

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

WHOLE WOMAN'S HEALTH ALLIANCE, )  
ALL-OPTIONS, INC., )  
JEFFREY GLAZER M.D., )

Plaintiffs, )

v. )

No. 1:18-cv-01904-SEB-MJD

TODD ROKITA Attorney General of the State of )  
Indiana, in his official capacity, )

KRISTINA BOX Commissioner of the Indiana )  
State Department of Health, in her official )  
capacity, )

JOHN STROBEL M.D., President of the Indiana )  
Medical Licensing Board of Indiana, in his official )  
capacity, )

KENNETH P. COTTER St. Joseph County )  
Prosecutor, in his official capacity and as )  
representative of a class of all Indiana prosecuting )  
attorneys with authority to prosecute felony and )  
misdemeanor offenses, )

Defendants. )

**AMENDED PARTIAL FINAL JUDGMENT PURSUANT TO FED. R. CIV. PRO.  
58 AND 54(B), NUNC PRO TUNC TO AUGUST 10, 2021.**

This Court having this day issued an Order directing the entry of partial final judgment, the Court now enters a **PARTIAL FINAL JUDGMENT**.

Judgment is entered **in favor of Plaintiffs and against Defendants** with respect to Plaintiffs' challenges to the following statutory and regulatory provisions, which we **declare** to be violative of the Substantive Due Process and Equal Protection Clauses of the Fourteenth Amendment:

- Ind. Code § 16-34-2-1(a)(1) to the extent this statute limits the provision of first-trimester medication abortion care to physicians; requires a physical examination

to be performed on a woman prior to receiving an abortion; and prohibits the use of telemedicine by requiring the prescriber to be physically present at the abortion facility in order to dispense the abortion-inducing drug and the patient to ingest the drug in the physical presence of prescriber;

- Ind. Code § 16-34-2-1(a)(2) providing that second-trimester abortions be performed only in hospitals or ambulatory surgical centers;
- Ind. Code § 16-34-2-1.1(a)(1), (a)(4), (b)(1) to the extent these provisions prohibit providers from using telemedicine or telehealth to obtain informed consent from patients or to conduct preabortion counseling sessions;
- Ind. Code § 25-1-9.5-8(a)(4) prohibiting the use of telemedicine in abortion care;
- 410 Ind. Admin. Code § 26-17-2(d)(1)(A), (4), (e)(5) requiring clinics providing aspiration abortions to maintain 120-square-foot procedure rooms, scrub facilities, and 44-inch corridors; and
- 410 Ind. Admin. Code § 26.5-17-2(e)(1) requiring medication abortion clinics to maintain housekeeping rooms with storage sinks.

Judgment is entered in **favor of Plaintiffs and against Defendants** with respect to Plaintiffs' challenges to the following statutory provisions, which we **declare** violate the First Amendment and the Substantive Due Process Clause of the Fourteenth Amendment:

- Ind. Code § 16-34-2-1.1(a)(1)(E) and (a)(1)(G) requiring women seeking abortion services to be informed that "objective scientific information shows that a fetus can feel pain at or before twenty (20) weeks of postfertilization age" and that "human physical life begins when a human ovum is fertilized by a human sperm"; and
- Ind. Code § 16-34-2-1.1(b)(2) to the extent it requires dissemination of a Perinatal Hospice Brochure containing the following: "Studies show that mothers who choose to carry their baby [*sic*] to term recover to baseline mental health more quickly than those who aborted due to fetal anomaly."

Defendants are **permanently enjoined** from enforcing these provisions, as set out in the Permanent Injunction entered on this date.

Judgment is entered in **favor of Defendants and against Plaintiffs** with respect to Plaintiffs' challenges to the following statutory and regulatory provisions, which do not violate the First Amendment or the Fourteenth Amendment's Substantive Due Process and Equal Protection Clauses:

- Ind. Code § 16-34-2-1(a)(1) and 410 Ind. Admin. Code § 26-13-2(b) to the extent they limit the provision of first-trimester aspiration abortion care to physicians;
- Ind. Code. § 16-34-2-1.1(a)(5) requiring an ultrasound to be performed prior to an abortion;
- Ind. Code § 16-34-2-5 mandating that abortion providers collect detailed information about each of their patients and enter these details in a central databased operated by the Health Department;
- Ind. Code. § 16-34-2-4.5(a), requiring abortion providers to maintain admitting privileges with a hospital or a written agreement with a provider who has such privileges;
- Ind. Code § 16-34-2-1(a)(1), requiring the administration of any abortion-inducing drugs to comport with the FDA guidelines for such drugs;
- Ind. Code § 16-34-2-4 generally requiring minors to secure either parental consent or a judicial waiver in order to receive an abortion;
- Ind. Code § 16-34-2-1.1(a)(1) and (a)(4) requiring physicians and APCs to conduct preabortion counseling sessions;
- Ind. Code § 16-34-2-1.1(a)(1), (2), and (4) mandating that patients delay their abortions for at least eighteen hours following the receipt of Indiana's mandatory disclosures;
- Ind. Code § 16-34-2-1(H), (I) requiring providers to disclose information relating to the disposal of fetal tissue;
- Ind. Code § 16-21-2-2.6 requiring Indiana's Health Department to inspect every abortion clinic within the state once annually and to "conduct a complaint inspection as needed." Ind. Code § 16-21-2-2.6;

- 410 Ind. Admin. Code 26-10-1(b)(5), 26-11-2(a), 26-11-3, 26-13-1, 26-13-3(b)–(c), 26-17-2(c)(3)–(4), 26-17-2(d)(1)–(4), (d)(6), 26-17-2(e)(1), (8) providing various facility requirements for aspiration abortion clinics;
- Ind. Code § 16-34-2-1.1(b)(2) to the extent it requires dissemination of a Perinatal Hospice Brochure containing information relating to certain physical health risks; and
- The criminal penalties provisions associated with the above-referenced statutes.

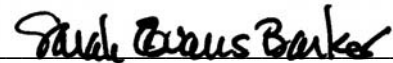
Judgment is **granted in favor of Defendants and against Plaintiffs** with respect to Plaintiffs' allegations that the Indiana abortion code constitutes impermissible gender discrimination in violation of the Fourteenth Amendment's Equal Protection Clause (Count II).

Judgment is **granted in favor of Defendants and against Plaintiffs** with respect to Plaintiffs' Vagueness Claims (Count III).

Partial final judgment is entered accordingly. The Court expressly determines pursuant to Fed. R. Civ. Pro. Rule 54(b), there is no just reason for delay in the entry of this judgment.

IT IS SO ORDERED.

Date: 8/19/2021



SARAH EVANS BARKER, JUDGE  
United States District Court  
Southern District of Indiana

Distribution to counsel of record via CM/ECF