

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

CARING FAMILIES PREGNANCY SERVICES)
INC. d/b/a MOBILE CARE,)

Plaintiff,)

v.)

CITY OF HARTFORD,)

Defendant.)

Case No.: 3:19-CV-00584-JCH

May 21, 2019

ANSWER

Defendant City of Hartford (“Hartford” or the “City”), by and through its undersigned counsel, hereby answers the allegations in Plaintiff’s Complaint as follows:

INTRODUCTION

1. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

2. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

3. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

4. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

5. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

6. Denied.

7. The City admits that Hartford Ordinance No. 25-17, codified at Hartford Municipal Code §§ 17-161 – 17-166 (the “Ordinance”), includes the quoted text and otherwise denies the allegation.

8. Denied.

9. Denied.

10. Denied.

11. Denied.

12. The City admits that it enacted the Ordinance and otherwise denies the allegation.

13. Denied.

14. The City admits that the Ordinance makes the following finding: “Most clients do not come to CPCs as a result of a referral from a medical professional. Clients with an unplanned pregnancy or at risk of an unplanned pregnancy are often experiencing emotional and physical stress and are therefore especially susceptible to false or misleading elements in advertising by CPCs. These circumstances raise the need for regulation that is more protective of consumers of pregnancy center services.” Hartford Mun. Code § 17-161(k). It otherwise denies the allegation.

15. Denied.

16. The City admits that Plaintiff seeks injunctive and declaratory relief from this Court and otherwise denies the allegation.

JURISDICTION AND VENUE

17. Admitted except as to the sixth cause of action.

18. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

19. Denied.

20. Denied.

21. Admitted.

PLAINTIFF

22. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

DEFENDANTS

23. Admitted.

FACTUAL BACKGROUND

24. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

25. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

26. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

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42. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

43. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

44. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

45. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

46. The City admits that the Ordinance defines “licensed medical provider” as “a person licensed under the provisions of federal, state, or local law to provide medical services” and otherwise denies the allegation.

47. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

48. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

49. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

50. The City admits that its Department of Health and Human Services adopted a rule to implement the Ordinance (the “Rule”), which states, in part, that: “Every pregnancy services center shall display at its facility(s), signs provided by the Department of Health and Human Services stating in English and Spanish: **‘This facility does not have a licensed medical provider on site to provide or supervise all services’ (Este centro no tiene un proveedor médico con licencia disponible para proporcionar o supervisor todos los servicios.)**.” Rule, § a. It otherwise denies the allegation.

51. Denied.

52. The City admits that the Rule states, in part, that: “The Department will provide the sign on its website for downloading by pregnancy services centers. Each sign shall measure eleven (11) inches by seventeen (17) inches and the lettering shall be one inch high.” Rule, § b. It otherwise denies the allegation.

53. The City admits that the Rule states, in part, that:

- d. “Every pregnancy services center must post the signs at every public entrance. If the pregnancy services center is located in an office building or other structure containing two or more independent units, the signs must be posted at each entrance used exclusively for entry to the pregnancy services center. The sign must be (1) posted on the outside of the entrance door and so that the distance from the top of the sign to the floor is between sixty-six (66) and seventy (70) inches and the distance between the frame of the door and the closest edge of the sign is not more than twelve (12) inches; (2) clearly and conspicuously visible to the client as she or he enters the pregnancy services center; and (3) laminated or protected by a clear sheeting or other suitable material so that the text will not be destroyed, soiled, distorted, or rendered illegible.” and
- e. “Every pregnancy services center shall post at least one sign in English and Spanish in any area where clients wait to receive services. If the waiting area contains a reception desk, the sign must be posted on the reception desk or on a wall at a location not greater than twelve (12) inches from the reception desk. If the sign is posted on a wall, it shall be posted so that the distance from the top of the sign to the floor is between sixty-six (66) and

seventy (70) inches. Each sign shall be laminated or protected by a clear sheeting or other suitable material so that the text will not be destroyed, soiled, distorted, or rendered illegible.”

Rule, §§ d-e. It otherwise denies the allegation.

54. The City admits that the Rule states, in part, that: “Every pregnancy services center shall post the required disclosure in English and Spanish in a conspicuous manner in at least a 14 pt. font size on the front page of its website.” Rule, § f. It otherwise denies the allegation.

55. The City admits that “[c]overed facilities that fail to comply with the requirements of [Hartford Municipal Code § 17-163] are liable for a civil penalty of one hundred dollars (\$100.00) per offense” and that “[e]ach day any such violations continue shall constitute a separate offense.” Hartford Mun. Code § 17-163(c). It otherwise denies the allegation.

56. Denied.

57. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

58. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

59. Denied.

60. Admitted.

61. Denied.

62. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

63. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

64. Denied.

65. Denied.

66. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

67. Denied.

68. Denied.

69. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

70. Denied.

71. Denied.

72. The City admits that the Ordinance applies to pregnancy services centers and otherwise denies the allegation. The complete definition of “pregnancy services center” is set forth in Hartford Municipal Code § 17-162.

73. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

74. Denied.

75. Denied.

76. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

77. Admitted.

78. The City admits that the Ordinance does not apply to healthcare facilities that are licensed under State or federal law and otherwise denies the allegation.

79. The City admits that the Ordinance does not apply to healthcare facilities that are licensed under State or federal law and otherwise denies the allegation.

80. The City admits that the Ordinance does not apply to healthcare facilities that are licensed under State or federal law and otherwise denies the allegation.

81. The City admits that the Ordinance applies to pregnancy services centers and otherwise denies the allegation.

82. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

83. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

84. Denied.

85. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

86. Denied.

87. The City admits that the Ordinance applies to pregnancy services centers and otherwise denies the allegation.

88. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

89. Denied.

90. Denied.

91. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

92. Denied.

93. Denied.

94. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

95. Denied.

96. Denied.

97. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

98. Denied.

99. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

100. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

101. Denied.

102. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

103. Denied.

104. Denied.

105. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

106. The City admits that Plaintiff seeks injunctive and declaratory relief from this Court and otherwise denies the allegation.

107. Admitted.

108. Admitted.

109. The City admits that it delayed implementation of the Ordinance to so that it could assess the U.S. Supreme Court's decision in *NIFLA v. Becerra* and otherwise denies the allegation.

110. The City admits that the Ordinance took effect on October 1, 2018, and otherwise denies the allegation.

111. The City admits that, on September 19, 2018, its Department of Health and Human Services published the Rule, which took effect on October 1, 2018. It otherwise denies the allegation.

112. The City admits that the Ordinance does not define every word or phrase that appears within its text and otherwise denies this allegation.

113. Denied.

114. Denied.

ALLEGATIONS OF LAW

115. Denied.

116. Denied.

117. Denied.

118. Denied.

FIRST CAUSE OF ACTION **First Amendment: Freedom of Speech**

1. The City incorporates by reference its responses to the allegations set forth in paragraphs 1-118 of the Complaint.

2. The City admits that the First Amendment provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” It otherwise denies the allegation.

3. Denied.

4. Denied.

5. Denied.

6. Denied.

7. Denied.

8. The City admits that its Department of Health and Human Services promulgated a Rule implementing the Ordinance and otherwise denies that allegation.

9. Denied.

10. The City admits that the Ordinance includes the quoted text and otherwise denies the allegation.

11. Denied.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

16. Denied.

17. Denied.

SECOND CAUSE OF ACTION
First Amendment: Free Exercise of Religion

18. The City incorporates by reference its responses to the allegations set forth in paragraphs 1-118 of the Complaint.

19. The City admits that the First Amendment provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging

the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” It otherwise denies the allegation.

20. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

21. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

22. Denied.

23. Denied.

24. The City admits that the First Amendment provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” It otherwise denies the allegation.

25. The City admits that the First Amendment provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” It otherwise denies the allegation.

26. The City admits that the First Amendment provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” It otherwise denies the allegation.

27. Denied.

28. Denied.

29. Denied.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

THIRD CAUSE OF ACTION
Fourteenth Amendment: Procedural Due Process

36. The City incorporates by reference its responses to the allegations set forth in paragraphs 1-118 of the Complaint.

37. The City admits that the Fourteenth Amendment provides, in part, that “[n]o state shall . . . deprive any person of life, liberty, or property, without due process of law.” It otherwise denies the allegation.

38. Denied.

39. The City admits that the Ordinance does not define every word or phrase that appears within its text and otherwise denies this allegation.

40. The City admits that the Ordinance does not define every word or phrase that appears within its text and otherwise denies this allegation.

41. Denied.

42. Denied.

43. Admitted.

44. The City admits that its Department of Health and Human Services has authority to enforce the Ordinance and otherwise denies the allegation.

45. Denied.

46. Denied.

47. Denied.

FOURTH CAUSE OF ACTION
First Amendment: Freedom of Expressive Association

48. The City incorporates by reference its responses to the allegations set forth in paragraphs 1-118 of the Complaint.

49. The City admits that the First Amendment provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” It otherwise denies the allegation.

50. The City admits that the First Amendment provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” It otherwise denies the allegation.

51. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

52. Denied.

53. Denied.

54. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

55. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

56. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

57. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

58. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

59. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

60. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

61. The City lacks knowledge or information sufficient to form a belief about the truth of this allegation.

62. Denied.

63. Denied.

64. Denied.

65. Denied.

66. Denied.

67. Denied.

FIFTH CAUSE OF ACTION
First Amendment: Establishment Clause

68. The City incorporates by reference its responses to the allegations set forth in paragraphs 1-118 of the Complaint.

69. The City admits that the First Amendment provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” It otherwise denies the allegation.

70. Denied.

71. Denied.

72. Denied.

73. Denied.

74. Denied.

75. Denied.

SIXTH CAUSE OF ACTION

Connecticut Constitution Article 1 § 3 and Connecticut General Statutes Sec. 52-571b.:
Freedom of Religion

76. The City incorporates by reference its responses to the allegations set forth in paragraphs 1-118 of the Complaint.

77. Admitted.

78. Admitted.

79. Denied.

80. Denied.

81. Denied.

82. Denied.

83. Denied.

84. Denied.

85. Denied.

PRAYER FOR RELIEF

The City denies that Plaintiff is entitled to any of the relief that it requests.

STATEMENT OF DEFENSES

1. The Court lacks subject-matter jurisdiction over one or more of the claims asserted in the Complaint.

2. One or more of the claims asserted in the Complaint fails to state a claim on which relief may be granted.

3. Sovereign immunity bars one or more of the claims asserted in the Complaint.

4. The City reserves the right to assert additional defenses as they become known to the City.

Dated: May 21, 2019

Respectfully submitted,

/S/ Howard G. Rifkin

Howard G. Rifkin

Corporation Counsel

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CITY OF HARTFORD

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*Admitted *pro hac vice*

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that, on May 21, 2019, a true and complete copy of the foregoing document was served on all counsel of record via the Court's CM/ECF system.

/s/ Howard G. Rifkin

Howard G. Rifkin

Federal Bar No.: Ct29978