to helping women. TWC is blessed with over 300 volunteers, some of whom are licensed health care professionals and others unlicensed lay volunteers. They donate over 1,500 hours of service each year.

24. Women who come into the care of TWC are treated with love and respect. They are asked to share their circumstances and concerns. They are routinely given a pregnancy test and, if it is positive, they are encouraged to work with counselors to chart a path to the birth of a healthy child. Where applicable they receive an ultrasound and information concerning their baby's gestational age and facts about the baby's fetal development. A pregnant client of TWC is not counseled about supposed "benefits" of a chemical or surgical abortion, because TWC believes abortion never offers benefits to a mother-to-be, judging her situation from a holistic (physical, mental, and spiritual) point of view. The mother-to-be is informed, rather, of abortion's potential adverse effects to a woman's physical and psychological well-being. Women seen by TWC likewise are not instructed on the supposed "benefits" of artificial contraceptives as birth control, but counseled to secure real physical and psychological benefits through "sexual integrity" before marriage. TWC's services are free to its clients and totally voluntary.

25. TWC's licensed health care staff focus primarily on pregnant women who may be in dysfunctional relationships, and may be suffering physical or psychological trauma or stress.

26. Counseling given to pregnant women by TWC's non-licensed staff and volunteers aims to counsel women as fellow human creatures formed in God's image and likeness, women who could benefit from good advice in their often difficult situations. While the lay staff and volunteers readily acknowledge to clients that abortion is an option, they offer information about alternatives to abortion -- adoption and parenting -- in the hope that women will choose life for their unborn babies when encouraged to do so through emotional support, practical advice, and information about available resources to aid mother and child. TWC's lay staff and volunteers speak with clients as private citizens discussing personal matters, giving advice, and sharing emotional support. Each woman who receives TWC's limited, free services is informed that she should seek primary care from a licensed physician as TWC does not offer primary care.

27. TWC's mission is to save each woman from the tragic consequences of choosing to abort her unborn child. Because of its sincerely held religious convictions, TWC cannot provide women with information about the supposed benefits of abortion, contraceptive drugs or devices, or sterilization, and cannot advise women to utilize such treatment options. TWC cannot in good conscience facilitate procurement of abortion, contraceptive drugs or devices, or sterilization, by referrals or other means such as handing out a list of entities or individuals that do provide them. For this reason, TWC has been forced to suspend its health care services, e.g., pregnancy tests, ultrasounds to confirm pregnancy and gestational age, and counseling about the results of these procedures. It will be permanently forced to stop offering these services if P.A. 99-690 is upheld. This will eliminate TWC's ability to fulfill its mission to assist pregnant women to keep their infinitely precious unborn infants.

Plaintiff - HLC

28. HLC is also a faith-based ministry. It is inspired by Christian faith and principles to reach out in love to women experiencing unplanned pregnancies with the aim of assisting them to avert abortion and its devastation to mothers and unborn babies. HLC started operations thirty years ago in 1986. It is committed to assisting women carry their unborn baby to term by providing emotional support and practical assistance. It has long operated a center in Sterling, Illinois. More recently, it has established a center in Ottawa, Illinois. HLC operates under the name White Oak Center.

29. HLC's goal is to transform the fear that leads a woman to procure an abortion into confidence that she can carry her child to term. HLC takes a woman-centered and problem-based approach to each individual client. All of its services are free. HLC has a "Patient Intake Form" which is signed by each client before services are delivered. It provides that HLC does not provide or refer for abortion or contraceptives.

30. HLC's care and assistance has proven invaluable to many women and children: approximately eighty-three percent of pregnant women who come to HLC for help choose to give birth to their child.

31. HLC's staff includes licensed professionals as well as unlicensed staff devoted to helping pregnant women. In addition, HLC is blessed by the efforts of many volunteers who collaborate with it to further its Christian mission of compassionate outreach. Licensed staff and volunteers at HLC provide health care in their area of licensure in accordance with state law. Unlicensed

staff and volunteers do not hold themselves out as licensed health care professionals and do not render health care as that term is commonly understood.

32. When women come to HLC they are treated with love and respect as a person created in the image and likeness of God who also may bear a child that has that same God-given dignity. Women visiting HLC are asked to share their circumstances and concerns. Routinely they are given a pregnancy test and, if positive, they are given an ultrasound to confirm uterine placement of pregnancy, presence of heartbeat and gestational age of pregnancy. In addition, they are tested and treated for STDs that might pose a threat to the health of the mother or child.

33. In addition, HLC provides individual situational assessments and informal counseling by staff or volunteers who speak to the women who come to HLC for help with the challenges an unplanned pregnancy may present. The counseling provided is mostly informal in nature. HLC offers spiritual support and commonsense advice designed to help pregnant women see the options available to them that will allow them to carry their child to term. HLC helps women chart this course by offering them emotional support and helping them consider their individual support network, resources available in the community to help address their needs, and referrals to sources of medical and non-medical assistance. This informal counseling is provided by staff or volunteers who do not hold themselves out as licensed professionals.

34. During these informal discussions HLC's dedicated staff and volunteers share, when appropriate, commonly available information about the risks of abortion, contraception, and sexual activity outside of marriage. Women coming to HLC for help are not counseled about the supposed benefits of abortion, but are made aware of the adverse impact that an abortion might

have on their physical and psychological well-being. If a woman is not pregnant she is not given information about the supposed benefits of contraceptive drugs or devices because to do so would violate the religious beliefs of HLC. She is not counseled to use contraceptives.

35. The conversations between the lay staff and volunteers of HLC and the women who come to the center seeking assistance are consensual, personal discussions between private citizens for the purpose of providing emotional support and private charitable assistance. HLC staff or volunteers who engage in such informal counseling do not hold themselves out as licensed professionals. Each woman coming to HLC for assistance is advised that the counseling provided is not a substitute for professional counseling.

36. When HLC's licensed professionals provide information about abortion or contraception, they also do so consistent with HLC's mission, which prohibits recommending or referring or providing information about providers of abortion, or contraception.

37. Pregnant women who seek HLC's services are advised they should seek the assistance of a licensed physician for primary care as HLC provides only the limited services described above, not primary care. As it seeks to help women, HLC rejects any form of deception or manipulation. It tells women seeking assistance that it does not offer or make referrals for surgical or chemical abortions, artificial contraception, and also does not provide information about individuals or entities who do sell these products and services. It refuses to do this because of its sincerely held religious convictions.

38. HLC has been forced to suspend its operations because P.A. 99-690 prevents it from rendering assistance consistent with its sincerely-held religious convictions and it fears sanctions,

discrimination, and liability under the new law. In fact, the threat of discrimination, sanctions, and liability created by P.A. 99-690 has already led individuals to conclude that they must disassociate from HLC and its good work if it continues operations now that the law has taken effect. HLC will have to permanently cease operations if P.A. 99-690 remains in effect.

The IHRCA

39. Prior to its amendment by P.A. 99-690, the IHRCA was part of a comprehensive statutory scheme that protected Plaintiffs' right to provide health care in a manner consistent with their sincerely held religious beliefs. The law prohibited discrimination, coercion, disability, or imposition of liability upon persons who refuse to obtain, receive, accept, deliver, pay for or arrange for the payment of health care services and medical care because of conscience-based beliefs. 745 ILCS 70/2.

40. Upon information and belief, prior to the passage of P.A. 99-690 physicians, other health care professionals, persons working with licensed professionals, and health care facilities themselves, could, consistent with applicable standards of medical care, freely limit the services they offered, including limiting their services consistent with their sincerely held religious convictions, as long as they communicated the service limitations to their clients in a timely way.

41. The IHRCA, prior to its modification by P.A. 99-690, recognized physicians' "obligation[] under the law [to] provid[e] emergency medical care," and to comply with "any duty, which may exist under any laws concerning current standards of normal medical practices and procedures, to inform his or her patient of the patient's condition, prognosis, and risks," but the IHRCA also provided that "such physician shall be under no duty to perform, assist, counsel,

suggest, recommend, refer or participate in any way in any form of medical practice or health care that is contrary to [the provider's] conscience.” 745 ILCS 70/6.

42. As of January 1, 2017, while as discussed below P.A. 99-690 is vague and unclear, P.A. 99-690 no longer allows Plaintiffs freely to limit the health care services they offer consistent with applicable medical standards of care. P.A. 99-690 now requires that health care facilities, physicians and health care personnel, even if they limit the services they offer based on their conscience-based objections:

- a. to “inform a patient” of “legal treatment options,” see 745 ILCS 70/6;
- b. to “adopt written access to care and information protocols” to ensure that patients are informed of their “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” see 745 ILCS 70/6.1(1); and
- c. to ensure, in the event a patient requests a diagnostic or treatment option that is contrary to the conscience of a health care facility, physician or health care personnel, that 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 writing” “about other health care providers who they reasonably believe may offer the health care service” requested. See 745 ILCS 70/6.1(2), (3).

43. As a result, beginning January 1, 2017, P.A. 99-690 compels Plaintiffs to engage in government-mandated speech and conduct they were not previously required to engage in on

topics (abortion, contraception and sterilization) they oppose because of their sincerely held religious convictions. P.A. 99-690 requires Plaintiffs to discuss such health care “treatment options” of “contraceptives and sterilization or abortion procedures,” see 745 ILCS 70/3(a) (definition of “health care”), and describe their so-called “benefits.” 745 ILCS 70/6.1(1). Plaintiffs cannot do this consistent with their religious convictions. In addition, the new law requires Plaintiffs to provide referrals for individuals or entities who offer abortions, contraception, or sterilizations, or deliver a list upon request of individuals or entities who Plaintiffs reasonably believe will provide these entities or services, all against Plaintiffs’ religious convictions. 745 ILCS 70/6.1(2), (3).

44. If they refuse to comply, the law subjects them to discrimination, sanctions, and liability because the P.A. 99-690 conditions IHRCA’s protections on compliance with the new law. See 745 ILCS 70/6.1 (“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.”) Sections 4 and 5 of IHRCA protects physicians and health care personnel from liability to and discrimination from any public “entity” or “official” because of their conscience-based objections. These protections are now unavailable without compliance to the new law.

45. Defendant Bryan A. Schneider, as Secretary of the IDFPR, regulates physicians and other health care professionals practicing in the State of Illinois and acts under color of state law. IDFPR has authority to discipline physicians, nurses, and other licensed medical professionals, through fines and license revocation. See 225 ILCS 60/22 (physicians); 225 ILCS 65/70-5 (nurses). As a result, absent compliance with P.A. 99-690’s provisions, Plaintiffs will be subject

to adverse action and liability by Defendants, from which they were protected prior to the passage of P.A. 99-690.

46. The State of Illinois is currently defending P.A. 99-690 in Court and has not agreed to withhold enforcement pending the litigation. Upon information and belief the IDFPR will enforce the provisions of P.A. 99-690 against the Plaintiffs and any licensed health care professionals who collaborate with them to deliver health care services.

47. In sum, P.A. 99-690 coerces Plaintiffs to engage in speech and conduct they believe is gravely wrong and sinful. By requiring Plaintiffs and their associates to mouth a governmental message about abortion and contraception, the IHRC amendment frustrates the right of Plaintiffs and their associates to fashion their own message to help pregnant women in need.

48. Plaintiffs, medical professionals, and other individuals who collaborate with them, fear prosecution, sanctions, and liability that will result from enforcement of P.A. 99-690. In fact, individuals who associated with TWC for the purpose of furthering its good work have ceased to do so for fear of discrimination, sanctions, and liability because they cannot, consistent with their moral convictions, comply with the law. Likewise, individuals who associated with HLC for the purpose of doing its good work have ceased to do so for fear of discrimination, sanctions, and liability because they cannot, consistent with their moral convictions, comply with the law. In fact, HLC will be forced to shut-down its operation if P.A. 99-690 remains in effect.

49. Upon information and belief health care providers in Illinois have never been required under current standards of medical care to take the steps they must now take under P.A. 99-690.

50. Upon information and belief, other health care providers who have no religious or conscience-based objections against abortion are not subject to the obligations set forth in P.A. 99-690 and so will not be subject to liability if they do not perform the actions or provide the information the law requires of conscientious objectors.

51. P.A. 99-690 violates Plaintiffs' constitutional and statutory rights as alleged herein and therefore subjects them to immediate, ongoing, and irreparable harm for which there is no adequate remedy at law.

CLAIMS FOR RELIEF

COUNT I- 745 ILCS 70/6.1(2)&(3)

VIOLATION OF RIGHT TO FREE SPEECH ILLINOIS CONSTITUTION ARTICLE 1, § 4

52. Plaintiffs reaffirm and reallege each foregoing allegation as if fully set forth herein.

53. Article 1, § 4, of the Constitution of the State of Illinois, provides, in pertinent part, that: "All persons may speak, write, and publish freely * * *". Ill. Const. of 1970, Art. 1, § 4.

54. The IHRCA, as amended by Public Act 99-690, violates Plaintiffs' freedom of speech by requiring health-care providers, over their sincerely-held religious objections, to discuss the so-called benefits of abortion, contraception and sterilization treatment options, and to provide transfer, referral or information regarding providers of abortion, contraception and related drugs, devices, or procedures.

55. P.A. 99-690 is a content based regulation because it compels speech about certain subjects.

56. P.A. 99-690 discriminates because of viewpoint because it targets health-care providers with sincerely-held religious objections about abortion, contraception and related procedures, and requires them to speak, but it leaves unregulated entities or persons who do not have sincerely-held religious objections on these subjects.

57. Because it is content-based and viewpoint discriminatory, P.A. 99-690 is subject to strict judicial scrutiny requiring proof of a compelling state interest to regulate and that the regulation is narrowly tailored to the interest to be addressed.

58. P.A. 99-690 regulates speech without a substantial, let alone compelling, governmental interest to do so. The content of the coerced speech -- information concerning abortion, contraception, sterilization and their providers -- is already readily available to the public from many governmental and private sources. The federal government and State of Illinois spend millions of dollars to inform residents about available contraceptive drugs and devices, sterilization, and abortion services. Private providers widely promote and advertise these products and services, for which they charge. Because information describing abortion and contraception providers is readily available from a variety of sources, including the web, phone books, governmental health and other agencies, billboards along public thoroughfares, and public libraries, to name a few, the state has no substantial interest in compelling Plaintiffs' speech to provide similar, redundant information about abortion.

59. Even if the state could articulate a compelling interest to regulate, its measure is not a narrowly tailored or least restrictive means to advance its interest. The State cannot show why additional efforts on its own part, such as public service announcements on T.V., radio, and the

internet, fliers posted in public libraries or youth centers, or other advertising or publicity, would not equally achieve its claimed purpose. It cannot explain why it did not regulate uniformly, but mandated speech only from conscience-based objectors rather than from all health care providers, including those who might have equally strong, non-conscience-based reasons not to comply with the requirements of P.A. 99-690.

60. P.A. 99-690 is constitutionally overbroad in that it regulates speech far broader than the State has any interest in regulating. It regulates and compels speech of the PRCs despite the limitation of services agreements their clients knowingly accept. And it regulates and compels the speech of the PRCs lay staff and volunteers who speak to clients on private matters without relation to medical care.

**COUNT II - 745 ILCS 70/6.1(2-3)
VIOLATION OF EQUAL PROTECTION OF LAW**

61. Plaintiffs reaffirm and reallege each foregoing allegation as if fully set forth herein.

62. Article 1, § 2 of the Constitution of the State of Illinois, provides, in pertinent part that “No person shall be * * *denied the equal protection of the laws.” Ill. Const. of 1970, Art. 1, § 2.

63. The IHRCAs, as amended by Public Act 99-690, violates the guarantee of equal protection under the Illinois Constitution by discriminating against health care providers who seek to practice medicine consistent with their religious beliefs, and by regulating and compelling their speech under threat of discrimination, sanctions, and liability, when similarly situated persons without conscience-based objections are not subjected to such exposure.

64. P.A. 99-690 on its face, by its purpose, and in its operation, unlawfully regulates Plaintiffs by preventing them, and those cooperating with them, from limiting the scope of health

care services they discuss or participate in so as to conform to their religious convictions, when it does not so regulate similarly situated health care providers without conscience-based objections.

65. Public Act 99-690 violates Plaintiffs' right to equal protection because it targets health-care providers with sincerely-held religious objections against cooperating with certain treatments and compels them to transfer to, refer to, or provide information about providers of treatments the health care provider objects to, while similarly situated health care providers without conscience-based objections are not so regulated.

66. P.A. 99-690 infringes Plaintiffs' right to free speech and religious liberty by targeting health-care providers with sincerely-held religious objections against cooperation with certain treatments, and compelling them to discuss benefits of various treatment options, while leaving other similarly situated persons free not to do so.

67. Public Act 99-690 targets health care providers with religious convictions, stripping them of their right to conform their speech and conduct to their sincerely-held religious convictions, while leaving similarly situated persons without conscience-based objections free to structure the services they provide as they please and with no requirement to comply with P.A. 99-690.

COUNT III
RELIGIOUS FREEDOM
ILLINOIS CONSTITUTION, ARTICLE 1, § 3

68. Plaintiffs reaffirm and reallege each foregoing allegation as if fully set forth herein.

69. Article 1, § 3, of the Constitution of the State of Illinois, provides, in pertinent part, that: "The free exercise and enjoyment of religious profession and worship, without discrimination,

shall forever be guaranteed, and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions * * *” Ill. Const. of 1970, Art. 1, § 3.

70. The IHRCA, as amended by Public Act 99-690, violates Plaintiffs’ constitutional guarantee of religious freedom under the Illinois Constitution, because it forces Plaintiffs to make a choice between adhering to their religious convictions or abiding by the mandates of the Statute.

71. The IHRCA, as amended by Public Act 99-690, abridges Plaintiffs’ constitutional right to the “free exercise and enjoyment of religious profession” because the State by P.A. 99-690 coerces Plaintiffs to engage in conduct which conflicts with their religious beliefs to comply with Section 6.1(2)&(3), upon pain of discrimination, sanctions, and liability under state law.

72. The IHRCA, as amended by Public Act 99-690, is not religiously neutral or generally applicable. It unlawfully discriminates against Plaintiffs and other faith-based medical providers, in that it subjects them to discrimination, discipline by the State and potential civil liability if they follow their sincerely held religious beliefs and refuse to follow the mandates of the statute, whereas other similarly situated health care providers without conscience-based objections are not required to comply with the law and are not subject to discrimination, sanctions, and liability by the law. Ill. Const. of 1970, Art. 1, § 3.

73. The IHRCA, as amended by P.A. 99-690, violates the religious liberty of Plaintiffs and those who associate with them for the purpose of achieving Plaintiffs’ mission.

COUNT IV - 745 ILCS 70/6.1(1)
VIOLATION OF DUE PROCESS (VAGUENESS)
ILLINOIS CONSTITUTION, ARTICLE 1, § 2

74. Plaintiffs reaffirm and reallege each foregoing allegation as if fully set forth herein.

75. PA 99-690 is unlawfully vague in that it is susceptible to differing interpretations and therefore fails to give fair notice of conduct that is forbidden or required.

76. P.A. 99-690 provides, “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.*” (Emphasis added.) 745 ILCS 70/6.1(1).

77. Because opinions may differ among reasonable health care professionals as to what the “current standards of medical practice or care” might require given the particular facts relating to any particular patient, P.A. 99-690 is vague because the nature and scope of the statutory duty is unclear. P.A. 99-690 fails to recognize that reasonable professionals can and do differ as to what is required by the standard of care in a vast range of situations.

78. For example, Plaintiffs assert that the standard of care permits them to limit their discussion of the “legal treatment option” of abortion provided they have explicitly disclosed that limitation to their patients and their patients have agreed to that limitation. In fact, Plaintiffs do expressly limit the scope of the services they provide to exclude primary care as well as abortion, contraception, or sterilization services, including referrals for such services. Plaintiffs’ clients agree to those limitations in writing before services are delivered by Plaintiffs.

79. P.A.99-690 can also be read, and, on information and belief, the State does read P.A.99-690 this way, that the standard of care requires, in all circumstances, and without reference to the particular facts relating to any particular patient, a discussion of abortion as a legal treatment option.

80. As a result the IHRCA, as amended by Public Act 99-690, fails to provide the type of notice that would allow a person of ordinary intelligence to understand what conduct is mandated under the statute and the law is open to arbitrary interpretation and enforcement.

81. Because P.A. 99-690 fails to provide reasonable notice of the conduct required by the law and the conduct that subjects Plaintiffs to legal sanction and liability, and because it is open to arbitrary interpretation and enforcement, P.A. 99-690, violates the due process clause of the Illinois Constitution on its face and as applied to Plaintiffs.

COUNT V
RELIGIOUS FREEDOM
ILLINOIS CONSTITUTION, ARTICLE 1, § 3

82. Plaintiffs reaffirm and reallege each foregoing allegation as if fully set forth herein.

83. Article 1, § 3, of the Constitution of the State of Illinois, provides, in pertinent part, that: “The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed, and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions * * *” Ill. Const. of 1970, Art. 1, § 3.

84. The IHRCA, as amended by Public Act 99-690, violates Plaintiffs’ constitutional guarantee of religious freedom under the Illinois Constitution, because it forces Plaintiffs to

make a choice between adhering to their religious convictions or abiding by the mandates of the Statute.

85. The IHRCA, as amended by Public Act 99-690, abridges Plaintiffs' constitutional right to the "free exercise and enjoyment of religious profession" because the State by P.A. 99-690 effectively coerces Plaintiffs to engage in conduct which conflicts with their religious beliefs by telling clients about the supposed benefits of abortion, sterilization, or contraception upon pain of discrimination, sanctions, and liability under state law.

86. The IHRCA, as amended by Public Act 99-690, is not religiously neutral or generally applicable. It unlawfully discriminates against Plaintiffs and other faith-based medical providers, in that it subjects them to discrimination, discipline by the State and civil liability if they follow their sincerely held religious beliefs and refuse to follow the mandates of the statute, whereas other similarly situated health care providers without conscience-based objections are not required to comply with the law and are not subject to discrimination, sanctions, and liability by the law. Ill. Const. of 1970, Art. 1, § 3.

87. The IHRCA, as amended by P.A. 99-690, violates the religious liberty of Plaintiffs and those who associate with them for the purpose of achieving Plaintiffs' mission.

PRAYER FOR RELIEF

Plaintiffs respectfully request this Honorable Court provide the following relief:

1. Enter a declaratory judgment order, declaring that 6.1(1)-(3) of Public Act 99-690, are unconstitutional, and thus, void and unenforceable;
2. Enter both a preliminary and permanent injunction, prohibiting the State from enforcing Section 6.1(1)-(3) of Public Act 99-690, and nominal and actual damages;
3. Enter an award for attorney's' fees and costs in favor of Plaintiffs under 775 ILCS 35/20 and 740 ILCS 23/5(c)(2);
4. Enter an order for such other and further relief as this Court deems just and proper.

Respectfully submitted this 2nd day of February, 2017.

/s/Thomas Olp

Thomas Brejcha
Thomas Olp
Thomas More Society
19 South LaSalle St.
Suite 603
Chicago, IL 60603
(312) 782-1680
tolp@thomasmoresociety.org

Joan M. Mannix
Joan M. Mannix, Ltd.
135 South LaSalle Street
Suite 2200
Chicago, IL 60603
(312) 521-5845
jmannix@joanmannixltd.com

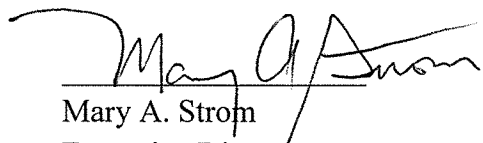
Patrick T. Gillen*
Patrick T. Gillen (P#47456)
Special Counsel
Thomas More Society
1025 Commons Circle
Naples, FL 34119
(734) 355-4728
ptgillen@avemarialaw.edu

Attorneys for Plaintiffs

*Petition for permission to
appear pro hac vice to be filed.

Under penalty of law as provided by Section 1-109 of the Code of Civil Procedure, I certify that the statements set forth herein relating to The Women's Centers of Greater Chicagoland are true and correct to the best of my personal knowledge, except as to matters stated to be on information and belief, which I believe to be true.

This 24th day of January, 2017.

A handwritten signature in black ink, appearing to read "Mary A. Strom", written over a horizontal line.

Mary A. Strom
Executive Director
The Women's Centers of Greater
Chicagoland

Under penalty of law as provided by Section 1-109 of the Code of Civil Procedure, I certify that the factual allegations set forth herein relating to Hope Life Center are true and correct to the best of my personal knowledge, except as to matters stated to be on information and belief which I believe to be true.

This 24 day of January, 2017.

A handwritten signature in black ink that reads "Debra Case". The signature is written in a cursive style with a long horizontal line extending to the right.

Debra Case
Executive Director
Hope Life Center,
a/k/a White Oak Women's Center

EXHIBIT ONE

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Health Care Right of Conscience Act is amended by changing Sections 2, 3, 6, and 9 and by adding Sections 6.1 and 6.2 as follows:

(745 ILCS 70/2) (from Ch. 111 1/2, par. 5302)

Sec. 2. Findings and policy. The General Assembly finds and declares that people and organizations hold different beliefs about whether certain health care services are morally acceptable. It is the public policy of the State of Illinois 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 whether acting individually, corporately, or in association with other persons; and to prohibit all forms of discrimination, disqualification, coercion, disability or imposition of liability upon such persons or entities by reason of their refusing to act contrary to their conscience or conscientious convictions in providing, paying for, or refusing to obtain, receive, accept, deliver, pay for, or arrange for the payment of health care services and medical care. It is also the public policy of the State of

Illinois to ensure that patients receive timely access to information and medically appropriate care.

(Source: P.A. 90-246, eff. 1-1-98.)

(745 ILCS 70/3) (from Ch. 111 1/2, par. 5303)

Sec. 3. Definitions. As used in this Act, unless the context clearly otherwise requires:

(a) "Health care" means any phase of patient care, including but not limited to, testing; diagnosis; prognosis; ancillary research; instructions; family planning, counselling, 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;

(b) "Physician" means any person who is licensed by the State of Illinois under the Medical Practice Act of 1987;

(c) "Health care personnel" means any nurse, nurses' aide, medical school student, professional, paraprofessional or any other person who furnishes, or assists in the furnishing of, health care services;

(d) "Health care facility" means any public or private hospital, clinic, center, medical school, medical training institution, laboratory or diagnostic facility, physician's office, infirmary, dispensary, ambulatory surgical treatment

center or other institution or location wherein health care services are provided to any person, including physician organizations and associations, networks, joint ventures, and all other combinations of those organizations;

(e) "Conscience" means 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; ~~and~~

(f) "Health care payer" means a health maintenance organization, insurance company, management services organization, or any other entity that pays for or arranges for the payment of any health care or medical care service, procedure, or product; and -

(g) "Undue delay" means unreasonable delay that causes impairment of the patient's health.

The above definitions include not only the traditional combinations and forms of these persons and organizations but also all new and emerging forms and combinations of these persons and organizations.

(Source: P.A. 90-246, eff. 1-1-98.)

(745 ILCS 70/6) (from Ch. 111 1/2, par. 5306)

Sec. 6. Duty of physicians and other health care personnel. Nothing in this Act shall relieve a physician from any duty, which may exist under any laws concerning current standards, of

~~normal~~ medical practice or care ~~practices and procedures~~, to inform his or her patient of the patient's condition, prognosis, legal treatment options, and risks and benefits of treatment options, provided, however, that such physician shall be under no duty to perform, assist, counsel, suggest, recommend, refer or participate in any way in any form of medical practice or health care service that is contrary to his or her conscience.

Nothing in this Act shall be construed so as to relieve a physician or other health care personnel from obligations under the law of providing emergency medical care.

(Source: P.A. 90-246, eff. 1-1-98.)

(745 ILCS 70/6.1 new)

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.

(745 ILCS 70/6.2 new)

Sec. 6.2. Permissible acts related to access to care and information protocols. Nothing in this Act shall be construed to prevent a health care facility from requiring that physicians or health care personnel working in the facility comply with access to care and information protocols that comply with the provisions of this Act.

(745 ILCS 70/9) (from Ch. 111 1/2, par. 5309)

Sec. 9. Liability. No person, association, or corporation, which owns, operates, supervises, or manages a health care facility shall be civilly or criminally liable to any person, estate, or public or private entity by reason of refusal of the health care facility to permit or provide any particular form of health care service which violates the facility's conscience as documented in its ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other governing documents.

Nothing in this Act ~~act~~ shall be construed so as to relieve a physician, ~~or other~~ health care personnel, or a health care

Public Act 099-0690

SB1564 Enrolled

LRB099 05684 HEP 25727 b

facility from obligations under the law of providing emergency medical care.

(Source: P.A. 90-246, eff. 1-1-98.)