

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

WHOLE WOMAN’S HEALTH ALLIANCE;)	
ALL-OPTIONS, INC.; and JEFFREY)	CASE NO. 1:18-cv-1904-SEB-MJD
GLAZER, M.D.,)	
)	CIVIL ACTION
Plaintiffs,)	
)	
v.)	
)	
TODD ROKITA, Attorney General of the)	
State of Indiana, in his official capacity;)	
KRISTINA BOX, M.D., Commissioner of the)	
Indiana State Department of Health, in her)	
official capacity; JOHN STROBEL, M.D.,)	
President of the Medical Licensing Board of)	
Indiana, in his official capacity; and)	
KENNETH P. COTTER, St. Joseph County)	
Prosecutor, in his official capacity.)	
)	
Defendants.)	

STIPULATION OF SETTLEMENT

WHEREAS on June 21, 2018, Plaintiffs filed this case to challenge the constitutionality of certain Indiana statutes and regulations concerning abortion; and

WHEREAS on May 31, 2019, the Court entered a preliminary injunction barring enforcement of certain abortion clinic licensure requirements against Plaintiff Whole Woman’s Health Alliance with respect to its South Bend Clinic; and

WHEREAS on August 22, 2019, the Seventh Circuit modified the preliminary injunction to enjoin the State either to treat the South Bend Clinic as if it had a provisional license to provide medication abortions or to grant the clinic a provisional license to provide medication abortions; and

WHEREAS on February 25, 2022, after the State granted the South Bend Clinic a full license to provide medication abortions, the Court vacated the preliminary injunction as moot; and

WHEREAS on August 19, 2021, the Court entered an amended partial final judgment nunc pro tunc to August 10, 2021; and

WHEREAS that judgment declared the following laws unconstitutional and permanently enjoined their enforcement:

- the “Physician-Only Law,” Ind. Code § 16-34-2-1(a)(1)(A), as applied to medication abortions;
- the “Second-Trimester Hospitalization Requirement,” Ind. Code § 16-34-2-1(a)(2)(B);
- the “In-Person Counseling Requirement,” Ind. Code § 16-34-2-1.1(a)(1), (a)(4), (b);
- the “Telemedicine Ban,” Ind. Code § 25-1-9.5-8(a)(4);
- the “In-Person Examination Requirement,” Ind. Code § 16-34-2-1(a)(1);
- “Facility Regulations” concerning the size of procedure rooms and hallways, and the type and location of sinks, 410 Ind. Admin. Code 26-17-2(d)(1), (d)(4), (e)(5); 410 Ind. Admin. Code 26.5-17-2(e)(1);
- “Mandatory Disclosure Requirements” concerning when life begins and fetal pain, Ind. Code § 16-34-2-1.1(a)(1)(E), (a)(1)(G); and
- Indiana Code § 16-34-2-1.1(b)(2) to the extent it requires dissemination of a Perinatal Hospice Brochure containing the following language: “Studies show that mothers who choose to carry their baby to term recover to baseline mental health more quickly than those who aborted due to fetal anomaly”; and

WHEREAS Defendants filed a timely appeal of portions of the Court’s judgment; and

WHEREAS while the appeal was pending, the Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization*, 142 S. Ct. 2228, 2241-42 (2022), held that the Constitution does not protect abortion as a fundamental right; and

WHEREAS on July 11, 2022, the Seventh Circuit vacated this Court’s judgment, to the extent appealed, and remanded the case to this Court for further proceedings consistent with *Dobbs*; and

WHEREAS on October 13, 2022, the Indiana Department of Health published a new version of the Perinatal Hospice Brochure, which omits the above-quoted language,

THE PARTIES NOW JOINTLY STIPULATE AND AGREE TO THE FOLLOWING SETTLEMENT TERMS:

1. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), all that remains of this case shall be dismissed without prejudice;
2. Each side shall bear its own attorney's fees and costs, and Plaintiffs shall not seek an award of attorney's fees under 42 U.S.C. §1988 in connection with relief awarded at any stage of this case.
3. Future versions of the Perinatal Hospice Brochure shall not include the above-quoted language or any statements that are substantively identical.

Dated: October 20, 2022

Respectfully submitted,

/s/ Stephanie Toti

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CERTIFICATE OF SERVICE

I hereby certify that, on October 20, 2022, a true and correct copy of the foregoing document was served on all counsel of record via the Court's Electronic Court Filing ("ECF") system.

Dated: October 20, 2022

/s/ Stephanie Toti
Stephanie Toti