

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

CLERK OF COURTS
HAMILTON COUNTY, OH
COMMON PLEAS

2022 SEP -2 A 11: 51

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FILED

PRETERM-CLEVELAND, *et al.*,

Plaintiffs,

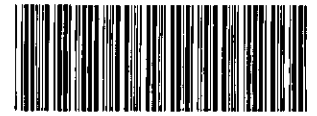
v.

DAVID YOST, *et al.*,

Defendants.

Case-No.: _____

Judge: _____



D136001675

**AFFIDAVIT OF DR. SHARON LINER IN SUPPORT OF PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER FOLLOWED BY PRELIMINARY
INJUNCTION**

I, Dr. Sharon Liner, a Plaintiff in this action, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify as to the facts set forth below based on my personal knowledge:

1. I am a board-certified family physician with 19 years of experience in women's health. I am licensed to practice medicine in the State of Ohio.

2. I am the Medical Director of Planned Parenthood Southwest Ohio Region ("PPSWO"), also a Plaintiff in this case. I am also PPSWO's Director of Surgical Services, a position I have held for nearly 17 years. I have worked as a physician for PPSWO since 2004. Throughout that time, I have provided sexual and reproductive health care, including abortions, to our patients.

3. Until Friday, June 24, 2022, the day S.B. 23 took effect, PPSWO provided procedural abortions through 21 weeks 6 days from the first day of a patient's last menstrual period ("LMP") and medication abortion through 10 weeks LMP at our health center in

Cincinnati. PPSWO is now able to provide abortion only to approximately 6 weeks LMP, when embryonic cardiac activity is generally detectable. For some patients, embryonic cardiac activity is detectable even earlier.

4. In my role at PPSWO, I am familiar with the operational and schedule changes we have had to make since S.B. 23 took effect, and the impacts of S.B. 23 on PPSWO, our staff, and our patients.

5. S.B. 23 caused mass confusion and panic when it went into effect. On Friday, June 24, 2022, the day S.B. 23 took effect, PPSWO received more than double the number of phone calls we receive on a typical Friday. In the days immediately after S.B. 23 took effect, we had to cancel over 600 patient appointments. Many patients broke down in tears in our office. Many patients that we could not reach by phone who came to our health center expecting to have their appointment were extremely upset; some threatened to hurt themselves because they were so distraught.

6. Since then, we have had to turn away hundreds of patients and will continue to have to do so. Some patients already know they are more than 6 weeks LMP when they initially call us, and we have to let them know that they will not be able to get an abortion in Ohio. Others do not know how far along they are, or think they are early enough to obtain an abortion in Ohio, so they come in for an initial appointment only to find out fetal heart tones are present and we can't take care of them. Most patients who come in for an initial appointment are turned away after we detect fetal heart tones. For example, in July 60% of patients were turned away after an initial ultrasound. Still other patients who appear at their first appointment to be eligible for an abortion in Ohio return for their second appointment after waiting the required 24 hours only to discover that fetal heart tones have appeared and that they cannot obtain care in-state.

Cincinnati. PPSWO is now able to provide abortion only to approximately 6 weeks LMP, when embryonic cardiac activity is generally detectable. For some patients, embryonic cardiac activity is detectable even earlier.

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This happens to a significant portion of patients who return for a second visit. For example, in July 16% of patients who returned for a day 2 visit had to be turned away. When we tell patients we cannot help them they are extremely distressed, and all we can offer them is resources, information and emotional support.

7. Our patients who are too far in their pregnancy to obtain an abortion in Ohio are attempting to find providers out of state with appointment availability, but with the number of abortion patients in Ohio who now need to travel, out-of-state providers are quickly becoming backed up, delaying our patients' care. Most of our patients are traveling to Michigan and Illinois to obtain care, and they are encountering wait times of 2-4 weeks. Though Michigan is closer for most of our patients, it has been hard for patients to find appointments in a timely manner due to the lack of availability. Illinois has had more appointments available, however it is a further drive, and accommodations in the greater Chicago area are expensive.

8. On top of problems with finding prompt appointments out of state, traveling is very difficult for many of our patients because of the increased expense of traveling and potentially an overnight stay out of town, the need to take time off work and arrange for child care, and the need to find a support person with availability to travel with them. These barriers not only can compromise the confidentiality of the patient's pregnancy and abortion decision, they also delay our patients in getting care out of state and, while it is still very safe, the risk of complications of abortion does increase as gestational age increases. Other patients may be pushed so late in pregnancy that they are not able to obtain an abortion at all and will be forced to carry unwanted pregnancies to term or to resort to trying to terminate their pregnancies outside the medical system.

9. Our patients have been devastated when we have informed them that S.B. 23 has taken effect and we cannot provide them with the care they need. Patients who thought they were early enough in pregnancy to get care in-state have sobbed uncontrollably when we have detected embryonic cardiac activity.

10. Other patients have been extremely angry. One was slamming tables and doors in our office.

11. We have had at least 3 patients threaten to commit suicide. Another patient stated that she would attempt to terminate her pregnancy by drinking bleach. Another asked how much Vitamin C she would need to take to terminate her pregnancy.

12. One 20-year-old student stated that she lives with her parents and she did not have a way to get out of town for care without her parents knowing. She was terrified her parents would cut her off financially, she would have nowhere to live, and she would not be able to continue her education.

13. Another patient was very upset and explained that she could not travel for care because of her children. She stated the only time she can go to a medical appointment is when her children are in day care, and she needs to pick them up by 3:00 pm. She asked, "How am I supposed to get out of the state?"

14. One 25-year-old presented for consultation the week after S.B. 23 took effect. This patient is already the parent to one child. This patient was undergoing chemotherapy for a recurrent cancer and had already missed one treatment due to finding out she was pregnant. At the time of her visit, she was found to be 8 weeks pregnant with cardiac activity making her ineligible for an abortion under the law in Ohio. Due to the patient having cancer and being unable to obtain treatment for her cancer while pregnant, we sought documentation to support a

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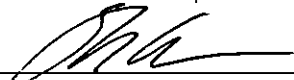
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medical exception to S.B. 23 for this patient. Her provider of care did not feel comfortable providing this and the patient had to travel out of state for her abortion to resume her cancer treatment, which caused even further delay.

15. We also had a patient whose desired pregnancy was diagnosed with severe fetal anomalies two days prior to S.B. 23 taking effect; these anomalies included a lack of lower extremities and the contents of the fetus's abdomen, including possibly the heart, protruding through a defect in the abdominal wall. The patient had to be navigated out of state for care. Due to the recent decline in access in many states and the fact that this patient was in the second trimester of pregnancy (when most fetal anomalies are diagnosed), she had to wait even longer for an appointment, putting her further into the second trimester when she could finally be seen for care out of state. Being forced to carry a pregnancy with severe anomalies for longer can be extremely distressing for patients.

16. These are only some examples of our patients' experiences. The past two months have been horrendous for our patients, and this will continue to be the case as long as S.B. 23 remains in effect. We will continue to have to turn away patients, whose care will necessarily be delayed by the need to travel, or who will not be able to access abortion at all and will be forced to carry pregnancies to term against their will with devastating consequences for their lives.

The undersigned hereby affirms that the statements made in the foregoing affidavit are true,
under penalty of perjury.

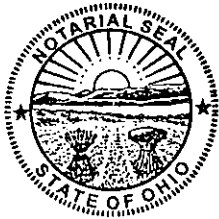


Sharon Liner, M.D.
Planned Parenthood of Southwest Ohio

Sworn to and subscribed before me this 31 day of August, 2022.

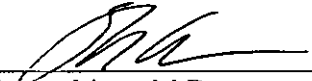


Notary Public



ATIF ASHRAF
Notary Public, State of Ohio
My Commission Expires:
04/12/2023

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Sharon Liner, M.D.
Planned Parenthood of Southwest Ohio

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My Commission Expires:
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**IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

PRETERM-CLEVELAND, *et al.*,

Plaintiffs,

v.

YOST, *et al.*,

Defendants.

Case No.

Judge

**AFFIDAVIT OF DAVID BURKONS, M.D., IN SUPPORT OF PLAINTIFFS' MOTION
FOR TEMPORARY RESTRAINING ORDER FOLLOWED BY PRELIMINARY
INJUNCTION**

I, David Burkons, M.D., being duly sworn on oath, do depose and state as follows:

1. I am a board-certified obstetrician-gynecologist. I received my M.D. degree from the University of Michigan in 1973.

2. I am licensed to practice medicine in the state of Ohio. In 2014, I founded the Northeast Ohio Women's Center (NEOWC), where I serve as Medical Director. Prior to starting NEOWC, I was in private practice with University Hospitals in Cleveland, and I also served as Medical Director of Preterm for approximately ten years.

3. As NEOWC's Medical Director, I supervise physicians and clinicians and provide direct reproductive health care to patients. I also oversee the provision of all abortion services at NEOWC, and I am responsible for developing and approving NEOWC's policies and procedures. In addition, I personally provide both medication and procedural abortions at NEOWC.

4. I submit this affidavit in support of Plaintiffs' Motion for a Temporary Restraining Order Followed by Preliminary Injunction to prevent enforcement of Ohio Senate Bill 23 ("S.B. 23"), which bans abortion after approximately 6 weeks of pregnancy.

5. The facts I state here are based on my experience, information obtained in the course of my duties at NEOWC, and personal knowledge that I have acquired through my role at NEOWC. If called and sworn as a witness, I could and would testify competently thereto.

6. NEOWC operates an ambulatory surgical facility located in Cuyahoga Falls, Ohio (near Akron), which offers both procedural and medication abortion, as well as a medication-only abortion clinic in Shaker Heights, Ohio (near Cleveland), and another medication-only abortion clinic in Toledo, Ohio (Toledo Women's Clinic).

7. Prior to June 24, 2022, when the Supreme Court decided *Dobbs v. Jackson Women's Health Organization*, NEOWC provided procedural abortions up to 16 weeks, 6 days LMP and medication abortions through 9 weeks, 6 days LMP at its Cuyahoga Falls location. However, at approximately 6 p.m. on the day that *Dobbs* was decided, a federal judge presiding over a federal constitutional challenge to S.B. 23 lifted the injunction blocking enforcement of S.B. 23, and the law was permitted to go into effect. Since then, NEOWC has been providing medication and procedural abortions only before embryonic cardiac activity is detected—which occurs at approximately 6 weeks LMP, and even earlier in some patients. This has caused our patient volume to decrease by approximately 55%, thus making our long term survival problematic.

8. The impact of S.B. 23 taking effect has been devastating for patients. I have both personally witnessed and learned from my staff about the tragic situations into which our patients are forced by S.B. 23.

9. For example, one young woman, who became pregnant near the end of her senior year of high school, suffered from hyperemesis (excessive vomiting) as a result of her pregnancy. None of the medication that she had been prescribed for her condition was working, and she was so ill that she could not sit in a classroom without throwing up. The pregnancy was therefore preventing the young woman from finishing her schooling. She was hoping to end her pregnancy and obtain her high school diploma, but we had to turn her away shortly after the ban went into effect. We later learned that she ended up in the hospital on suicide watch.

10. Many patients became extremely angry when they were told that they could not have a scheduled abortion in the days after the ban took effect. One patient said to one of our staff members, “What do you want me to do ... throw myself down the steps?”

11. We have also heard from a number of patients that were delayed in seeking care because they were misled by crisis pregnancy centers (CPCs)—organizations that pose as medical clinics but exist primarily to dissuade pregnant individuals from choosing abortion. Some patients had visited those centers without realizing that they did not provide a full range of reproductive health services. By the time a patient waits for an appointment with the CPC, learns the true nature of the organization, and then schedules an appointment at one of our clinics, she is often too late to have an abortion in Ohio. It should be noted that these facilities are often funded by the State.

12. We inform patients who call for an appointment that they shouldn't even come in for an initial appointment if their last period was more than six weeks ago. A number of patients who are past six weeks LMP still insist on making appointments, because they hope that there will be no cardiac activity on the ultrasound. Unfortunately, we almost always have to send those patients away.

13. The resulting burdens on patients are made worse by the fact that several clinics in surrounding states have lengthy wait times for appointments. I understand, for example, that some Pennsylvania clinics are scheduling patients a month out.

14. Many other patients express feeling extremely rushed in the decision-making process and say that they wished they had more time to reflect, but that they are concerned that they will not be able to have the choice whether to terminate the pregnancy if they wait any longer.

15. Often, patients discover they are too far in pregnancy to receive an abortion after they have arrived at the clinic for an initial ultrasound. They are usually very distressed when this happens. It's even worse when the patient learns this after the ultrasound is repeated at the second appointment. For example, I saw one patient at our Toledo clinic for her initial appointment and ultrasound. No embryonic cardiac tones were detected, and so she wanted to schedule a time to come back to the Toledo clinic later in the week for a medication abortion. I informed her that, because the Toledo clinic was not open every day, her best bet was to travel to Cuyahoga Falls (approximately two hours away) for an earlier appointment. She scheduled her appointment for the next day at the Cuyahoga Falls clinic; however, when we repeated the ultrasound, we detected embryonic cardiac activity and had to tell her she could not receive an abortion in Ohio. We advised her to travel out of state.

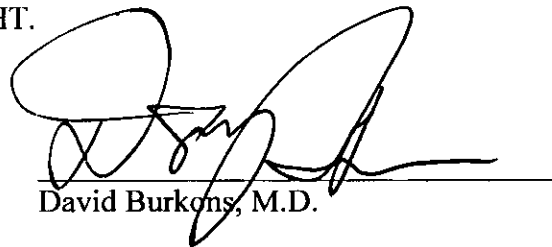
16. Another patient arrived at our Toledo clinic who was terrified to tell her boyfriend about her plans to have an abortion. She had already rescheduled her appointment twice. When she went to the car and told him, he tried to get into the clinic. The clinic escorts who work outside the building calmed him down. He then kicked her out of the car and drove away, leaving

the woman hysterical because she already had two children and didn't know what to do. By the time she sought care, she was a few days too late to have her abortion in Ohio.

17. We have also had two patients who confided that they had visited hospital ERs for treatment of tubal (ectopic) pregnancies, but the doctors were afraid to treat them without being absolutely certain that there was no intrauterine pregnancy. In one case, the patient's fallopian tube ruptured, and surgery rather than medical management which would have been possible if they had acted sooner. In the other, my nurse intervened to convince the physician to treat the patient, but only several days later, which was emotionally wrenching for the patient. Thus, although S.B. 23 does not apply to ectopic pregnancies, I am concerned that the law's stiff criminal penalties are deterring some physicians from providing even legal care that is medically necessary. We are also learning of similar situations occurring when patients seek care for miscarriages.

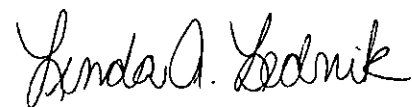
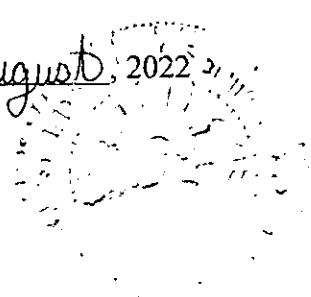
18. These are just a few examples of the many harms my patients have experienced due to S.B. 23. I am deeply concerned that these sorts of situations will continue to occur, and Ohioans will continue to be harmed, if S.B. 23 remains in effect.

FURTHER AFFIANT SAYETH NAUGHT.



David Burkons, M.D.

Signed before me this 31 day of August, 2022.



Linda A Lednik
NOTARY PUBLIC
State of Ohio 5
My Commission Expires 11/23/2025

**IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

PRETERM-CLEVELAND, *et al.*,

Plaintiffs,

v.

DAVID YOST, *et al.*,

Defendants.

Case No.

Judge

**AFFIDAVIT OF AERAN TRICK IN SUPPORT OF PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER FOLLOWED BY PRELIMINARY
INJUNCTION**

I, Aeran Trick, L.P.N., having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify as to the facts set forth below based on my personal knowledge:

1. I am the Operations Manager for Women's Med Center of Dayton ("WMCD") as well as our sister clinic, Women's Med Indianapolis ("WMI"). Both clinics are operated by Women's Med Group Professional Corporation ("WMGPC"). I have been employed by WMGPC for 20 years. As Operations Manager at WMCD, I oversee clinic operations, training and supervision of clinic personnel, clinic security, and patient relationship management.
2. Before Senate Bill 23 ("SB 23") went into effect on Friday, June 24, 2022, WMCD provided medication abortions up to 10 weeks from the first day of a person's last menstrual period ("LMP"), and procedural abortions up to 21 weeks and 6 days LMP.

3. At the time SB 23 went into effect, WMCD had 74 patients who had already come in for their statutorily-mandated pre-procedure appointment and were scheduled to return for their abortion procedure over the next two weeks. My staff and I had to call most of these patients to tell them that we are no longer able to perform their abortion at our Dayton clinic because embryonic cardiac activity was detected during their first appointment. Some of these patients may have been able to seek care in Indiana, at our clinic or another clinic. However, a number of patients told us that they were unable to travel out of state for abortion care. Moreover, about ten of our previously scheduled patients were already too far along in their pregnancy to obtain an abortion in Indiana, where our Indianapolis clinic only provides up to 13 weeks and 6 days LMP, so we provided them with information regarding clinics in Illinois.
4. In addition to these patients, when SB 23 took effect on Friday evening, WMCD had 200 new patients with future appointments scheduled for the coming days and weeks. Given the extremely limited time period during which abortions can now be performed in Ohio under SB 23, we rescheduled most of these initial appointments for Monday, June 27 through Wednesday June 29. However, the majority of the rescheduled patients were not able to receive abortion care in Ohio because fetal heart tones were detected during their visit.
5. We have continued to receive calls from pregnant people seeking abortions at our Dayton clinic, but we have had to turn most of them away or advise them to seek care out of state. In July, we were only able to provide abortions to 77 patients at our Dayton clinic. This number is a small fraction of the abortions that were performed at the Dayton clinic prior to SB 23 going into effect.

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6. I have personally witnessed the devastating harms that SB 23 is causing our patients and pregnant Ohioans desperately seeking abortion care. For example, on Monday, June 27, WMCD saw a 37-year-old woman for her statutorily-mandated pre-procedure appointment. This patient has stage III melanoma and was told by her doctors that they cannot provide the treatment she needs until her pregnancy is terminated. Because our medical staff detected fetal heart tones during her examination, she had to travel to Indiana for her procedure. Upon learning that she would need to travel out of state to have her abortion, the patient broke down and cried inconsolably despite the attempts of multiple staff members, including myself, to comfort her.
7. On Friday, June 24, a sixteen-year-old patient came to WMCD for her statutorily-mandated pre-procedure appointment, accompanied by her mother. This patient has a history of anxiety, depression, and drug addiction. She said that she was working hard to move forward with her life, and felt that having an abortion was critical to doing so. During her appointment, our medical staff determined that she was 5 weeks and 5 days LMP with fetal heart tones. The patient was scheduled to return for a medication abortion on Tuesday, June 28. However, hours after she left the clinic, SB 23 went into effect. I had to call this patient to explain that she can no longer legally obtain an abortion in Ohio. She was devastated by this news. Although she subsequently made plans to travel to our clinic in Indianapolis for her procedure, she was required by Indiana law to make two separate trips to the health center, delaying her care and adding to the travel-associated burdens that she faced.
8. In the days after SB 23 went into effect, patients continued to suffer similar harms. For example, I spoke with an Ohio woman who had been calling clinics all weekend,

attempting without success to find abortion care in a location that she could afford to travel to. She was 18 weeks pregnant and recently learned that her fetus has genetic abnormalities. We had to turn her away because she was too far along in her pregnancy to have an abortion in Ohio under SB 23, and our Indianapolis clinic only provides up to 13 weeks and 6 days LMP. We provided this patient with information about clinics located in Illinois, but we have not been able to determine whether the patient received care.

9. Our office manager also spoke with the mother of a sixteen-year-old patient who had completed her statutorily-mandated pre-procedure appointment at our clinic on Wednesday, June 22, and was scheduled to return for a medication abortion on Wednesday, June 29. The girl had been experiencing severe vomiting and had lost more than 20 pounds. We had to call and cancel her procedure at WMCD because it was too late for her to receive an abortion in Ohio. The mother was distraught over what would happen to her daughter if she was unable to obtain an abortion. As a result of car problems, the mother was forced to rent a car to transport her daughter to Indianapolis for her procedure, because she was concerned that her car would break down during the trip. They also had to make two separate trips to the Indianapolis health center, as required by Indiana law.
10. Another patient—who is currently in foster care—had filed a petition for a judicial bypass before the United States Supreme Court’s ruling in *Dobbs*. Her foster mother had wanted to help her access the abortion care she needed, but she was not legally permitted to provide her consent for the procedure, thus forcing the patient to turn to the court. The court granted the judicial bypass order on June 27, 2022, after SB 23 had already gone into effect in Ohio. She came into our Dayton clinic and our medical staff determined that

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she was 16 weeks and 3 days pregnant. As a result, we had to turn her away because she was too far along in her pregnancy to have an abortion in Ohio under SB 23, and our Indianapolis clinic only provides up to 13 weeks and 6 days LMP. She was ultimately forced to travel to Illinois, but this greatly delayed her care, thus increasing the risks to her health.

11. In July, our office received a call from a 39-year-old Ohio woman who was approximately 13 weeks pregnant and had no amniotic fluid. The patient had experienced amniotic fluid leakage while undergoing a prenatal test, and was informed by her physician that this would render the pregnancy nonviable. However, because the fetus still had fetal heart tones, the physician discharged her with instructions to call the office if she developed a fever. The patient was very distressed and expressed to WMCD staff that she felt abandoned by her physician during an incredibly difficult experience. I'm concerned that confusion over the meaning of SB 23's health exception has led physicians to avoid providing medically necessary care out of caution, and I worry about patients in similar positions who aren't able to independently find an accessible abortion provider without their physician's help.
12. Also in July, our clinic was contacted by a 28-year-old pregnant woman from Cincinnati who was seeking an abortion after her birth control failed. She had experienced a late miscarriage during a previous pregnancy, and this experience was so traumatizing that she said she was not able to go through another pregnancy. The woman was too far along in her pregnancy to receive an abortion in Ohio and had to travel to Indiana, causing her additional distress.

13. Another patient came to WMCD after experiencing persistent severe vomiting caused by her pregnancy, having already visited the hospital on four occasions for treatment of this condition. During her initial appointment at WMCD, the patient was so sick that she was lying on the floor vomiting into a bucket. Our medical staff determined that despite being very early in pregnancy, fetal heart tones were detectable, and she was therefore unable to have an abortion in Ohio. The patient was incredibly concerned that she would not be able to make it to Indianapolis for her procedure due to her severe vomiting. On top of this, traveling out of state was particularly difficult for the patient who had four children between the ages of three and thirteen and worked as a manager at a large retail store. She was concerned that she was going to lose her job because of all the time she had to take off to travel to and from the clinic for abortion care in addition to her repeated absences due to being hospitalized for her condition. Ultimately, she was forced to get a hotel room in Indianapolis and travel there with her mother and four children to obtain the care she needed.

14. In July, we were contacted about a sixteen-year-old girl living in Southwest Ohio who had become pregnant after she was sexually assaulted by a family member. The girl was unable to have an abortion in Ohio due to the presence of fetal heart tones, so she was forced to go to Indiana to have an abortion. The local Ohio law enforcement agency—which was already involved at the time the clinic was contacted about the patient—had to drive to our Indianapolis clinic to retrieve the tissue for crime lab testing related to the sexual assault investigation. I am concerned that Ohio's ban and the need to travel increasingly far distances to obtain abortion care not only causes unimaginable harm to

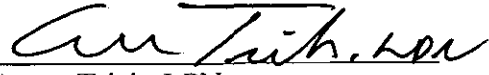
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these young victims, but could also hamper law enforcement's ability to investigate and prosecute these cases in the future.

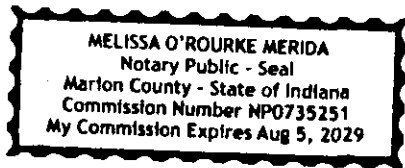
15. The above-described experiences are just a few examples of the devastating consequences that SB 23 has already had on our patients. Patients have reported barriers to seeking an abortion out of state, such as transportation issues or needing to obtain additional funds to cover the additional cost of travel. Patients have also reported long wait times for appointments at clinics in other states. I fear that the many pregnant people in need of our services who we are required to turn away under SB 23 will not be able to access abortion care out of state, and will be forced to continue their pregnancies.
16. I am also concerned that accessing abortion will soon become exponentially more difficult for Ohio women. Since SB 23 went into effect, many women who we had to turn away from our Ohio clinic sought abortions in Indiana. However, this will no longer be an option starting on September 15, when Indiana's abortion ban is scheduled to go into effect. I fear that this will force many more patients seeking abortion care to continue their pregnancies or attempt to end their pregnancies on their own, which can be dangerous.

The undersigned hereby affirms that the statements made in the foregoing affidavit are true,
under penalty of perjury.


Aeran Trick, LPN
Women's Med Dayton

Sworn to and subscribed before me this 26 day of August, 2022.

(Seal)




Notary Public



A. Pierce Affidavit iso TRO.pdf

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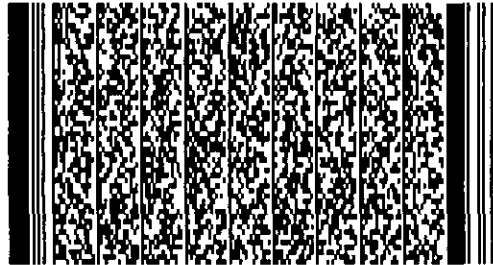
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E-Signature Summary

E-Signature 1: Alegra Leann Pierce (ALP)
September 01, 2022 07:53:03 -8:00 [C5A2746C030F] [75.179.56.90]
apierce@preterm.org (Principal)

E-Signature Notary: Theresa M Sabo (TMS)
September 01, 2022 07:53:03 -8:00 [A29688F55360] [65.60.211.87]
tess.sabo@gmail.com
I, Theresa M Sabo, did witness the participants named above electronically sign this document.



IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

PRETERM-CLEVELAND, *et al.*,

Plaintiffs,

v.

DAVID YOST, *et al.*,

Defendants.

Case No.

Judge

**AFFIDAVIT OF ALLEGRA PIERCE IN SUPPORT OF PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER FOLLOWED BY PRELIMINARY
INJUNCTION**

I, Allegra Pierce, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify as to the facts set forth below based on my personal knowledge:

1. I am a Medical Assistant at Preterm-Cleveland ("Preterm"), where I have been employed for 25 years. As a Medical Assistant at Preterm, I perform ultrasounds, work in the appointment center, and follow up with patients who have medication abortions. In addition, I am trained as a patient navigator and I help patients through their pregnancy decision-making process.
2. Before Senate Bill 23 ("SB 23") went into effect on June 24, 2022, Preterm provided procedural abortions through 21 weeks 6 days from the first day of a person's last menstrual period ("LMP"), and provided medication abortions up to 10 weeks LMP.
3. SB 23 went into effect on a Friday evening, and because Preterm is open on Saturdays, our staff subsequently had to cancel almost all of the appointments that were scheduled for the following day. We were not able to reach some of the patients by phone, so we

1



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IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

PRETERM-CLEVELAND, *et al.*,

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v.

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2. Before Senate Bill 23 ("SB 23") went into effect on June 24, 2022, Preterm provided procedural abortions through 21 weeks 6 days from the first day of a person's last menstrual period ("LMP"), and provided medication abortions up to 10 weeks LMP.
3. SB 23 went into effect on a Friday evening, and because Preterm is open on Saturdays, our staff subsequently had to cancel almost all of the appointments that were scheduled for the following day. We were not able to reach some of the patients by phone, so we



had to inform them that they would no longer be able to get abortion care in Ohio when they came into the clinic on Saturday. We did our best to provide patients with what information we could about clinics located in other states, but many felt like they were left without any real options. The patients we turned away just did not know what to do—most seemed to be in a state of total disbelief.

4. Preterm currently provides abortion in compliance with SB 23. As a result, we cannot provide abortion care to most of the patients that contact our clinic. Because I perform ultrasounds on patients, I see firsthand every day how devastated our patients are when they find out that they are not able to have an abortion due to the detection of fetal heart tones. For example, I saw a 19-year-old patient who had assumed that she was early enough in her pregnancy to be able to obtain an abortion in Ohio, and came in for her first appointment thinking that she would be able to schedule another appointment to obtain an abortion at Preterm. However, when I performed an ultrasound on her I detected fetal heart tones. When I broke this news to her and explained that Preterm would be unable to provide her with an abortion because of SB 23, she was shocked and began hysterically crying. I gave her information about clinics that she could go to in other states, but she felt like traveling out of state for care was not a realistic option for her. She was so upset that she could not move. Many members of our staff tried to comfort her, myself included, but it took her several hours to calm down enough to leave the clinic. I do not know if this patient was ever able to receive care out of state.
5. While reactions vary when I tell a patient that she cannot have an abortion in Ohio because the ultrasound detected fetal heart tones, the devastating impact of this news is always apparent. Many patients tell me that they feel they have no choice but to go



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through with the pregnancy. They worry they may lose their jobs, will seriously struggle to support their families or the children they already have if they have another child, or will suffer harm to their physical or mental health if they have to remain pregnant, but do not see another option.

6. The majority of patients I talk to say that they can't travel out of state to access abortion care. Even though many patients can access sources of funding for seeking an abortion, there are so many barriers that make traveling out of state inaccessible for many of our patients, including the cost of travel, child care responsibilities, and difficulty getting time off of work, to name just a few. Even those patients who are able to travel out of state often have a hard time getting an appointment due to increasingly long wait times at clinics in states where abortion is still legal.
7. The harms caused by SB 23 are not limited to the patients who are denied abortion care in Ohio. As a result of my ultrasound duties, I also see the negative impact that the law has on many of our patients who are early enough in their pregnancy to legally have an abortion in Ohio. When performing an ultrasound, I watch as patients hold their breath, waiting to find out if they are eligible to receive abortion care. However, when I let patients know that no fetal heart tones have been detected, their initial relief often shifts to a different type of stress. Fetal heart tones typically occur around 5 to 6 weeks LMP, so these patients are very early on in their pregnancies and many of them have not had a chance to fully wrap their minds around the fact that they are pregnant. A number of patients have told me that they wish they had more time to think about whether to continue the pregnancy, but feel like they need to go forward with having an abortion before they lose the ability to make this choice. For example, I recently spoke with a



through with the pregnancy. They worry they may lose their jobs, will seriously struggle to support their families or the children they already have if they have another child, or will suffer harm to their physical or mental health if they have to remain pregnant, but do not see another option.

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patient with a young baby at home who had become pregnant again only months after giving birth. She had experienced many post-partum health issues, and she was not sure if she was physically or mentally ready to go through a pregnancy again so soon. She wanted time to work through this decision but was terrified that if she waited she would no longer be able to have an abortion.

8. I do my best to make these patients feel supported through their decision-making process and assure them that they do not need to rush into any decision that they are not ready to make. However, the reality is that fetal heart tones can develop within hours or days of a patient's first appointment, and Ohio law mandates an additional twenty-four-hour waiting period before the patient can return for a second ultrasound and, if there are no fetal cardiac tones, the abortion procedure. Thus, the time to make this decision is in fact very limited.
9. The panic and desperation that SB 23 has caused is also evidenced by a new trend I have observed regarding the timing of patient appointment requests. I have noticed that more people are trying to schedule appointments much earlier in pregnancy. Some patients have been coming in so early that an ultrasound cannot definitively say whether they are pregnant, which leaves us unable to provide the patients with any services. This goes to show how terrified people are that they will be forced to continue an unwanted pregnancy.
10. These are just a few examples of SB 23's widespread harms that I witness every day. I worry about the lasting impact this ban will have on all of our patients, and I fear that the current situation will only get worse as more states outlaw abortion and clinics in Ohio and surrounding states close.



The undersigned hereby affirms that the statements made in the foregoing affidavit are true,
under penalty of perjury.

Allegra Leann Pierce
Signed on 20220901 07:51:03 -0400

Allegra Pierce
Preterm-Cleveland

09/01/2022

Sworn to and subscribed before me this _____ day of September, 2022.

(Seal)

Theresa M Sabo
Signed on 20220901 07:51:03 -0400

Notary Public



Notarial act performed by audio-visual communication



The undersigned hereby affirms that the statements made in the foregoing affidavit are true,
under penalty of perjury.

Allegra Leann Pierce
Signed on 2022/09/01 07:53:03 -0500

Allegra Pierce
Preterm-Cleveland

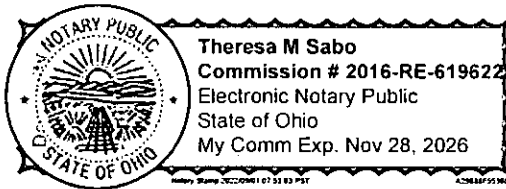
09/01/2022

Sworn to and subscribed before me this _____ day of September, 2022.

(Seal)

Theresa M Sabo
Signed on 2022/09/01 07:53:03 -0500

Notary Public



Notarial act performed by audio-visual communication



**IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

PRETERM-CLEVELAND, et al.,

Plaintiffs.

v.

DAVID YOST, et al.,

Defendants.

Case No.: _____

Judge: _____

**AFFIDAVIT OF DR. ADARSH E. KRISHEN IN SUPPORT OF PLAINTIFFS' MOTION
FOR TEMPORARY RESTRAINING ORDER FOLLOWED BY PRELIMINARY
INJUNCTION**

I, Dr. Adarsh E. Krishen, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify as to the facts set forth below based on my personal knowledge:

1. I am a board-certified physician with over 30 years of experience in family medicine. I am licensed to practice medicine in the state of Ohio. Since 2017, I have been the Chief Medical Officer of Planned Parenthood of Greater Ohio ("PPGOH"), a Plaintiff in this case.

2. PPGOH was formed in 2012 through a merger of several local and regional Planned Parenthood affiliates that had served patients in Ohio for decades. PPGOH serves patients in northern, eastern, and central Ohio.

3. Before S.B. 23 took effect on Friday, June 24, 2022, PPGOH provided both procedural and medication abortions at our two ambulatory surgical facilities ("ASF") in East Columbus and Bedford Heights, a suburb of Cleveland. We provided procedural abortions at both locations up to 19 weeks 6 days from the first day of a patient's last menstrual period

("LMP"), and we provided medication abortions through 10 weeks LMP. Since S.B. 23 took effect, we are able to provide abortions up to only approximately 6 weeks LMP.

4. As PPGOH's Chief Medical Officer, I am familiar with the impact that S.B. 23 has had on our operations and our patients.

5. PPGOH has experienced a significant operational impact as a result of S.B. 23. The ban is causing a financial drain on PPGOH. We have also lost staff as a result of the law. PPGOH had entered a contract with a physician who was in the process of being onboarded but withdrew after the ban went into effect. PPGOH also lost its director of nursing, who was worried about job stability following the ban.

6. Our abortion volume has been drastically reduced since S.B. 23 went into effect. Because of this, when possible PPGOH has tried to move abortion staff to family planning services, but the reduction in volume has caused hardships for our staff, who now at times have to travel to Columbus from Cleveland on days when the Cleveland clinic is closed.

7. Over the past more than 2 months since S.B. 23 took effect, we have had to turn away around 200 of patients per month. We turn away some patients when they initially call to make an appointment, since they already know that they are too far along in pregnancy to obtain an abortion in Ohio. Others come in for their first informed consent appointment and we have to turn them away when we discover embryonic cardiac activity. Still others, who appeared at their first appointment to be eligible for an abortion in Ohio, have to be turned away after complying with Ohio's 24-hour waiting period because embryonic cardiac activity has appeared between the two appointments. Patients who learn they cannot access an abortion in Ohio are uniformly distressed and overwhelmed as they attempt to figure out their next steps. Most of these patients have attempted to access care in Michigan, Pennsylvania, New York, Illinois, and Washington,

D.C. However, out-of-state providers are experiencing extremely high demand and long wait times. For example, providers in the Pittsburgh area have had waiting lists of over 300 patients at times since the United States Supreme Court decision overturning *Roe v. Wade* on June 24. One patient who called a Pittsburgh clinic was told the clinic was full and no longer accepting patients. Others are seeing very long wait times of up to 3–4 weeks, depending on the patient’s LMP and other medical needs, because receiving clinics prioritize patients with higher gestational ages. Surrounding states also have bans, further impacting the capacity of these out-of-state clinics. For example Kentucky has a total abortion ban, and I understand Indiana has a total abortion ban scheduled to go into effect on September 15, which will make the access situation even worse.

8. Even if patients are able to access an appointment out-of-state, many are facing numerous barriers to travel.

9. The time required to obtain an out-of-state abortion imposes a significant, if not insurmountable, burden on our patients. Many patients need to take time off work, including potentially multiple days, for travel, the appointment, and recovery. Some of these patients have already had one, if not two, appointments at one of our health centers and need to secure additional time off to travel out of state. Patients who do not have PTO need to take unpaid time off work to travel. We have also spoken with patients who are about to start new jobs and had to delay their start dates due to travel.

10. The need to travel increases the financial burden of an abortion dramatically, as it is exacerbated by travel costs and greater procedural costs due to a later gestational age and the increased time off work results in loss of wages.

11. Many of our patients also already have children. They must arrange for and pay for childcare or bring their children to their appointment out-of-state. We have spoken with single parents who must tell two or more people about their need to travel in order to have an escort driver and childcare provider, which compromises the confidentiality of their pregnancy and abortion decision. We have also spoken with parents who must bring their children to their appointments because they have no childcare options. This increases travel-related costs (e.g., needing a larger hotel room, more expensive food, etc.) and requires a reliable support person to serve dual roles of escort and child care provider. Not every patient has such support readily available.

12. These increased challenges are taking place in the context of more than two years of the COVID-19 pandemic and related economic hardship: many patients have recently lost jobs, struggled with precarious housing, or are working multiple jobs to make ends meet.

13. These burdens, while significant for all of our patients, are especially difficult for patients experiencing intimate partner violence (“IPV”), young people with limited resources, and patients experiencing homelessness. Patients who are experiencing IPV have immense difficulty navigating travel to another state without being detected by their abusive partner – this includes not only finding a way to explain their physical absence, but also obtaining transportation and the funds needed for the travel and the procedure. This decreases the safety for the patient; even absent these obstacles, pregnancy on its own is a risk factor for IPV homicide. Young adults, especially students, who have limited financial/transportation resources and are living away from their support system (either away from family of origin or support system established at school settings) or are traveling for summer internships have a particularly challenging time traveling to obtain the care they need.

14. Nearly all patients, regardless of resources, experience immense emotional distress when they are told they cannot access care in Ohio.

15. We have had patients who had previous high-risk pregnancies, or patients with chronic illness, who cannot physically or emotionally endure another pregnancy or a delay in obtaining abortion care.

16. There are sexual assault survivors seeking care who are retraumatized by not being able to access care close to home.

17. There are also patients who have already made the decision to end a pregnancy but are forced to continue being pregnant as they wait for out of state appointments, travel, etc.

18. In addition, the delay in having an abortion has also impacted some patients' ability to have their desired abortion method, particularly if they prefer to have a medication abortion as opposed to a procedural abortion.

19. Individual patient experiences show that S.B. 23's impact has been horrific. We had one patient who was experiencing homelessness and between shelters. When we called to inform her of the change in the law, she began to experience panic and stress because she did not see how she would be able to travel out of state given the barriers she is experiencing in her life and the distance she would have to travel. She was so distressed and overwhelmed that our staff had to call the Ohio crisis intervention hotline to go to her location and assist her.

20. Another patient had traveled to Ohio from Texas, where abortion has been banned after approximately 6 weeks LMP since September. She had already had her initial pre-abortion appointment here at PPGOH on June 22, and on June 24, before she was able to return for her abortion, S.B. 23 went into effect. We had to inform her that she would no longer be able to

access care here. This patient experienced extreme stress, frustration, and fear that she would not be able to access care in a third state.

21. Another patient—a minor—was sexually assaulted and had to travel to Michigan with her mother to obtain care because she could not access abortion in Ohio as a result of S.B.

23. This patient experienced immense trauma from the assault itself and then endured further trauma from a forensic interview alongside a physical exam to collect evidence for the ongoing police investigation. This trauma was further exacerbated by needing to wait over 3 weeks for her appointment. In each step of this process she felt the complete denial of bodily autonomy and safety, something that all people, especially children, should unequivocally have at all times.

22. Another patient had recently left an emotionally abusive relationship and had no contact with her former partner for several weeks when she found out she was pregnant. She was very confident in her decision to have an abortion and decided to keep her decision private. Two days before her consultation, she found out through an acquaintance that her former partner died by suicide. The extreme time constraints created by the 6-week ban made the process incredibly stressful and overwhelming for her, as it was further compounded by grief and shock on learning the news of her former partner's death. The patient stated that even though her decision did not change, she wished she had more time before her procedure appointment to process this grief but was unable to delay her care in the event that it would require her to leave the state.

23. Another patient—a single mother of two—recently had major orthopedic surgery. This patient's postoperative healing is extensive and her pregnancy is exacerbating the chronic physical pain she is experiencing. She stated that she does not believe she can physically endure this pregnancy. This patient is scheduled for an appointment in Pennsylvania and is concerned about the physical toll of traveling. She also discussed the emotional impact of needing to leave

the state and how she knows she is making the right decision for herself but feels very alone in the process as she does not have an adequate support system to help her navigate the burdens of traveling to another state for her abortion.

24. These are only a few examples of the devastating circumstances our patients are in. I know that S.B. 23 is harming, and will continue to harm, PPGOH's patients by delaying their access to care, if they are fortunate enough to find an appointment out of state, or by forcing them to carry unwanted pregnancies to term.

The undersigned hereby affirms that the statements made in the foregoing affidavit are true,
under penalty of perjury.

Adarsh E. Krishen

Adarsh E. Krishen, M.D.

Sworn to and subscribed before me this 31 day of August, 2022.

William J Sweress

Notary Public



WILLIAM J SWERESS
Notary Public, State of Ohio
My Commission Expires
November 29, 2025

**IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

PRETERM-CLEVELAND, *et al.*,

Plaintiffs,

v.

DAVID YOST, *et al.*,

Defendants.

Case No.

Judge

**AFFIDAVIT OF W.M. MARTIN HASKELL, M.D., IN SUPPORT OF PLAINTIFFS'
MOTION FOR TEMPORARY RESTRAINING ORDER FOLLOWED BY
PRELIMINARY INJUNCTION**

I, W.M. Martin Haskell, M.D., being duly sworn on oath, do depose and state as follows:

1. I am the sole shareholder and Medical Director of Women's Med Group Professional Corporation ("WMGPC"), which has owned and operated a clinic that provides abortion care in Kettering, Ohio (near Dayton) since 1983. WMGPC currently holds an Ambulatory Surgical Facility ("ASF") license and operates under the business name Women's Med Center Dayton ("WMCD").
2. WMGPC also owns and operates a clinic in Indianapolis, Indiana, called Women's Med Indianapolis ("WMI"). WMI has provided safe abortion care in Indiana since 2001.
3. I submit this affidavit in support of Plaintiffs' Motion for Temporary Restraining Order Followed by Preliminary Injunction to block the enforcement of Ohio's S.B. 23. It is my understanding that S.B. 23 bans abortion, except in very limited circumstances, after detection of fetal cardiac activity.
4. I am over the age of eighteen, I am competent to testify, and I make this affidavit

based on personal knowledge.

5. WMGPC is a corporation organized under the laws of the State of Ohio. WMGPC provides pregnancy testing, abortion, and birth control at both the Dayton and Indianapolis clinic locations. WMGPC and its predecessor organizations have provided safe and compassionate reproductive health care in Ohio since 1973 and in Indiana since approximately 1975. However, as explained below, both of my clinics will have to cease providing abortion care if neither clinic is able to provide abortions after fetal cardiac activity may be detected.

6. Prior to June 24, 2022, when the Supreme Court decided *Dobbs v. Jackson Women's Health Organization*, WMCD provided procedural abortions up to 21 weeks, 6 days LMP and medication abortions up to 10 weeks LMP. However, at approximately 6 p.m. on the day that *Dobbs* was decided, I learned from my attorney that a federal judge presiding over a federal constitutional challenge to S.B. 23—in which WMGPC was a plaintiff—lifted the injunction blocking enforcement of S.B. 23, and the law was permitted to go into effect. Since then, WMCD has been providing medication and procedural abortions only before fetal cardiac activity is detected—which occurs at approximately 6 weeks LMP, but it can occur earlier in some patients.

7. WMCD is the only abortion provider in the Dayton, Ohio area, and one of only 9 abortion clinics in the state.

8. Since S.B. 23 took effect, WMCD has had to turn away many patients whose pregnancies are too advanced to receive an abortion in Ohio. Some of these patients have been able to travel to Indiana, as long as they are able to receive the procedure before they reach 13 weeks, 6 days LMP, which is the latest gestational age at which abortions may be performed

outside a hospital in Indiana.¹ Patients who cannot access care in Indiana before that gestational stage must travel further (generally to Illinois or Pennsylvania), or they are forced either to carry their pregnancies to term or to attempt to end their pregnancies outside the medical system.

9. When S.B. 23 took effect, WMI experienced an enormous increase in patient volume. Prior to S.B. 23 taking effect, from March 2022 through June 2022, WMI performed an average of about 237 abortions each month (257 in March 2022, 210 in April 2022, 219 in May 2022, and 263 in June 2022). However, in July 2022 WMI saw 474 patients, which is double WMI's previous average patient volume. Moreover, according to WMI's records, the overwhelming majority of this increased volume consists of patients from Ohio.

10. At the same time, WMCD experienced an even more dramatic decrease in patient volume. Only 77 abortions were performed at WMCD in July 2022, which was a decrease of approximately 79% from our average volume of approximately 372 patients per month. Financially, with WMCD operating at only 21% capacity, WMGPC has been able to sustain operations at WMCD since June 24 only because of the increase in patient volume at WMI. The current patient volume at WMCD is not sufficient to defray the cost of overhead and salaries needed to run the clinic.

11. On August 5, the Indiana legislature passed a total ban on abortion, which is set to go into effect on September 15. If that law takes effect, WMI will close, and WMCD will become financially unsustainable. My plan is thus to close both WMCD and WMI on September 15, 2022, if Indiana's law takes effect as scheduled.²

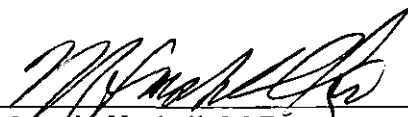
¹ Because Indiana hospitals generally do not provide abortions except in extremely limited circumstances, abortion is available for almost all patients in Indiana only until 13 weeks, 6 days LMP.

² A challenge to Indiana's abortion ban has been filed in Indiana state court, and WMGPC is a plaintiff in that lawsuit.

12. Even if abortion becomes legal again beyond 6 weeks LMP in Ohio and/or Indiana sometime after September 15, if I close WMCD and WMI on September 15 I would not be able to reopen them. In order to wind down the businesses, I will have to lay off staff, who will presumably find other positions. I will also sell our facilities and medical equipment. To reopen either clinic after completing this process would be far too difficult and expensive a task for me to take on at this stage of my career (age 76 and counting).



13. My training in medicine began in 1968 and I received my medical license in Alabama in 1973. I have seen first-hand the devastating infections, complications, sterility, and even death that resulted from illegal abortions and self-induced abortions prior to 1973 when abortions were legalized in this country. Though some patients may continue access abortion in other states, I am concerned that some patients will be forced to carry to term, and others may resort to desperate measures and attempt to obtain abortions under conditions that are not safe. This number will surely grow if safe and legal abortion continues to become even less accessible across our state.

FURTHER AFFIANT SAYETH NAUGHT.



W.M. Martin Haskell, M.D.

Signed before me this 31 day of August, 2022



RYAN A NATICCHIONI
Notary Public
State of Ohio
My Comm. Expires
April 18, 2027