STATE OF INDIANA	)	MONROE COUNTY CIRCUIT COURT
	) SS:	
MONROE COUNTY	)	CAUSE NO. 53C06-2208-PL-001756

PLANNED PARENTHOOD GREAT NORTHWEST, HAWAI'I, ALASKA, INDIANA, KENTUCKY, INC., and ALL-OPTIONS, INC., on behalf of themselves, their staff, physicians, and patients; and AMY CALDWELL, M.D., on her own behalf and on behalf of her patients,

Plaintiffs,

v.

MEMBERS OF THE MEDICAL LICENSING BOARD OF INDIANA, in their official capacities; and the HENDRICKS COUNTY PROSECUTOR, LAKE COUNTY PROSECUTOR, MARION COUNTY PROSECUTOR, MONROE COUNTY PROSECUTOR, TIPPECANOE COUNTY PROSECUTOR, and the WARRICK COUNTY PROSECUTOR, in their official capacities,

Defendants.

JOINT STATEMENT OF UNDISPUTED FACTS, DISPUTED FACTUAL ISSUES, AND LEGAL ISSUES TO BE DECIDED

Pursuant to Indiana Trial Rules 16 and 65, and to promote the efficient use of judicial resources, the parties hereby submit this Joint Statement of Undisputed Facts, Disputed Issues, and Legal Issues to Be Decided. Though the parties conducted multiple rounds of conferrals, this statement is not intended to be an exhaustive list of undisputed facts and disputed issues to be determined at trial.

PART I: UNDISPUTED FACTS

The parties stipulate to the following factual propositions for the purposes of this case; no party concedes the following propositions are material.

A. Facts Relating to the Parties

1. Plaintiff Planned Parenthood Great Northwest, Hawai'i, Alaska, Indiana, Kentucky, Inc. (PPGNHAIK) "is a not-for-profit corporation incorporated in Washington." Am. Compl. ¶ 13. It operates 11 health centers throughout Indiana. *Id.* "Until August 1, 2023, PPGNHAIK offered medication abortion (which is accomplished by ingesting pills and does not require a medical procedure) through 10 weeks after the first day of a patient's last menstrual period ("LMP") at its Lafayette health center, and both medication abortion up to 10 weeks LMP and procedural abortion (also known as surgical abortion) up to 13 weeks 6 days LMP at its Bloomington, Merrillville, and Georgetown Road health centers." *Id.* ¶ 14. PPGNHAIK's abortion clinic licenses were voided by S.B. 1's Hospital Requirement, but PPGNHAIK clinics in Indiana continue to provide non-abortion reproductive health services. *Id.*; Gibron Decl. ¶¶ 7, 9; Pltfs.' R&Os at 17; Am. Compl. ¶¶ 13–14.

2. All-Options, Inc. is a not-for-profit corporation incorporated in Oregon. All-Options operates a Pregnancy Resource Center in Bloomington. The Pregnancy Resource Center's Hoosier Abortion Fund provides financial assistance to Indiana residents who need help paying for abortion. Dockray Decl. ¶¶ 1, 5, 16; Am. Compl. ¶ 16.

3. All-Options provides funding to contribute to the cost of patients' abortions, whether performed in Indiana hospitals or out-of-state. Dockray/All-Options Dep. 23:25–24:10, 27:24–28:2, 52:11–18, 133:15–17; Dockray Decl. ¶ 16.

4. Dr. Amy Caldwell is an OB/GYN physician licensed to practice medicine in Indiana. Dr. Caldwell is employed by IU Health and by Indiana University Medical School. Am. Compl. ¶ 17; Caldwell 11/1/23 Decl. ¶ 1.

5. Dr. Amy Caldwell has performed some abortions in Indiana since S.B. 1 took effect and has been unable to perform abortions for other patients seeking abortions. Caldwell 11/1/23 Decl. ¶ 7.

6. Where the abortions Dr. Caldwell provided pursuant to the Health or Life Exception were reviewed by the hospital where they were performed, another referring or consulting physician agreed the abortions were permitted under S.B. 1. Caldwell Dep. 113:23–114:12; Caldwell 2/15/24 Decl. ¶ 34.

7. Defendant Members of the Medical Licensing Board of Indiana serve on the Medical Licensing Board, a state agency responsible for licensing and disciplining certain medical practitioners, including physicians. Am. Compl. ¶ 22; Ind. Code §§ 25-0.5-3-7, 25-0.5-8-11, 25-0.5-10-17, 25-0.5-11-5, 25-22.5-2-1, 25-22.5-8-6.

B. Facts Relating to Pregnancy and Abortion

8. Pregnant patients' bodies undergo changes during pregnancy, including but not limited to substantial changes in cardiovascular function, substantial rise in blood volume, increased production of clotting factors, significant weight gain, and a growing uterus. Caldwell 11/1/23 Decl. ¶ 13; Caldwell Dep. 60:12–24; Ralston Dep. 101:25–102:4; Wubbenhorst 1/15/24 Decl. ¶¶ 100, 102.

9. Pregnancies can be terminated in different ways, including by abortion or by delivery. Caldwell Dep. 90:19–91:2, 94:25–95:7, 100:1–10.

C. Facts Relating to Physical Health Conditions or Complications

10. Pregnant patients may experience complications or health conditions, including mental health conditions. Caldwell 11/1/23 Decl. ¶¶ 13–14; Mittal 11/4/23 Decl. ¶¶ 8–10.

11. Complications and health conditions experienced by pregnant patients have a range of severity, a range of possible consequences, a range of rates of progression, and different options for treatment and management. Caldwell 11/1/23 Decl. ¶ 13 & n.2, ¶ 21; Caldwell Dep. 77:10–23, 83:22–25; *see also* Caldwell Dep. 90:10–13, 91:21–92:25; Ralston 11/3/23 Decl. ¶ 23.

12. Some complications and health conditions pose serious threats to the life of a pregnant patient. Caldwell 11/1/23 Decl. ¶¶ 14–23; *see* Kheriaty Decl. ¶ 12.

13. Certain health conditions, such as hyperemesis gravidarum, preterm premature rupture of the membranes ("PPROM"), and preeclampsia,

may be brought on by pregnancy. Ralston 11/3/23 Decl. ¶¶ 13, 16, 19; Caldwell 11/1/23 Decl. ¶ 14.

14. The same complication or health condition can present differently in different pregnancies. Caldwell 11/1/23 Decl. ¶ 13 & n.2, ¶ 20 & n.6; *see, e.g.*, Caldwell Dep. 90:2–24; 92:20–22.

15. The same complication or health condition can progress at different paces for different patients and can reach different degrees of severity for different patients. Caldwell 11/1/23 Decl. ¶ 13 & n.2, ¶ 20 & n.6; Caldwell Dep. 92:17–22.

D. Facts Relating to Decision Making about Treating Medical Conditions or Complications

16. Reasonable medical judgment is a familiar concept to physicians. Caldwell 2/15/24 Decl. ¶ 10; Caldwell Dep. 125:8–126:5; Wubbenhorst 1/15/24 Decl. ¶ 103, 180–81.

17. Physicians using their reasonable medical judgment can reach different conclusions about the correct treatment for a patient. Curlin Dep. 125:2–9; Wubbenhorst Dep. 200:8–11.

18. During complex medical decision-making, physicians may engage with their patients to determine how to treat or manage complications or conditions. Caldwell Dep. 74:20–76:17; Ralston Dep. 137:8–14; Mittal Dep. 242:4–12; Ralston 11/3/23 Decl. ¶ 13.

19. When recommending treatment or management of complications and health conditions to pregnant patients, physicians may take into account many factors, including the nature and severity of the complication or health condition, any risks associated with it, the opinions of consulting physicians, clinical or laboratory data, the patient's medical history, and patient's concerns and health care preferences. Caldwell Dep. 21:6–13, 73:1–6, 74:20–76:17, 77:20–23; Mittal Dep. 242:4–12; Ralston 11/3/23 Decl. ¶ 25; Ralston Dep. 137:8–14; Wubbenhorst 1/15/24 Decl. ¶¶ 183–84.

20. Hyperemesis gravidarum is a severe form of nausea and vomiting brought on by pregnancy. Ralston 11/3/23 Decl. ¶ 20; Caldwell Dep. 84:6–85:1; Wubbenhorst 1/15/24 Decl. ¶ 163.

21. Hyperemesis gravidarum may present with different degrees of severity in different pregnant patients. Severe hyperemesis can cause significant electrolyte abnormalities, which could lead to cardiac arrhythmias and heart attack, kidney failure and liver damage, and even death. Caldwell Dep. 84:6–85:1, 87:21–88:5. It is "not often fatal." Caldwell 11/1/23 Decl. ¶ 14.

22. Some cases of hyperemesis gravidarum may be managed with, among other things, oral anti-nausea medication, fluid replacement, IV medications, or electrolyte replacement. Termination of pregnancy, including by abortion, resolves the condition. Caldwell Dep. 84:6–85:1, 85:25–86:22, 87:21–88:5; Caldwell 11/1/23 Decl. ¶ 14; Wubbenhorst 1/15/24 Decl. ¶ 163.

23. Preeclampsia is a pregnancy-specific condition that can occur before viability, but the majority of cases occur after 37 weeks LMP. It is characterized by high blood pressure and a high level of protein in the urine due to decreased kidney function. Caldwell Dep. 94:13–95:9; Ralston 11/3/23 Decl. ¶ 13; Ralston Dep. 57:16–24; Wubbenhorst 1/15/24 Decl. ¶¶ 138–139.

24. Preeclampsia presents with different degrees of severity in different pregnant patients. If untreated, preeclampsia can develop into its more serious form, Hemolysis, Elevated Liver Enzymes and Low Platelets ("HELLP") syndrome. Caldwell Dep. 94:13–95:9; Ralston Dep. 57:16–58:2; Ralston 11/3/23 Decl. ¶ 13; Wubbenhorst 1/15/24 Decl. ¶¶ 139–140.

25. A molar pregnancy may involve a complete or hydatidiform mole (which does not contain a fetus) or a coexistent mole and fetus (when molar tissue is present with a fetus). Doctors may manage the two types of molar pregnancies differently. Managing a complete or hydatidiform mole involves suction dilation and curettage to remove the mole. Abortion is not involved in removing a complete or hydatidiform mole because no fetus is present. Ralston 11/3/23 Decl. ¶ 14; Wubbenhorst 1/15/24 Decl. ¶¶ 147–51.

26. Deep vein thrombosis is a condition in which potentially dangerous blood clots form in a patient's veins. The condition can have different levels of severity, including pulmonary failure and death from thromboembolism. Ralston Dep. 83:21–84:14.

27. PPROM is a medical condition in which the sac (or amniotic membrane) surrounding the fetus ruptures before the pregnancy is full-term, which places the pregnant patient at increased risk of infection. Ralston 11/3/24 Decl. ¶ 16.

28. If a patient experiencing PPROM develops an infection (which does not always occur) and the infection progresses to sepsis (infection in the bloodstream), the risk of severe morbidity (loss of fingers, toes, limbs, or neurologic injury), need for hysterectomy, or mortality increases. Ralston 11/3/24 Decl. ¶ 16.

29. The treatment of PPROM occurring at or near term is usually delivery after 34 weeks; the treatment for PPROM between 28 and 34 weeks may include hospitalization, daily evaluation, and delivery if there are signs of infection or non-reassuring testing of the fetus. Ralston Dep. 73:10–21.

30. The treatment of PPROM prior to fetal viability may include terminating the pregnancy. Ralston 11/3/24 Decl. ¶¶ 16, 18; Ralston 2/14/24 Decl. ¶ 23.

31. Pregnant patients with cancer experience health risks stemming from chemotherapy and risks related to the cancer itself. Caldwell Dep. 101:2–8; Ralston Dep. 124:6–10.

32. For pregnant patients diagnosed with cervical cancer or precancerous lesions of the cervix, uterine cancer, or ovarian cancer, a treatment option is removal of their reproductive organs. Caldwell Dep. 99:13–101:8.

33. Preexisting pulmonary hypertension can worsen as pregnancy advances, which can lead to preeclampsia, eclampsia, cardiac hypertrophy, heart attack, heart or kidney damage, and stroke, which can cause potentially irreversible aftereffects for patients. Caldwell Dep. 59:1–12, 69:1–7.

E. Facts Relating to Mental Health Conditions

34. Biochemical and physiologic causes can contribute to a patient's mental health. Mittal Decl. ¶ 31; Caldwell Dep. 139:10–11.

35. A patient's mental health is an important part of the patient's overall health. Kheriaty Dep. 122:8–9.

36. The nature, severity of, and treatments for, mental health conditions experienced by pregnant patients vary. Caldwell Dep. 140:15–141:2; Kheriaty Decl. ¶ 14; Kheriaty Dep. 178:17–19, 179:11–13; Mittal 11/4/23 Decl. ¶ 19; Mittal Dep. 28:11–30:23, 42:9–21, 257:23–17.

37. Some medications that are used to treat mental health conditions, including valproate and lithium, are teratogens, which means that they can increase the risk of birth defects in developing embryos and fetuses. Kheriaty Dep. 150:1–25; 177:10–178:8; Mittal 11/4/23 Decl. ¶¶ 8, 26; Mittal Dep. 169:6–170:14, 172:10–20, 173:12–175:16.

38. Mental health conditions may preexist pregnancy, may begin during pregnancy, and may change during pregnancy in a variety of ways. Caldwell 11/1/23 Decl. ¶ 24; Caldwell Dep. 135:18–136:21; Kheriaty Decl. ¶ 12; Kheriaty Dep. 125:21–23; Mittal 11/4/23 Decl. ¶¶ 8–9; Mittal Dep. 47:25–48:22.

39. Mental health conditions may recur or newly emerge during pregnancy or the postpartum period. Mittal 11/4/23 Decl. ¶¶ 13, 14, 17-18, 32; Mittal 2/15/24 Decl. ¶¶ 22; Kheriaty Decl. ¶ 12.

40. Mental health conditions experienced by pregnant patients can be severe and debilitating. Kheriaty Dep. 67:8–68:4, 81:8–16; Caldwell 11/1/23 Decl. ¶ 24.

41. The risk of adverse mental health conditions for some patients may be elevated during the peripartum period. Kheriaty Dep. 125:6–14, 126:1–16, 201:14–22; Caldwell 11/1/23 Decl. ¶ 22; Mittal 11/4/23 Decl. ¶¶ 8-9; Mittal 2/15/24 Decl. ¶¶ 10–11.

42. Pregnant patients with mental health conditions who were stable prior to pregnancy may require changes to their medication or psychotherapy regimen during pregnancy. Kheriaty Dep. 137:1–22; Mittal 11/4/23 Decl. ¶¶ 21.

43. Postpartum depression is a mental health condition following pregnancy, where a postpartum individual can experience depressive symptoms. Experiencing postpartum depression with one pregnancy is associated with an increased risk of experiencing it in subsequent pregnancies. Caldwell Dep. 135:1–17; Kheriaty Dep. 25:9–20, 127:17–128:4; Mittal 11/4/23 Decl. ¶ 11; Mittal Dep 240:14–241:13.

44. The Health or Life Exception does not permit patients in Indiana to obtain abortions to address mental health conditions, including psychological or emotional conditions. Ind. Code § 16-18-2-327.9; Caldwell 11/1/23 Decl. ¶ 26; Caldwell Dep. 142:6–14.

45. IU Health's policy upon a patient presenting to the emergency department following a suicide attempt and claiming she will attempt suicide again upon discharge if she cannot receive an abortion is that "the emergency department provider must first stabilize the patient prior to discharge, or transfer the patient to an out of state hospital capable of performing the abortion. Psychiatric patients are considered stable when they are protected and prevented from injuring or harming herself or others." IUHCal_00000032; *see* Cox/IU Health Dep. II 88:2-90:3.

F. Facts Relating to the Provision of Abortions at Hospitals and Clinics

46. Indiana Code § 16-34-2 requires the listed complications to be reported to the Indiana Department of Health.

47. PPGNHAIK would like to offer abortions in Indiana if permitted by law. PPGNHAIK Dep. 30:21–31:7; 123:13–124:8; 151:23–152:6; Am. Compl. ¶ 20; Gibron Decl. ¶ 19.

48. The cost of financial assistance provided by All-Options' Pregnancy Resource Center's Hoosier Abortion Fund to Indiana residents who need help paying for abortion has increased since S.B.1 went into effect. Dockray/All-Options Decl. ¶¶ 1, 5; Dockray/All-Options Dep. 23:17–24:5; Am. Compl. ¶ 16

G. Facts Relating to Compliance with S.B. 1

49. Some Indiana hospitals, as well as the Indiana Hospital Association, have developed guidance regarding S.B. 1's requirements. Cox/IU Health Dep. 18:20–19:19, 24:6–18, 28:17–19; Cox/IU Health Dep. Exs. 2 (IUHCal_0000032–38), 3 (IUHCal_0000217–25), 4 (IUHCal_0000147–51), 5 (IUHCal_0000142–46); Ferries-Rowe/Eskenazi Dep. Exs. 5 (Esk_Health_PP_000001–17), 6 (Esk_Health_PP_000056–78), 7 (Esk_Health_PP_000079–86); Ferries-Rowe/Eskenazi Dep. 32:2–18, 42:23–43:17, 48:8–20.

50. Before performing an abortion under S.B. 1, Dr. Caldwell consults with a specialist in maternal-fetal medicine and with a committee composed

of lawyers, medical providers, and hospital administrators to understand whether the care is legal under S.B. 1. Caldwell 11/1/23 Decl. ¶ 29.

51. Teams comprised of lawyers, medical providers, and hospital administrators are made available for consultation at hospitals such as IU Health and Eskenazi for physicians who provide abortions under S.B. 1. Cox/IU Health Dep. I 36:22–37:24; Ferries-Rowe/Eskenazi Dep. 32:16–18.

PART II: DISPUTED FACTS

A. Issues That Plaintiffs Contend Require Resolution

1. Disputed Issues Relating to Pregnancy and Abortion

a) Whether certain pregnancy-specific complications or health conditions cause debilitating symptoms and serious health consequences that continue past the pregnancy and cause lasting damage to a patient's health or increase the patient's future health risk.

b) Whether health conditions may be exacerbated by pregnancy, may have an effect on pregnancy, or cannot be treated during pregnancy, including but not limited to hypertension, endocarditis, and other cardiac diseases, pulmonary valvular heart disease, complex pulmonary disease, asthma, and other pulmonary diseases, chronic renal disease, obstructive sleep apnea, lupus, Crohn's disease, multiple sclerosis, and other autoimmune disorders, anemia, blood clots, seizure disorders, Type 1 and 2 diabetes, and cancer.

c) Whether pregnant patients with health conditions that pre-exist pregnancy experience incremental changes to their health that may not be significantly health limiting or life-threatening in the short term but may become serious threats over time.

d) Whether expectant management is always the best option for pregnant patients with serious health conditions and/or whether expectant management can lead to health and life-threatening risks.

2. Disputed Issues Relating to the Health or Life Exception

a) Whether the Health or Life Exception chills physicians from providing abortion services to patients with serious health conditions.

b) Whether the Health or Life Exception chills physicians from providing abortion services even to patients for whom an abortion is necessary to "prevent death or a serious risk of substantial and irreversible impairment of a major bodily function." Ind. Code § 16-1-2-327.9.

c) Whether a patient can ever need an abortion to prevent or resolve a serious mental health condition.

d) Whether abortion is an essential treatment to protect patients from a serious health risk when they are experiencing health conditions requiring treatment that would endanger the fetus, meaning that continuing the pregnancy could require forgoing needed treatment.

e) Whether abortion is an essential treatment to protect patients from a serious health risk when they are experiencing health conditions which cause extended and/or debilitating symptoms during pregnancy but might not imminently threaten death or substantial and irreversible physical impairment of a major bodily function.

f) Whether abortion is an essential treatment to protect patients from a serious health risk when they are experiencing health conditions that are likely to worsen over the course of the pregnancy to eventually become life-threatening.

g) Whether abortion is an essential treatment to protect patients from a serious health risk when they are experiencing health conditions that are likely to cause lasting damage to the patient's health or seriously increase the patient's future health risk, even after giving birth.

h) Whether abortion is an essential treatment to protect patients from a serious health risk when they are experiencing mental health conditions treated with medications that do not have an established safety profile in pregnancy or that pose risks to the fetus, meaning that continuing the pregnancy could require forgoing needed treatment.

i) Whether abortion is an essential treatment to protect patients "from a serious health risk" when they are experiencing serious and/or debilitating mental health conditions (including conditions that a patient has previously experienced and risk recurrence due to pregnancy).

j) Whether physicians have a fiduciary duty to treat each patient as an individual and exercise their medical judgment to recommend treatments informed by each patient's unique medical needs and expressed values and preferences.

k) Whether respect for patient autonomy requires physicians to only perform procedures the patient consents to and approves and leaves final decisions about medical care to the patient.

3. Disputed Issues Relating to the Provision of Abortions at Hospitals and Clinics

a) Whether requiring all abortion care to be provided at hospitals rather than clinics increases safety for pregnant patients.

b) Whether the number of hospitals and providers performing procedural abortions in Indiana has decreased since S.B. 1 took effect.

c) Whether requiring abortion care to be provided at hospitals rather than clinics increases travel and logistical costs to pregnant patients.

4. Disputed Issues Related to Mental Health Conditions

a) Whether physical health conditions and complications during pregnancy cause mental health conditions in pregnant patients.

b) Whether mental health conditions that recur or newly emerge during the peripartum period can cause serious risks to the health of a pregnant patient.

5. Disputed Issues Related to Compliance with S.B. 1

a) Whether, since S.B. 1 took effect, physicians have had to deny patients abortion care, even though they were suffering from serious physical and mental health conditions, because their conditions did not fit within S.B. 1's narrow Health or Life Exception. Caldwell 11/1/23 Decl. ¶ 7; Caldwell 2/15/24 Decl. ¶ 31.

b) Whether, since S.B. 1 took effect, physicians have had to deny patients abortion care, even though they were suffering from serious physical health conditions, because it was unclear whether their conditions fit within S.B. 1's Health or Life Exception and because she faced licensing penalties and prosecution for providing such care if prosecutors or the licensing board disagreed with her decision to provide the care.

c) Whether hospital administrators and physicians in Indiana remain unclear as to when S.B. 1's Health or Life Exception permits abortion care.

d) Whether Defendants' interpretation of "reasonable medical judgment" in enforcing S.B. 1, including its licensing and criminal penalties, will

always coincide with how the doctors who perform abortions in Indiana understand "reasonable medical judgment."

B. <u>Issues That Defendants Contend Require Resolution</u>

1. Whether abortion is a medically indicated treatment for mental health conditions.

2. Whether abortion can contribute to worse mental health.

3. Whether hospitals and ambulatory surgical centers in Indiana have more resources and systems in place to address serious health conditions than outpatient clinics.

4. Whether licensing outpatient clinics to perform abortions would require additional expenditure of resources by the State of Indiana.

5. Whether patients who have abortions may experience complications or health conditions after the abortion.

6. Whether, in some cases, patients who have severe health conditions that complicate a pregnancy or abortion require hospital-based care in connection with seeking or having had an abortion.

PART III: LEGAL ISSUES TO BE DECIDED

A. Legal Issues Plaintiffs Contend Require Resolution

1. Whether S.B. 1 violates Article 1, Section 1 of the Indiana Constitution insofar as it prohibits the provision of abortion to pregnant Hoosiers whose health conditions: (i) require treatment that would endanger the fetus (meaning that continuing the pregnancy could require forgoing needed treatment), (ii) cause extended, severe, and/or debilitating symptoms during the course of a pregnancy, (iii) are likely to worsen over the course of the pregnancy to eventually become life-threatening, or (iv) are likely to cause lasting damage to the patient's health or seriously increase the patient's future health risk, even after giving birth. *See Members of Med. Licensing Bd. of Ind. v. Planned Parenthood Great Nw., Haw., Alaska, Ind. Ky., Inc.*, 211 N.E.3d 957, 962 (Ind. 2023) (describing Hoosiers' constitutional right to an abortion to protect against "serious health risks").

2. Whether S.B. 1 violates Article 1, Section 1 of the Indiana Constitution insofar as it prohibits the provision of abortion to pregnant Hoosiers whose mental health conditions: (i) require treatment with medications do not have an established safety profile in pregnancy or that pose risks to the fetus (meaning that continuing the pregnancy could require forgoing

needed treatment), or (ii) cause extended, severe, and/or debilitating symptoms (including conditions that a patient has previously experienced and risk recurrence due to pregnancy). *See Members of Med. Licensing Bd. of Ind.*, 211 N.E.3d at 962.

3. Whether S.B. 1's Hospital Requirement violates Article 1, Section 1 of the Indiana Constitution by materially burdening Hoosiers' constitutional right to abortion care to address a serious health risk. *See Members of Med. Licensing Bd. of Ind.*, 211 N.E.3d at 962.

4. Whether Defendants have a rational basis for the Hospital Requirement's restriction on Hoosiers' statutory right to abortion care pursuant to S.B. 1's Rape and Incest Exception and Lethal Fetal Anomaly Exception. *See Members of Med. Licensing Bd. of Ind.*, 211 N.E.3d at 977 & n.13.

5. Whether S.B. 1 has and is currently irreparably harming Plaintiffs and their patients.

B. Legal Issues Defendants Contend Require Resolution

1. Whether Plaintiffs' claims are justiciable.

2. Whether Plaintiffs have demonstrated that S.B. 1 violates Article 1, Section 1 of the Indiana Constitution by allowing abortions for health-related reasons only "when reasonable medical judgment dictates that performing the abortion is necessary to prevent any serious health risk to the pregnant woman or to save the pregnant woman's life." Ind. Code § 16-34-2-1(a). The term "serious health risk" means "that in reasonable medical judgment, a condition exists that has complicated the mother's medical condition and necessitates an abortion to prevent death or a serious risk of substantial and irreversible physical impairment of a major bodily function. The term does not include psychological or emotional conditions." Ind. Code § 16-18-2-327.9.

3. Whether Plaintiffs have demonstrated that S.B. 1 violates Article 1, Section 1 of the Indiana Constitution by requiring legal abortions to be performed at hospitals or ambulatory surgical centers.

4. Whether Plaintiffs have demonstrated that equitable considerations and the public interest favor a permanent injunction.

5. Whether the proposed injunction is overbroad or unduly vague.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on May 24, 2024, I electronically filed the foregoing document using the Indiana E-filing system ("IEFS"). I hereby certify that a copy of the foregoing was served on the following persons using the IEFS:

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