

IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

PLANNED PARENTHOOD OF THE
HEARTLAND, INC., and JILL
MEADOWS, M.D.,

Equity Case No. _____

Petitioners,

v.

KIM REYNOLDS ex rel. STATE OF
IOWA and IOWA BOARD OF
MEDICINE,

Respondents.

**PETITION FOR
DECLARATORY JUDGMENT AND
INJUNCTIVE RELIEF**

COME NOW Petitioners Planned Parenthood of the Heartland, Inc. (“PPH”) and Jill Meadows, M.D., by and through their attorneys, Rita Bettis Austen of the American Civil Liberties Union of Iowa Foundation; and Alice Clapman and Christine Clarke of Planned Parenthood Federation of America, pray for emergency temporary injunctive relief, as well as permanent injunctive relief, restraining Respondents Kim Reynolds ex rel. State of Iowa and Iowa Board of Medicine from enforcing section 2 of House File 594 (the “Amendment”), which imposes a 24-hour mandatory delay and additional trip requirement on Iowans seeking to have an abortion, as well as a declaratory judgment that the Amendment violates the Iowa Constitution, and in support thereof state the following:

STATEMENT OF THE CASE

1. This action challenges the validity of Amendment H-8314 (the “Amendment”) to House File (“H.F.”) 594, 88th Gen. Assemb. (Iowa 2020), to be codified at Iowa Code § 146A.1(1) (2020), under the Iowa Constitution.

2. The Legislature passed the Amendment in the early morning of Sunday, June 14, 2020—only a few hours after the text was released Saturday night, June 13. The Amendment was added to an existing bill relating to the withdrawal of life-sustaining procedures from minors, even though the Amendment was ruled not germane to the existing bill. *See State of Iowa House Journal*, June 13, 2020 (“H.J.”) 758.¹ Members of the Legislature, and the people they represent, had less than 24 hours to consider the measure. If Governor Reynolds signs the Amendment into law before July 1, 2020, it will take effect that day absent relief from this Court. A copy of the Amendment is attached hereto as Exhibit A (“H-8314”).

3. The Amendment requires women² seeking an abortion to first make a medically unnecessary trip to a health center to receive an ultrasound and certain state-mandated information, and then wait at least 24 hours before returning to the health center to have an abortion, regardless of individual, medical, or other circumstances. No similar two-trip or mandatory-delay requirement is imposed on Iowa women or men seeking any other medical procedure.

4. In violation of the single subject rule of the Iowa Constitution, article III, section 29, the Amendment was attached to an unrelated bill titled, “An Act relating to limitations regarding the withdrawal of a life-sustaining procedure from a minor child,” see H.F. 594 (as introduced)³, which limits courts from authorizing the withdrawal of life-sustaining care from a minor over the parent’s or guardian’s objection.

¹ Available at https://www.legis.iowa.gov/docs/publications/HJNL/20200613_HJNL.pdf.

² Petitioners use “women” as a shorthand to describe many of the people who are or may become pregnant, but people of all gender identities, including transgender and gender non-conforming individuals, may also become pregnant and seek abortion services, and thus also are equally harmed by the Amendment.

³ Available at <https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=HF%20594&v=i>.

5. In substance, the Amendment flagrantly defies clear and binding precedent recognizing that Iowans have a protected liberty interest in terminating an unwanted pregnancy, including a recent Iowa Supreme Court decision striking from Iowa Code § 146A.1(1) a 72-hour mandatory delay requirement. *See Planned Parenthood of the Heartland v. Reynolds ex rel. State*, 915 N.W.2d 206 (Iowa 2018). With the exception of the minimum wait time (24 versus 72 hours), the Amendment is identical to the 72-hour mandatory delay law the Court struck down.

6. In accordance with pre-existing Iowa law and PPH's medical practices, Petitioners already perform an ultrasound on patient prior to their abortion, ensure that patients receive all the information necessary so that they may make a fully informed and voluntary decision, and confirm that they are firmly decided before beginning the procedure. Prior to the Amendment, Petitioners were allowed to provide the ultrasound and obtain informed consent on the day of the abortion procedure.

7. The Amendment's requirements offer women no benefit and will severely and abruptly burden their access to abortion. These requirements will delay women from obtaining an abortion and are likely to prevent some from obtaining an abortion altogether. The Amendment's requirements will prevent some women from obtaining a medication abortion—even if they strongly prefer it to procedural abortion or if it is medically indicated—and will make it impossible for some to have an abortion in Iowa at all if they are pushed past the gestational age at which Iowa's providers offer abortion. The requirements will be especially burdensome for women with low incomes, victims of intimate partner violence or sexual assault, women whose wanted pregnancies involve a severe fetal anomaly, and those with medical complications that do not fall under the extremely narrow medical emergency exceptions provided under the Amendment.

8. By imposing these medically unnecessary, onerous, and harmful requirements, the Amendment unlawfully violates the rights of Petitioners, their patients, and all Iowans under the Iowa Constitution. Accordingly, Petitioners seek judicial relief declaring the Amendment unconstitutional and enjoining its enforcement.

PARTIES

9. Petitioner PPH is a non-profit corporation headquartered in Des Moines, Iowa. At its eight Iowa health centers, PPH provides a wide range of health care, including well-person exams, cancer screenings, sexually transmitted infection (“STI”) testing and treatment, a range of birth control options including long-acting reversible contraception (“LARC”), transgender health care, and medication and procedural abortion.

10. PPH provides medication and procedural abortion at two health centers in Iowa, in Des Moines and Iowa City; and medication abortion at four additional Iowa health centers, in Ames, Cedar Falls, Council Bluffs and Sioux City. In 2019, PPH performed 3,170 abortions in the state of Iowa. PPH provides abortions up to 20 weeks and 6 days as measured from the first day of a patient’s last menstrual period (“lmp”), which is weeks before a fetus is potentially viable. PPH sues on its own behalf, on behalf of its staff, and on behalf of its patients who will be adversely affected by Respondents’ actions.

11. Petitioner Dr. Jill Meadows is the medical director of PPH. Dr. Meadows provides reproductive health care to PPH patients, including medication and procedural abortion. Dr. Meadows sues on her own behalf and on behalf of her patients who will be adversely affected by Respondents’ actions.

12. Respondent Kim Reynolds is the Governor of Iowa, and as such is the chief executive for the state, responsible for ensuring the enforcement of the state's statutes. *See Iowa Const. art. IV, §§ 1, 9.* The Governor is sued in her official capacity.

13. Respondent Iowa Board of Medicine is a state agency as defined in the Iowa Administrative Procedures Act, Iowa Code § 17A.2(1) (2020). Respondent is charged with administering the Amendment, *see Iowa Code § 146A.1(3), (5)*, and disciplining individuals licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to Iowa Code § 148 et seq., including licensees who violate a state statute. *See Iowa Code § 148.6(c)* (2020).

JURISDICTION AND VENUE

14. This action seeks a declaratory judgment and injunctive relief pursuant to Iowa Rule of Civil Procedure 1.1101–1.1109 (2020), 1.1501–1.1511 (2020), and the common law. This Court has jurisdiction over this matter pursuant to Iowa Code § 602.6101 (2020).

15. Venue is proper in this district pursuant to Iowa Code § 616.3(2) (2020) because part of the cause arose in Johnson County, where PPH provides abortion services.

OPERATIVE FACTS

I. Abortion Generally and as Provided in Iowa

16. A full-term pregnancy has a duration of approximately forty weeks lmp. In Iowa, abortion is almost entirely banned at twenty-two weeks lmp, which is about halfway through pregnancy.

17. Iowans can obtain two types of abortions: medication abortion and procedural abortion. Medication abortion is a method of terminating an early pregnancy by taking medications that empty the uterus in a manner similar to an early miscarriage. PPH offers medication abortion

up to 77 days (*i.e.* 11 weeks) lmp. Procedural abortion (sometimes referred to as “surgical abortion” although it does not involve an incision or general anesthesia) is a method of terminating pregnancy by using instruments to evacuate the contents of the uterus.⁴

18. Legal abortion is one of the safest procedures in contemporary medical practice.⁴

19. Both medication abortion and procedural abortion are substantially safer and require substantially fewer medical interventions than continuing a pregnancy through to childbirth. The risk of death associated with childbirth is approximately fourteen times higher than that associated with abortion,⁵ and complications such as hemorrhage are far more likely to occur with childbirth than abortion. As many as ten percent of women who carry to term are hospitalized for complications associated with pregnancy, leaving aside from hospitalization for delivery.⁶

20. Women decide to end a pregnancy for a variety of reasons, including familial, medical, financial, and personal reasons. Some end a pregnancy because they conclude that it is not the right time in their lives to have a child or to add to their families; some do so because they receive a diagnosis of a severe fetal anomaly; some do so because they have become pregnant as a result of rape; some do so because they choose not to have biological children; and some do so because continuing with a pregnancy could pose a greater risk to their health.

21. Approximately one in four women in this country will have an abortion by age forty-five years. Fifty-nine percent of women who seek abortions are mothers who have decided that they cannot parent another child at this time, and 66% plan to have children or add to their families at a later stage (for example, when they are older, financially able to provide necessities

⁴ Nat'l Acads. of Scis. Eng'g & Med., The Safety & Quality of Abortion Care in the United States 77–78, 162–63 (2018).

⁵ *Id.* at 11, 74–75.

⁶ Anne Elixhauser & Lauren M. Wier, Agency for Healthcare Research & Quality, Complicating Conditions of Pregnancy and Childbirth, 2008 (Statistical Brief #113) (2011).

for them, and/or in a supportive relationship with a partner so that their children will have two parents).⁷

II. Informed Consent in Iowa

22. Separate from the Amendment, Iowa law already requires physicians to obtain a patient's informed consent before performing any medical procedure. *See, e.g.*, Iowa Admin. Code 653-13.11(147, 148, 272C) (2017); *Estate of Anderson ex rel. Herren v. Iowa Dermatology Clinic, PLC*, 819 N.W.2d 408, 416 (Iowa 2012); *Morgan v. Olds*, 417 N.W.2d 232, 235 (Iowa Ct. App. 1987) (citing *Pauscher v. Iowa Methodist Med. Ctr.*, 408 N.W.2d 355, 358 (Iowa 1987)). Informed consent includes disclosing “information material to a patient’s decision to consent to medical treatment,” *Estate of Anderson ex rel. Herren*, 819 N.W.2d at 416, and “all material risks involved in the procedure,” *Doe v. Johnston*, 476 N.W.2d 28, 31 (Iowa 1991).

23. Iowa statutes also already specifically mandate that patients seeking abortions be given an opportunity to view the pre-procedure ultrasound and be provided information on pregnancy options. Prior to the Amendment, however, Iowa law allowed the ultrasound to be performed and that information provided on the same day as the procedure. Iowa Code § 146A.1 (2020).⁸

24. PPH’s informed consent process is consistent with these legal requirements and the standard of care. PPH uses a comprehensive informed consent process for abortion, available on the day of the procedure, which provides patients with all information necessary for them to fully

⁷ Guttmacher Inst., Fact Sheet: Induced Abortion in the United States (Sept. 2019), available at <https://www.guttmacher.org/fact-sheet/induced-abortion-united-states>.

⁸ For minors who do not obtain consent from their parents or obtain a judicial bypass to have an abortion, a physician cannot perform an abortion until at least 48 hours after prior notification is provided to a parent or grandparent, barring limited exceptions for situations involving a medical emergency or abuse. *See* Iowa Code § 135L.3 (2020).

understand the risks and benefits of abortion and alternatives to abortion. This process also ensures that after thoroughly considering this information, a patient gives consent that is informed and voluntary, and that the patient is confident in her decision. PPH gives its patients multiple opportunities to ask questions and discuss any concerns with their physician prior to an abortion.

25. PPH also screens abortion patients to ensure that they are firm in their decision before treatment is initiated. Staff members who take patients through this process are trained to ask open-ended questions, draw out patients about their decision-making and state of mind, and identify red flags such as pressure from others. The overwhelming majority of patients are sure of their decision by the time they come to PPH. And if patients are not sure about their decision, PPH clinicians advise them to take more time to come to a clear decision before having an abortion.

III. 72-Hour Mandatory Delay Law & *PPH II*

26. In April 2017, the Legislature passed a law that required physicians “performing an abortion [to] obtain written certification from the pregnant woman” that she has completed a number of steps at least seventy-two hours prior to the procedure. S.F. 471, § 1 (enacted as Iowa Code § 146A.1(1)).

27. Petitioners PPH and Dr. Meadows challenged that law, bringing suit against the same Respondents here, Governor Reynolds and the Iowa Board of Medicine.

28. On June 29, 2018, the Iowa Supreme Court ruled for Petitioner, holding that the 72-hour mandatory delay law was unconstitutional and ordering that “[t]he language in Iowa Code section 146A.1(1) requiring physicians to wait ‘at least seventy-two hours’ between obtaining written certification and performing an abortion is stricken from the statute.” *Planned Parenthood of the Heartland, Inc. v. Reynolds ex rel. State*, 915 N.W.2d 206, 246 (Iowa 2018) (“*PPH II*”).

29. In reaching its conclusion, the Court held that the right to choose an abortion is a fundamental right under both the Due Process Clauses of the Constitution of the State of Iowa, and that infringements of that right are subject to strict scrutiny review. *Id.* at 237–38.

30. The Court observed that the 72-hour law requires that patients make two trips to a health center and thus “requires poor and low-income women, which is a majority of PPH patients, to amass greater financial resources before obtaining the procedure. Patients will inevitably delay their procedure while assembling the resources needed to make two trips to a clinic.” *Id.* at 242.

31. The Court additionally found that “[d]ue to the Act’s delay, some patients will be pushed beyond the twenty-week surgical abortion cutoff and others will be pushed beyond the ten-week medication abortion window and will be denied the procedure of their choice. The delay will also expose women to additional medical risk. Finally, victims of domestic abuse and sexual assault will endure additional hardships, including jeopardized confidentiality.” *Id.* at 243.

32. The Court also found that the 72-hour law did not further a compelling interest because “requiring all women, regardless of decisional certainty, to wait at least seventy-two hours between appointments will not impact patient decision-making, nor will it result in a measurable number of women choosing to continue a pregnancy they otherwise would have terminated without the mandatory delay.” *Id.* at 243; *see also id.* at 241 (finding that “women do not change their decision to have an abortion due to a waiting period” and that “mandatory waiting periods have no effect on patient decision-making”).

33. The Court further concluded that the 72-hour law had an impermissible sweep: it took “no care to target patients who are uncertain when they present for their procedures but,

instead, imposes blanket hardships upon all women,” ignoring “the patient’s decisional certainty, income, distance from the clinic, and status as a domestic violence or rape victim.” *Id.* at 243.

34. The Court also held that the 72-hour delay law violated the right to equal protection under the Iowa Constitution. *Id.* at 245–46.

35. The Court’s findings and holdings concerning the constitutional right to an abortion, the relevant standard of scrutiny, the lack of benefit of a waiting period, and the overbreadth of mandatory waiting periods were all made in the context of materially identical litigation against Respondents only two years ago.

36. Respondents are therefore precluded and collaterally estopped from re-litigating those issues here. Even were that not the case, *PPH II* is nevertheless controlling.

IV. The Amendment

37. The Amendment was added to a bill initially titled, “An Act relating to limitations regarding the withdrawal of a life-sustaining procedure from a minor child.” See H.F. 594 (as introduced).⁹ The bill, as introduced, creates section 144F.1, which deprives courts of law and equity from authorizing the withdrawal of life-sustaining care from a minor over the parent’s or guardian’s objection, unless there is conclusive medical evidence the minor has died.

38. H.F. 594 defines “life sustaining procedure” with reference to section 144A.2 of the Iowa Code, which in turn defines the term as follows:

“Life-sustaining procedure” means any medical procedure, treatment, or intervention, including resuscitation, which meets both of the following requirements: (1) Utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function. (2) When applied to a patient in a terminal condition, would serve only to prolong the dying process.

⁹ Available at
<https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=HF%20594&v=i>.

39. Neither a continuing pregnancy nor an abortion fall under the definition of procedures which are the subject of H.F. 594 as defined in section 144A.2 of the Iowa Code.

40. Despite not having taken any action on the bill since March 2019, the Senate took up the measure Saturday afternoon, June 12, 2020, at approximately 4:00 p.m., amending the measure by adding numbering to create subsections and defining “minor.” *See* Amendment H-8312.¹⁰ Having been amended, however superficially, H.F. 594 thereafter had to be sent back to the House for another vote.

41. When the non-substantive Senate amendment was introduced, lawmakers expressed concern that the purely superficial changes were being made for the sole purpose of sending the bill back to the House so that *another* last-minute amendment could be introduced. Senator Paterson stated on the Senate floor that the non-substantive Senate amendment “doesn’t pass the smell test. This bill should go straight to the Governor. My gut tells me this [technical amendment] is going to be a vehicle to use to send an abortion bill back to this chamber, and this is the start of an abortion debate on the very last day before recess, in the middle of a pandemic . . . I bet late in the night, this bill is going to come back looking completely different, and it’s going to be another attack on reproductive rights.”

42. When H.F. 594 returned to the House, at approximately 10:18 p.m., Rep. S. Lundgren immediately introduced amendment H-8314 (“the Amendment”).

43. Because Amendment H-8314 was introduced on the last evening of the legislative session, lawmakers only learned of its existence mere hours before being required to vote on it, resulting in surprise for legislators.

¹⁰ Available at <https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=H-8312>.

44. The Amendment revives language previously stricken by the Iowa Supreme Court in *PPH II*, merely replacing the word “seventy-two” with “twenty-four,” such that the following language would be added to Section 146A.1(1) of the Iowa Code:

A physician performing an abortion shall obtain written certification from the pregnant woman of all of the following at least ~~seventy-two~~^{twenty-four}[11] hours prior to performing an abortion.

45. Amendment H-8314 also revised the bill’s title to: “An Act relating to medical procedures including abortion and limitations regarding the withdrawal of a life-sustaining procedure from a minor child.”

46. When the Amendment was introduced, one of its sponsors, Rep. S. Salmon, noted she believed it was reasonable to expect that the mandatory delay would cause women seeking abortions to change their mind.¹²

47. Thereafter, one of the bill’s other sponsors, Rep. S. Lundgren, lamented that Iowa’s Constitution protects an individual’s right to continue or terminate a pregnancy and expressed hope that the bill “will provide an opportunity for the courts to rectify the terrible situation they’ve created.”¹³

48. After the Amendment was introduced, Rep. B. Meyer objected that the Amendment was not germane, to which the House Speaker agreed without debate. Thereafter, Rep. Lundgren successfully moved to suspend the House’s rules to consider the Amendment despite that it was not germane. *See H.J. 758–60.*

¹¹ As written, the Amendment appears to fail to strike the “o” in “seventy-two” and to add the “r” in “twenty-four.”

¹² Iowa Legislature, *House Video* (2020-06-13) at 10:19:30 p.m., <https://www.legis.iowa.gov/dashboard?view=video&chamber=H&clip=h20200613100758317&dt=2020-06-13&offset=598&bill=HF%20594&status=i>.

¹³ *Id.* at 10:52:30 p.m.

49. After some lawmakers expressed concern that, *inter alia*, the Amendment was being introduced at the eleventh hour, without the benefit of public input, the Amendment was adopted.

50. The House passed the bill, as amended, approximately forty minutes after the Amendment was introduced, just before 11:00 p.m. on Saturday.

51. The bill, as amended by the House, was then introduced to the Senate at approximately 4:20 a.m. on Sunday.

52. After slightly over an hour of debate, H.F. 594, with the Amendment, was passed at approximately 5:30 a.m. on Sunday. Among other objections made during the period of debate, Sen. Celsi noted that, had Iowans been given notice that the legislature was planning to take up this issue, more voters would have been at the Capitol to signify their position on the issue to their elected representatives.

53. Like legislators, Iowa voters were unable to learn of the existence of Amendment H-8314 until a Saturday evening, mere hours before it was voted on. This violation of the single subject rule thus deprived Iowa citizens of the ability to be fairly informed of the subjects the legislature was considering.

54. Because Amendment H-8314 was itself attached to a prior Senate amendment, the Senate was not permitted to introduce or consider any alterations to H-8314, but instead had to vote on the entire bill, including the original substance of H.F. 594, concerning parental consent for withdrawal of medical care to terminally ill children.

55. Five other bills seeking to restrict abortion access were introduced as bills in the 2020 legislative session. All five went through the normal legislative process, including public hearings (unlike Amendment H-8314). Unlike H-8314, none of the five were enacted into law.

56. The violation of the single subject rule thus resulted in “logrolling,” defined in *State v. Mabry* as occurring when “unfavorable legislation rides in with more favorable legislation.” 460 N.W. 2d 472, 473 (Iowa 1990).

V. Impact of the Amendment

57. The Amendment’s minimum 24-hour delay and additional-trip requirements provide no additional benefit to women seeking an abortion and instead, burden them in multiple ways.

58. First, the Amendment is an unwarranted intrusion into a woman’s personal privacy and autonomy, interferes with the physician–patient relationship, conveys judgment and moral disapproval from the State, and will cause anxiety associated with delaying an abortion that an individual has decided to have. These effects will harm all Iowans seeking this care.

59. Second, the Amendment will impose tangible costs on all women seeking this care: the mandatory extra trip will require greater outlays of time and money, including increased travel distances and additional days’ absence from work, home, and/or school. For many it will involve lost wages and added travel and childcare costs, and for some, it will likely also require an overnight stay, perhaps for multiple nights, away from home.

60. Third, by requiring women to make time for and to take an additional trip to their health care provider, the Amendment will threaten their confidentiality. Forcing a patient to make an unnecessary additional trip increases the risk that her partner, family members, employer, co-workers, or others whom she has not told will learn that she is having an abortion.

61. Fourth, the Amendment will likely result in delays of greater than 24 hours. For many it will be difficult, if not impossible, to schedule an appointment on two separate days, at least 24 hours apart, due to work and/or school schedules, childcare availability, and the need to

secure transportation to and from a provider. These patients will have to schedule their second appointment for more than 24 hours after their first.

62. Additionally, PPH's health centers are already stretched thin and must schedule patients weeks out. Due to limited clinician availability and the fact that PPH is restricted by other laws from expanding access to care, PPH is only able to schedule abortion patients one to two days a week at most of its health centers. To schedule an additional visit 24 hours or longer before the abortion procedure visit for every patient without having to schedule patients much further out, PPH would have to add staff or extend staff hours (including for licensed clinicians), which it will likely be unable to do. (And it certainly could not sustainably absorb the additional cost without charging patients more for an abortion.) Thus, it is extremely likely that the Amendment will result in substantial delays of a week or longer for most if not all patients.

63. Fifth, and importantly, the delays that the Amendment will cause will threaten patients' health. Although abortion is extremely safe, the risk of the procedure increases as gestational age advances. And delays cause patients severe stress. Whether it is to conceal an unwanted pregnancy from an abusive or controlling partner, or from others who would disapprove or shame them, or to terminate a debilitating pregnancy, or for some other reason, it is very important to many patients to end their pregnancy as soon as possible.

64. Sixth, the additional-trip requirement exposes patients to further stigmatization and anxiety caused by unwanted interactions with anti-abortion activists who protest outside of PPH health centers by targeting their messages at pregnant women seeking abortions.

65. Seventh, the mandatory delay and additional-trip requirements will make it far harder for patients to have a medication abortion, which is currently available at six PPH health centers in Iowa, but is available only early in pregnancy. Medication abortion allows patients to

end a pregnancy at the earliest stages without undergoing an abortion procedure. Some prefer a medication abortion because it allows them to be in the privacy of their home, with loved ones. Many find it easier to fit in with their other obligations, because they can return home from the clinic sooner and control the timing of the process. For some, the process feels more natural and more under their control. Others are averse to procedures because they are more invasive, or because of a fear of needles or sedation. Some of PPH's patients have a history of sexual trauma, and may for that reason be particularly averse to procedural abortion. And some patients have a medical condition, such as large uterine fibroids or a severely retroverted uterus, that makes medication abortion a medically preferable option. Patients may also prefer medication abortion particularly during the COVID-19 pandemic because it can require fewer physical interactions with the health care system.

66. Many patients, by the time they reach a health center, are already close to being unable to have a medication abortion due to their gestational age. Over the past year, PPH provided medication abortion to hundreds of Iowa women who were in their ninth or tenth week of pregnancy at the time of treatment. The delays the Amendment will impose would push many if not most of these people beyond the timeframe in which medication abortion is an available option, forcing many patients to travel significantly farther to get a procedural abortion. That is because PPH only provides procedural abortion at two of its health centers, which are located in Des Moines and Iowa City; medication abortion is available at four additional health centers, which are spread across the state in Ames, Cedar Falls, Council Bluffs, and Sioux City. In many cases, that will amount to hundreds of additional miles of travel (for example, for a resident of Sioux City, about 400 miles round trip).

67. Eighth, the mandatory delay requirement will result in some being prevented from obtaining an abortion in the state altogether, because the delay will push them past the gestational age at which procedural abortions are available. PPH regularly sees patients who are within two weeks of its gestational age cut off. These patients will either have to travel out of state to obtain an abortion, or, if they do not have the resources to do so, carry an unwanted pregnancy to term. Those who are forced to carry to term are exposed to increased risk of death and major complications from childbirth and they and their newborns are at risk of negative health consequences, including reduced use of prenatal care, lower breastfeeding rates, and poor maternal and neonatal outcomes. When legal abortion is unavailable or difficult to access, some people turn to illegal, and sometimes unsafe, methods to terminate unwanted pregnancies.

68. In addition to these widespread harms, the mandatory delay and additional-trip requirements will pose additional and particular harms to especially vulnerable populations: people with low incomes; victims of domestic violence and those whose pregnancy is the result of rape or other forms of abuse; those who face medical risks from pregnancy that do not fall within the Amendment's narrow exceptions; and those whose pregnancies involve a severe fetal anomaly.

69. A majority of PPH's abortion patients have low incomes, and a disproportionate share are women of color. The amendment will particularly harm these women.

70. Patients with low incomes will have the most difficulty in rearranging inflexible work schedules at low-wage jobs; arranging and paying for childcare; paying the travel costs for an additional trip to the clinic; foregoing lost wages for missed work; paying for any increased costs associated with a later procedure; and saving up the money required to cover any or all of these additional expenses.

71. Patients who are victims of domestic violence will also face particular challenges as a result of this law. Additional trips to the clinic increase exponentially the likelihood that an abuser will discover that his victim is terminating a pregnancy, which could result in further violence and/or attempts to prevent her. And if these women are forced to carry to term, they face increased difficulty escaping that relationship because of new financial, emotional and legal ties with that partner.

72. For a survivor of rape or incest, the additional-trip requirement is likewise particularly burdensome. Many sexual assault survivors are particularly anxious to terminate their pregnancy because it is a constant, invasive reminder of the traumatic experience they have suffered. Moreover, the many logistical difficulties of arranging a separate visit to the provider, including taking time off from work and/or school, arranging child-care, and making the necessary travel arrangements, are likely to be even more difficult for a patient following a traumatic event such as rape.

73. The Amendment will particularly threaten the health of Iowans who seek to terminate their pregnancy for medical reasons. While existing law incorporates a limited exception for abortions “performed to save the life of a pregnant woman,” or when “continuation of the pregnancy will create a serious risk of substantial and irreversible impairment of a major bodily function,” Iowa Code §§ 146A.1(2), 146B.1(6), the Amendment imposes serious burdens on patients facing one of the numerous complications of pregnancy that threaten a person’s health outside the dangerously narrow confines of these exceptions.

74. For patients who decide to terminate a wanted pregnancy after receiving a diagnosis of a severe fetal anomaly, the mandatory delay and additional-trip requirements are especially cruel, will prolong what is generally a traumatic experience for patients, and will

interfere with physicians' ability to exercise medical judgment and provide compassionate care when it is especially needed.

75. The Amendment will be especially harmful during the current COVID-19 pandemic, which is expected to continue until a vaccine is developed and available for widespread use, *i.e.*, until early or mid-2021 at the earliest. Because COVID-19 is transmitted by interpersonal proximity, medical and public health experts agree that there is a public health imperative to maintain social distancing throughout this time. In the context of medical care, this consensus has prompted an unprecedented push, by health care providers with the encouragement and assistance of federal and state agencies, to expand use of telemedicine technologies to ensure that patients receive care without unnecessary travel to providers or time in-clinic.

76. Reducing in-person patient visits protects patients during COVID-19 for various reasons. Traveling to a medical provider can force patients to deviate from social distancing practices to arrange for childcare and/or transportation. This is especially the case if they need to travel far distances, as abortion patients need to do in Iowa and elsewhere. And once in the clinic, there is no way to eliminate the risk of interpersonal contact, though these risks can be mitigated. Reducing unnecessary visits also allows providers to space in-person patients in a way that minimizes transmission risks.

77. Conversely, by requiring an additional, medically unnecessary visit for abortion patients, despite the overwhelming consensus that providers should be reducing medically unnecessary medical visits during the pandemic, the Amendment puts patients and medical providers at increased risk of COVID-19 transmission. It compounds these risks by delaying patients, which in turn will require more patients to travel farther to a clinic that provides procedural abortions, and spend more time in the clinic having a procedural abortion, as opposed

to a medication abortion. By increasing risks of COVID-transmission to patients and providers, the Amendment also undermines the public health of all Iowans.

78. By imposing a delay on abortion—a delay that the Legislature does not impose on any other medical procedure—the Amendment conveys that the Legislature believes women are not competent to make considered, appropriate medical decisions for themselves and their families, and must instead be forced by the state to reconsider their medical decisions. This mandatory delay reflects and perpetuates the false and discriminatory stereotype that women do not understand the nature of the abortion procedure, do not think carefully about their decision, and/or are less capable of making informed decisions about their health care than are men.

79. The State has no compelling or important interest in imposing the mandatory delay and additional-trip requirements on women who have made the decision to terminate their pregnancies.

80. Even if the State's interest were compelling, the Amendment is not narrowly tailored to the achievement of that interest. Nor is the Amendment substantially related to the achievement of an important governmental objective.

CLAIMS FOR RELIEF

COUNT I— SINGLE SUBJECT VIOLATION

81. Petitioners hereby reaffirm and reallege each and every allegation made above as if set forth fully herein.

82. The relevant portion of the H.F. 594 complained of (Amendment H-8314) was passed in violation of article III, section 29 of the Constitution of the State of Iowa, because the Amendment in no way relates to the subject of the bill to which it was Amended, H.F. 594 (as introduced).

83. This single subject violation resulted in “logrolling” and legislator surprise and deprived Iowans of an opportunity to be fairly informed of legislation being considered for passage. It is entirely possible that, but for the single-subject violation, H-8314 would never have passed.

COUNT II — RIGHT TO DUE PROCESS

84. Petitioners hereby reaffirm and reallege each and every allegation made above as if set forth fully herein.

85. The Amendment violates the due process rights of Iowans seeking and obtaining abortions in the state of Iowa, as guaranteed by article I, section 9 of the Iowa Constitution.

86. The Amendment is not narrowly tailored to serve the Amendment’s ostensible purpose.

87. The Supreme Court’s prior findings and holdings concerning the constitutional right to an abortion, the relevant standard of scrutiny, the lack of benefit of a waiting period, and the overbreadth of mandatory waiting periods were all made in the context of litigation by Petitioners against Respondents only two years ago. No intervening changes in law or fact put the conclusions of *PPH II* in doubt.

88. Respondents are therefore precluded from relitigating the holdings and issues which were fully litigated and decided in *PPH II*. Even if they were not, *PPH II* is controlling.

COUNT III — RIGHT TO EQUAL PROTECTION

89. Petitioners hereby reaffirm and reallege each and every allegation made above as if set forth fully herein.

90. The Amendment violates Petitioners' and their patients' rights to equal protection of the laws in the state of Iowa, as guaranteed by article I, sections 1 and 6 of the Iowa Constitution, by:

- (a) singling out abortion from all other medical procedures; and
- (b) discriminating against women on the basis of their sex and on the basis of gender stereotypes.

91. The Amendment is not narrowly tailored to serve the Amendment's ostensible purpose.

92. The Supreme Court's prior findings and holdings concerning the constitutional right to an abortion, the relevant standard of scrutiny, the lack of benefit of a waiting period, and the overbreadth of mandatory waiting periods were all made in the context of litigation by Petitioners against Respondents only two years ago. No intervening changes in law or fact put the conclusions of *PPH II* in doubt.

93. Respondents are therefore precluded and collaterally estopped from re-litigating those issues here. Even were that not the case the prior decision is nevertheless controlling.

COUNT IV — INALIENABLE RIGHTS OF PERSONS

94. Petitioners hereby reaffirm and reallege each and every allegation made above as if set forth fully herein.

95. The Amendment violates the inalienable rights of persons to liberty, safety and happiness, as guaranteed by article I, section 1 of the Iowa Constitution.

PRAYER FOR RELIEF: DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

96. Petitioners hereby incorporate the allegations of all previous paragraphs as though those allegations were fully set forth herein.

97. This matter is appropriate for declaratory relief pursuant to Iowa Rules of Civil Procedure 1.1101–1.1109 and granting such relief, in conjunction with the supplemental injunctive relief Petitioners pray for, would terminate the legal dispute that gave rise to this Petition.

98. This matter is also appropriate for temporary and permanent injunctive relief pursuant to Iowa Rules of Civil Procedure 1.1106 and 1.1501–1.1511. Absent injunctive relief, Petitioners and their patients will continue to suffer irreparable injury for which there is no adequate remedy at law.

WHEREFORE, Petitioners respectfully urge this Court to enter judgment as follows.

(1) Declaring that:

Section 2 of H.F. 594 violates the Iowa Constitution;

(2) Enjoining Respondents from:

Enforcing Section 2 of H.F. 594;

(3) For Petitioners' costs incurred herein; and,

(4) For such other and further relief as the Court deems just and proper.

Dated: June 23, 2020

Respectfully submitted,

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*Application for admission *pro hac vice* forthcoming