

Exhibit 6



**DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE FOR CIVIL RIGHTS (OCR)
CIVIL RIGHTS DISCRIMINATION COMPLAINT**

Form Approved: OMB No. 0990-0269.
See OMB Statement on Reverse.



YOUR FIRST NAME [REDACTED]		YOUR LAST NAME [REDACTED]	
HOME PHONE (Please include area code) [REDACTED]		WORK PHONE (Please include area code) [REDACTED]	
STREET ADDRESS [REDACTED]		CITY [REDACTED]	
STATE [REDACTED]	ZIP [REDACTED]	E-MAIL ADDRESS (If available) [REDACTED]	

Are you filing this complaint for someone else? Yes No

If Yes, whose civil rights do you believe were violated?

FIRST NAME [REDACTED]	LAST NAME [REDACTED]
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I believe that I have been (or someone else has been) discriminated against on the basis of:

- Race / Color / National Origin
 Age
 Religion
 Sex
 Disability
 Other (specify): Federal Weldon Amendment conscience protections

Who or what agency or organization do you believe discriminated against you (or someone else)?

PERSON/AGENCY/ORGANIZATION

State of California - Department of Managed Health Care

STREET ADDRESS <u>980 Ninth Street, Suite 500</u>		CITY <u>Sacramento</u>
STATE <u>California</u>	ZIP <u>95814</u>	PHONE (Please include area code)

When do you believe that the civil right discrimination occurred?

LIST DATE(S)

Describe briefly what happened. How and why do you believe that you have been (or someone else has been) discriminated against? Please be as specific as possible. (Attach additional pages as needed)

contravention of the federal Weldon Amendment by a California state government agency action. We believe that abortion is a grave moral evil and object to being morally complicit in abortion through the provision of insurance coverage for abortion to our employees. [Provide any relevant information about your church] On August 22, 2014, the California Department of Managed Health Care (DMHC) notified all private health care insurers in the state, including those through whom we purchase our employee plan, that all health care plans issued in California must immediately cover elective

This field may be truncated due to size limit. See the "Allegation Description" file in the case folder.

Please sign and date this complaint. You do not need to sign if submitting this form by email because submission by email represents your signature.

SIGNATURE [REDACTED]	DATE (mm/dd/yyyy) <u>10/09/2017</u>
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Filing a complaint with OCR is voluntary. However, without the information requested above, OCR may be unable to proceed with your complaint. We collect this information under authority of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and other civil rights statutes. We will use the information you provide to determine if we have jurisdiction and, if so, how we will process your complaint. Information submitted on this form is treated confidentially and is protected under the provisions of the Privacy Act of 1974. Names or other identifying information about individuals are disclosed when it is necessary for investigation of possible discrimination, for internal systems operations, or for routine uses, which include disclosure of information outside the Department of Health and Human Services (HHS) for purposes associated with civil rights compliance and as permitted by law. It is illegal for a recipient of Federal financial assistance from HHS to intimidate, threaten, coerce, or discriminate or retaliate against you for filing this complaint or for taking any other action to enforce your rights under Federal civil rights laws. You are not required to use this form. You also may write a letter or submit a complaint electronically with the same information. To submit an electronic complaint, go to OCR's web site at: www.hhs.gov/ocr/civilrights/complaints/index.html. To mail a complaint see reverse page for OCR Regional addresses.

The remaining information on this form is optional. Failure to answer these voluntary questions will not affect OCR's decision to process your complaint.

Do you need special accommodations for us to communicate with you about this complaint? (Check all that apply)

- Braille Large Print Cassette tape Computer diskette Electronic mail TDD
- Sign language interpreter (specify language): _____
- Foreign language interpreter (specify language): _____ Other: _____

If we cannot reach you directly, is there someone we can contact to help us reach you?

FIRST NAME		LAST NAME	
HOME / CELL PHONE (Please include area code)		WORK PHONE (Please include area code)	
STREET ADDRESS		CITY	
STATE	ZIP	E-MAIL ADDRESS (If available)	

Have you filed your complaint anywhere else? If so, please provide the following. (Attach additional pages as needed)

PERSON/AGENCY/ORGANIZATION/ COURT NAME(S)

DATE(S) FILED	CASE NUMBER(S) (If known)
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To help us better serve the public, please provide the following information for the person you believe was discriminated against (you or the person on whose behalf you are filing).

ETHNICITY (select one) RACE (select one or more)

Hispanic or Latino American Indian or Alaska Native Asian Native Hawaiian or Other Pacific Islander

Not Hispanic or Latino Black or African American White Other (specify): _____

PRIMARY LANGUAGE SPOKEN (if other than English) _____

How did you learn about the Office for Civil Rights?

- HHS Website/Internet Search Family/Friend/Associate Religious/Community Org Lawyer/Legal Org Phone Directory Employer
- Fed/State/Local Gov Healthcare Provider/Health Plan Conference/OCR Brochure Other (specify): _____

To mail a complaint, please type or print, and return completed complaint to the OCR Regional Address based on the region where the alleged violation took place. If you need assistance completing this form, contact the appropriate region listed below.

<p>Region I - CT, ME, MA, NH, RI, VT</p> <p>Office for Civil Rights, DHHS JFK Federal Building - Room 1875 Boston, MA 02203 (617) 565-1340; (617) 565-1343 (TDD) (617) 565-3809 FAX</p>	<p>Region V - IL, IN, MI, MN, OH, WI</p> <p>Office for Civil Rights, DHHS 233 N. Michigan Ave. - Suite 240 Chicago, IL 60601 (312) 886-2359; (312) 353-5693 (TDD) (312) 886-1807 FAX</p>	<p>Region IX - AZ, CA, HI, NV, AS, GU, The U.S. Affiliated Pacific Island Jurisdictions</p> <p>Office for Civil Rights, DHHS 90 7th Street, Suite 4-100 San Francisco, CA 94103 (415) 437-8310; (415) 437-8311 (TDD) (415) 437-8329 FAX</p>
<p>Region II - NJ, NY, PR, VI</p> <p>Office for Civil Rights, DHHS 26 Federal Plaza - Suite 3312 New York, NY 10278 (212) 264-3313; (212) 264-2355 (TDD) (212) 264-3039 FAX</p>	<p>Region VI - AR, LA, NM, OK, TX</p> <p>Office for Civil Rights, DHHS 1301 Young Street - Suite 1169 Dallas, TX 75202 (214) 767-4056; (214) 767-8940 (TDD) (214) 767-0432 FAX</p>	
<p>Region III - DE, DC, MD, PA, VA, WV</p> <p>Office for Civil Rights, DHHS 150 S. Independence Mall West - Suite 372 Philadelphia, PA 19106-3499 (215) 861-4441; (215) 861-4440 (TDD) (215) 861-4431 FAX</p>	<p>Region VII - IA, KS, MO, NE</p> <p>Office for Civil Rights, DHHS 601 East 12th Street - Room 248 Kansas City, MO 64106 (816) 426-7277; (816) 426-7065 (TDD) (816) 426-3686 FAX</p>	
<p>Region IV - AL, FL, GA, KY, MS, NC, SC, TN</p> <p>Office for Civil Rights, DHHS 61 Forsyth Street, SW. - Suite 16T70 Atlanta, GA 30303-8909 (404) 562-7886; (404) 562-7884 (TDD) (404) 562-7881 FAX</p>	<p>Region VIII - CO, MT, ND, SD, UT, WY</p> <p>Office for Civil Rights, DHHS 999 18th Street, Suite 417 Denver, CO 80202 (303) 844-2024; (303) 844-3439 (TDD) (303) 844-2025 FAX</p>	<p>Region X - AK, ID, OR, WA</p> <p>Office for Civil Rights, DHHS 701 Fifth Avenue, Suite 1600, MS - 11 Seattle, WA 98104 (206) 615-2290; (206) 615-2296 (TDD) (206) 615-2297 FAX</p>

Burden Statement

Public reporting burden for the collection of information on this complaint form is estimated to average 45 minutes per response, including the time for reviewing instructions, gathering the data needed and entering and reviewing the information on the completed complaint form. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: HHS/OS Reports Clearance Officer, Office of Information Resources Management, 200 Independence Ave. S.W., Room 531H, Washington, D.C. 20201. **Please do not mail complaint form to this address.**

HHS-699 (7/09) (BACK)



COMPLAINANT CONSENT FORM

The Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) has the authority to collect and receive material and information about you, including personnel and medical records, which are relevant to its investigation of your complaint.

To investigate your complaint, OCR may need to reveal your identity or identifying information about you to persons at the entity or agency under investigation or to other persons, agencies, or entities.

The Privacy Act of 1974 protects certain federal records that contain personally identifiable information about you and, with your consent, allows OCR to use your name or other personal information, if necessary, to investigate your complaint.

Consent is voluntary, and it is not always needed in order to investigate your complaint; however, failure to give consent is likely to impede the investigation of your complaint and may result in the closure of your case.

Additionally, OCR may disclose information, including medical records and other personal information, which it has gathered during the course of its investigation in order to comply with a request under the Freedom of Information Act (FOIA) and may refer your complaint to another appropriate agency.

Under FOIA, OCR may be required to release information regarding the investigation of your complaint; however, we will make every effort, as permitted by law, to protect information that identifies individuals or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

Please read and review the documents entitled, *Notice to Complainants and Other Individuals Asked to Supply Information to the Office for Civil Rights* and *Protecting Personal Information in Complaint Investigations* for further information regarding how OCR may obtain, use, and disclose your information while investigating your complaint.

In order to expedite the investigation of your complaint if it is accepted by OCR, please read, sign, and return one copy of this consent form to OCR with your complaint. Please make one copy for your records.

- As a complainant, I understand that in the course of the investigation of my complaint it may become necessary for OCR to reveal my identity or identifying information about me to persons at the entity or agency under investigation or to other persons, agencies, or entities.



- I am also aware of the obligations of OCR to honor requests under the Freedom of Information Act (FOIA). I understand that it may be necessary for OCR to disclose information, including personally identifying information, which it has gathered as part of its investigation of my complaint.
- In addition, I understand that as a complainant I am covered by the Department of Health and Human Services' (HHS) regulations which protect any individual from being intimidated, threatened, coerced, retaliated against, or discriminated against because he/she has made a complaint, testified, assisted, or participated in any manner in any mediation, investigation, hearing, proceeding, or other part of HHS' investigation, conciliation, or enforcement process.

After reading the above information, please check ONLY ONE of the following boxes:

CONSENT: I have read, understand, and agree to the above and give permission to OCR to reveal my identity or identifying information about me in my case file to persons at the entity or agency under investigation or to other relevant persons, agencies, or entities during any part of HHS' investigation, conciliation, or enforcement process.

CONSENT DENIED: I have read and I understand the above and do not give permission to OCR to reveal my identity or identifying information about me. I understand that this denial of consent is likely to impede the investigation of my complaint and may result in closure of the investigation.

Signature: _____ Date: 10/09/2017
*Please sign and date _____ if submitting this form by email because submission by email represents your signature.

Name (Please print): _____

Address: _____

Telephone Number: _____



NOTICE TO COMPLAINANTS AND OTHER INDIVIDUALS ASKED TO SUPPLY INFORMATION TO THE OFFICE FOR CIVIL RIGHTS

Privacy Act

The Privacy Act of 1974 (5 U.S.C. §552a) requires OCR to notify individuals whom it asks to supply information that:

— OCR is authorized to solicit information under:

- (i) Federal laws barring discrimination by recipients of Federal financial assistance on grounds of race, color, national origin, disability, age, sex, religion under programs and activities receiving Federal financial assistance from the U.S. Department of Health and Human Services (HHS), including, but not limited to, Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), the Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.), and Sections 794 and 855 of the Public Health Service Act (42 U.S.C. §§295m and 296g);
- (ii) Titles VI and XVI of the Public Health Service Act (42 U.S.C. §§291 et seq. and 300s et seq.) and 42 C.F.R. Part 124, Subpart G (Community Service obligations of Hill-Burton facilities);
- (iii) 45 C.F.R. Part 85, as it implements Section 504 of the Rehabilitation Act in programs conducted by HHS; and
- (iv) Title II of the Americans with Disabilities Act (42 U.S.C. §12131 et seq.) and Department of Justice regulations at 28 C.F.R. Part 35, which give HHS "designated agency" authority to investigate and resolve disability discrimination complaints against certain public entities, defined as health and service agencies of state and local governments, regardless of whether they receive federal financial assistance.
- (v) The Standards for the Privacy of Individually Identifiable Health Information (The Privacy Rule) at 45 C.F.R. Part 160 and Subparts A and E of Part 164, which enforce the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (42 U.S.C. §1320d-2).

OCR will request information for the purpose of determining and securing compliance with the Federal laws listed above. Disclosure of this requested information to OCR by individuals who are not recipients of federal financial assistance is voluntary; however, even individuals who voluntarily disclose information are subject to prosecution and penalties under 18 U.S.C. § 1001 for making false statements.

Additionally, although disclosure is voluntary for individuals who are not recipients of federal financial assistance, failure to provide OCR with requested information may preclude OCR from making a compliance determination or enforcing the laws above.



OCR has the authority to disclose personal information collected during an investigation without the individual's consent for the following routine uses:

- (i) to make disclosures to OCR contractors who are required to maintain Privacy Act safeguards with respect to such records;
- (ii) for disclosure to a congressional office from the record of an individual in response to an inquiry made at the request of the individual;
- (iii) to make disclosures to the Department of Justice to permit effective defense of litigation; and
- (iv) to make disclosures to the appropriate agency in the event that records maintained by OCR to carry out its functions indicate a violation or potential violation of law.

Under 5 U.S.C. §552a(k)(2) and the HHS Privacy Act regulations at 45 C.F.R. §5b.11 OCR complaint records have been exempted as investigatory material compiled for law enforcement purposes from certain Privacy Act access, amendment, correction and notification requirements.

Freedom of Information Act

A complainant, the recipient or any member of the public may request release of OCR records under the Freedom of Information Act (5 U.S.C. §552) (FOIA) and HHS regulations at 45 C.F.R. Part 5.

Fraud and False Statements

Federal law, at 18 U.S.C. §1001, authorizes prosecution and penalties of fine or imprisonment for conviction of "whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry".



PROTECTING PERSONAL INFORMATION IN COMPLAINT INVESTIGATIONS

To investigate your complaint, the Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) will collect information from different sources. Depending on the type of complaint, we may need to get copies of your medical records, or other information that is personal to you. This Fact Sheet explains how OCR protects your personal information that is part of your case file.

HOW DOES OCR PROTECT MY PERSONAL INFORMATION?

OCR is required by law to protect your personal information. The Privacy Act of 1974 protects Federal records about an individual containing personally identifiable information, including, but not limited to, the individual's medical history, education, financial transactions, and criminal or employment history that contains an individual's name or other identifying information.

Because of the Privacy Act, OCR will use your name or other personal information with a signed consent and only when it is necessary to complete the investigation of your complaint or to enforce civil rights laws or when it is otherwise permitted by law.

Consent is voluntary, and it is not always needed in order to investigate your complaint; however, failure to give consent is likely to impede the investigation of your complaint and may result in the closure of your case.

CAN I SEE MY OCR FILE?

Under the Freedom of Information Act (FOIA), you can request a copy of your case file once your case has been closed; however, OCR can withhold information from you in order to protect the identities of witnesses and other sources of information.

CAN OCR GIVE MY FILE TO ANY ONE ELSE?

If a complaint indicates a violation or a potential violation of law, OCR can refer the complaint to another appropriate agency without your permission.

If you file a complaint with OCR, and we decide we cannot help you, we may refer your complaint to another agency such as the Department of Justice.

CAN ANYONE ELSE SEE THE INFORMATION IN MY FILE?

Access to OCR's files and records is controlled by the Freedom of Information Act (FOIA). Under FOIA, OCR may be required to release information about this case upon public request. In the event that OCR receives such a request, we will make every effort,



as permitted by law, to protect information that identifies individuals, or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

If OCR receives protected health information about you in connection with a HIPAA Privacy Rule investigation or compliance review, we will only share this information with individuals outside of HHS if necessary for our compliance efforts or if we are required to do so by another law.

DOES IT COST ANYTHING FOR ME (OR SOMEONE ELSE) TO OBTAIN A COPY OF MY FILE?

In most cases, the first two hours spent searching for document(s) you request under the Freedom of Information Act and the first 100 pages are free. Additional search time or copying time may result in a cost for which you will be responsible. If you wish to limit the search time and number of pages to a maximum of two hours and 100 pages; please specify this in your request. You may also set a specific cost limit, for example, cost not to exceed \$100.00.

If you have any questions about this complaint and consent package,
Please contact OCR at <http://www.hhs.gov/ocr/office/about/contactus/index.html>

OR

Contact your OCR Regional Office
(see Regional Office contact information on page 2 of the Complaint Form)

contravention of the federal Weldon Amendment by a California state government agency action. We believe that abortion is a grave moral evil and object to being morally complicit in abortion through the provision of insurance coverage for abortion to our employees. [Provide any relevant information about your church] On August 22, 2014, the California Department of Managed Health Care (DMHC) notified all private health care insurers in the state, including those through whom we purchase our employee plan, that all health care plans issued in California must immediately cover elective abortions under DMHC's interpretation of California state law (See DMHC's letter to insurers of August 22, 2014 <https://www.dmhc.ca.gov/Portals/0/082214letters/abc082214.pdf>). Because no religious exemption exists from the DMHC order of August 22, 2014, our church's staff health insurance plans must include elective abortion coverage without our authorization and over our objections. All the health plans offered to our church included full and unrestricted coverage for direct abortion without limitation. Having no alternative, we were compelled to enroll in a plan that covers all abortions for all plan participants. This development is morally and religiously unacceptable to our faith ministry, as it burdens our conscience rights by compelling us to fund, through our premium payments, abortion on demand for our employees. Since 2005, the Weldon Amendment in federal law (Section 507 of the Consolidated Appropriations Act, 2017, Pub L. No 115-31 (May 5, 2017)) requires States to maintain neutrality on abortion by prohibiting precisely the sort of coercive, discriminatory, and divisive action the DMHC has taken with its abortion insurance mandate. Specifically, DMHC is "subject[ing]" our "health insurance plan" "to discrimination," by denying approval for a plan that omitted abortion coverage, solely "on the basis that the [plan] does not ... provide coverage of ... abortions." We request that this Office enforce the terms of the Weldon Amendment and prevent California from discriminating against us in violation of this federal law. DMHC is immediately forcing our Church to offer our employees a health plan that includes coverage of abortion, in violation of our deeply-held religious and moral convictions, and forcing us to consider cancellation of these plans. We ask that you act urgently to remedy this violation of our rights.

Exhibit 7



THOMAS MORE
Law Center

██████████
President and Chief Counsel
Advocates in Michigan

December 4, 2017

VIA FED EX OVERNIGHT
US AIRBILL NO. 8099 2085 0046

██████████
Chief of Staff, Office of Civil Rights
U.S. Department of Health and Human Services
200 Independence Avenue, SW
██████████ HHH Building
Washington, D.C. 20201

Re: ██████████ *v.* *Duke University and Duke University Health System, Inc.*, Case No. ██████████ CCE-JEP (M.D.N.C.)

Dear Mr. Bell:

As we have discussed previously, the Thomas More Law Center represents ██████████ with respect to charges of unlawful religious discrimination and retaliation against her employer, Duke University Health System, Inc., as well as Duke University (collectively, "Duke").

We recently filed a civil action on behalf of ██████████ against Duke in the United States District Court for the Middle District of North Carolina. A copy of our complaint accompanies this letter. The complaint sets out Ms. Pedro's claims in detail, but the relevant facts are summarized here.

██████████ is a devout Catholic nurse with many years of experience in nursing. In August 2016, she began work in the Emergency Department of Duke University Hospital in Durham, North Carolina. During orientation, one of the nurses providing training stated that Duke does not allow employees a religious accommodation with regard to abortion and explained that even if a nurse has a religious objection to abortion, she must still participate in aborting a baby because Duke categorically refuses to grant this religious accommodation.

In October 2016, ██████████ requested a religious accommodation with respect to vaccinations. That request was promptly granted. In the process, however, Duke (including two of ██████████ supervisors in the Emergency Department) became aware of her strong pro-life religious views. At this point, ██████████ contends that Duke began harassing and discriminating against her, as described in her complaint.

Additionally, on December 7, 2016, ██████████ made a second request for religious accommodation, which included (among other things) an explicit request to be excused from assisting with or participating in abortions. Unlike her first request, which Duke promptly granted, ██████████ never received a final response to this second request in spite of numerous inquiries and assurances that a decision would be forthcoming. At the end of December 2016, Duke placed ██████████ on paid administrative leave for reasons ██████████ contends were pretextual and without basis.

██████████ complaint alleges that Duke intended to force her out of her job rather than grant her second request for religious accommodation, including her request to be excused from assisting in abortions. Indeed, despite the fact that she continues to be on an unpaid personal leave of absence from Duke, ██████████ has never received a *final* decision as to her second request for religious accommodation.¹

Accordingly, because of Duke's potential violation of federal laws that the Office of Civil Rights enforces, we write to respectfully inform your office of these issues. Please do not hesitate to contact us if we can provide any further information, answer any questions, or otherwise be of assistance. I may be reached at your convenience on my cell phone at (336) 707-8855 and by email at tbrooks@thomasmore.org.

Respectfully,

██████████

Senior Trial Counsel

¹ In late January 2017, Duke offered to let ██████████ return to work under a *temporary* grant of the accommodation request—ostensibly until Duke could decide whether it presented an undue hardship. Even at that time, however, Duke stated that a final decision would be reached within a couple weeks, but no such decision ever came.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

[REDACTED])	
)	
Plaintiff,)	
)	
v.)	Case No. 1:17-cv-985
)	
DUKE UNIVERSITY and)	COMPLAINT AND
DUKE UNIVERSITY HEALTH)	JURY DEMAND
SYSTEM, INC.,)	
)	
Defendants.)	
_____)	

Plaintiff [REDACTED] hereby brings this action against Duke University and Duke University Health System, Inc., including their respective employees, agents, successors, and assigns (collectively, "Defendant Duke"), and alleges upon information and belief as follows:

INTRODUCTION

1. At its heart, this case presents a simple yet important question: Must a devout Catholic abandon fundamental tenets of her faith if she wishes to be employed as a nurse at Duke University Hospital? Despite the fact that Defendant Duke has answered "yes" to this question, federal and state civil rights laws say otherwise. Therefore, Plaintiff [REDACTED] brings this action to vindicate her rights under the law.

2. An employee does not forfeit her right to practice her religion and abide by the tenets of her faith when she enters the workplace.

3. To the contrary, federal and state laws generally prohibit discrimination on the basis of religion.

4. Title VII specifically prohibits discrimination on the basis of religion, which includes "all aspects of religious observance and practice, as well as belief[.]" 42 U.S.C. § 2000e(j).

5. Therefore, under Title VII, an employer is required to reasonably accommodate an employee's sincerely held religious beliefs and religious practices, unless doing so would impose an undue hardship.

6. [REDACTED] has worked as a nurse for close to a decade.

7. Because of her Catholic faith, she objects to assisting in abortions, dispensing birth control and contraceptives, and receiving as well as administering vaccines. [REDACTED] employer, Defendant Duke, discriminated against her because of these religious beliefs and practices.

8. Furthermore, after [REDACTED] made known her religious beliefs and requested religious accommodations, Defendant Duke subjected her to a degrading series of actions designed to punish and retaliate against her for engaging in federally-protected activity.

9. The accommodations requested in this case by [REDACTED] would not have imposed an undue hardship on Defendant Duke.

10. In fact, this complaint is filed more than ten months after [REDACTED] made the second of two requests for religious accommodation, and

Defendant Duke has *still* not responded to [REDACTED] with a final decision as to her second request or otherwise provided an explanation as to how the request presented an undue hardship.

11. Defendant Duke has engaged in a course of conduct that was designed to discriminate and retaliate against [REDACTED] because of her religion and her federally-protected activities, all with the intent of forcing her out of her job with Defendant Duke.

12. Defendant Duke's conduct toward [REDACTED] likewise violated her rights under other federal and state laws, as described more fully herein.

13. Therefore [REDACTED] hereby sues under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, as well as the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 *et seq.*, and North Carolina statutory and common law.

THE PARTIES

14. Plaintiff [REDACTED] is a devout Catholic nurse, who currently resides in New York City.

15. In August 2016, [REDACTED] began work as a nurse for Defendant Duke in the Emergency Department of Duke University Hospital in Durham, North Carolina. At some point after Defendant Duke hired [REDACTED] it became aware that [REDACTED] is a devout Catholic.

16. [REDACTED] is currently on a personal leave of absence for medical reasons from Defendant Duke as a result of injuries Defendant Duke caused.

17. Defendant Duke University is incorporated under the laws of the State of North Carolina with its principal place of business located in Durham, North Carolina.

18. Defendant Duke University employs in excess of 500 employees and is subject to the requirements of Title VII of the Civil Rights Act of 1964.

19. Defendant Duke University is an entity capable of being sued under both federal and North Carolina law.

20. Defendant Duke University Health System, Inc., is incorporated under the laws of the State of North Carolina with its principal place of business located in Durham, North Carolina.

21. Defendant Duke University Health System, Inc., employs in excess of 500 employees and is subject to the requirements of Title VII of the Civil Rights Act of 1964.

22. Defendant Duke University Health System, Inc., is an entity capable of being sued under both federal and North Carolina law.

23. Upon information and belief, at all times relevant to this complaint, Defendant Duke University acted as the parent corporation of Defendant Duke University Health System, Inc.

24. At all times relevant to this complaint, Defendant Duke University provided centralized human resources, labor relations, and legal personnel to Defendant Duke University Health System, Inc.

25. Additionally, upon information and belief, the relevant activities of Defendant Duke University and Duke University Health System, Inc., have been so interrelated and overlapping in terms of management, control, ownership, operations, finances, decisionmakers, and personnel policies and decisions as to constitute a "single employer" or "integrated enterprise."

26. With respect to the allegations contained herein, Defendant Duke University and Defendant Duke University Health System, Inc., acted as alter egos of one another.

27. Duke University Hospital in Durham, North Carolina, is owned, operated, and controlled by Defendant Duke.

28. Defendant Duke is legally responsible for the actions of those employed by Defendant Duke at Duke University Hospital as well as all of the other individuals identified in this complaint as employees or agents of Defendant Duke.

JURISDICTION AND VENUE

29. This Court has federal question jurisdiction over [REDACTED] claims under federal law pursuant to 28 U.S.C. §§ 1331 and 1343 as well as 42 U.S.C. § 2000e-5(f)(1).

30. [REDACTED] state law claims are properly before this Court pursuant to 28 U.S.C. § 1332 due to diversity of citizenship between the parties and the fact that the amount in controversy exceeds \$75,000 and also pursuant to 28 U.S.C. § 1367(a) because [REDACTED] state law claims are so related to the claims in the action that are within the Court's original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

31. On August 1, 2017, the EEOC mailed [REDACTED] a Right to Sue letter.

32. This complaint has been timely filed.

33. [REDACTED] has complied with all applicable requirements for administrative exhaustion of her claims.

34. Venue is properly laid in this court pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2) because it is a judicial district in which the defendants reside as well as a judicial district in which a substantial part of the events or omissions giving rise to the claims occurred.

FACTS

[REDACTED] is a Devout Catholic and Thus Cannot Participate in the Taking of Innocent Human Life

35. [REDACTED] takes seriously adherence to the tenets of her Catholic faith.

36. She attends daily Mass and prays the Rosary of the Unborn, on which the Blessed Mother promises that every “Hail Mary” prayed with Love saves a baby from abortion, along with many other Catholic prayers and devotions on a daily basis.

37. Until recently being evicted from her home due to an inability to pay her rent, she kept a miraculous image of the Blessed Mother on her wall above a home shrine she made alongside the American flag presented to her father at his retirement from the National Guard.

38. As part of the exercise of her Catholic faith, ██████████ strives to follow the Ten Commandments, which forbid—among other sins—murder.

39. According to the official *Catechism of the Catholic Church*, to which ██████████ adheres, abortion violates the Commandment that prohibits killing. The *Catechism* states: “Human life must be respected and protected absolutely from the moment of conception.”

40. The *Catechism* also states: “Formal cooperation in an abortion constitutes a grave offense. The Church attaches the canonical penalty of excommunication to this crime against human life.” In Catholicism, excommunication is the most severe penalty the Church can impose and results in, among other things, being prohibited from participating in public worship and receiving any of the Sacraments of the Church.

41. Furthermore, in his encyclical *Evangelium Vitae*, Pope Saint John Paul II condemned abortion as “a most serious and dangerous crime” that “always constitutes a grave moral disorder, since it is the deliberate killing of an innocent human being.”

42. In accordance with her Catholic faith, [REDACTED] cannot participate in the taking of innocent, unborn human life through complicity with or participation in abortion.

43. Abortion is the intentional termination of an innocent human life.

44. Numerous other Christian denominations in the United States share the same respect for human life at all stages of development as the Catholic Church on the issue of abortion, including the Eastern Orthodox Church, the Southern Baptist Convention, the African Methodist Episcopal Church, the Presbyterian Church in America, the Orthodox Presbyterian Church, the Lutheran Church-Missouri Synod, the Reformed Church in America, the Christian Reformed Church in North America, the Mennonite Church USA, the Assemblies of God, the Church of God in Christ, the Church of the Nazarene, the Church of Jesus Christ of Latter Day Saints, the Coptic Church, and the Anglican Church in North America. The same is true for countless nondenominational evangelical Christian churches. Orthodox Judaism, Hinduism, and traditional Buddhism also oppose abortion except when the mother’s life is in danger.

45. The Catholic Church prohibits all forms of contraception and birth control because, in order to have a valid marriage (a necessary condition for moral sexual activity), the man and woman must be open to the possibility of children and are prohibited from using artificial methods to prevent conception.

46. The Catholic Church also prohibits the use of hormonal contraceptives because such contraceptives reduce the likelihood that a conceived human life will implant in the uterus, thereby increasing the likelihood that an innocent human life will be aborted.

47. [REDACTED] has multiple concerns and sincerely held religious beliefs about vaccines, especially the fact that many vaccines are derived from aborted fetal cells. As previously stated, [REDACTED] strives to obey the Ten Commandments, and the First Commandment is that God must be placed above all else.

48. To remain faithful to her Catholic religious beliefs, [REDACTED] cannot participate in abortions, dispense birth control or contraceptives, or administer or receive vaccines.

49. [REDACTED] convictions regarding abortion, birth control, contraceptives, and vaccines constitute sincerely held religious beliefs.

50. [REDACTED] religious beliefs regarding abortion, birth control, contraceptives, and vaccines are protected by Title VII.

*██████████ Achieves Her
Dream of Becoming a Nurse*

51. ██████████ faith motivated her to pursue a career as a nurse because, as a nurse, she could help heal the sick.

52. ██████████ received her nursing education at Mount Saint Mary College, graduating in 2008 with a Bachelor of Science in Nursing (BSN).

53. At graduation, ██████████ received the Spirit of Nursing Award in recognition of her love for nursing, her outstanding dedication to her patients, and her deep compassion for those who suffer.

54. After graduating from Mount Saint Mary College ██████████ sat for her nursing boards on Fulton Street in New York City. Following her examination, she went to daily Mass at Our Lady of Victory and prayed to God that she would pass. She promised God that, if she passed her boards, she would serve Him as a nurse and always strive to be faithful to His teachings.

55. ██████████ passed her nursing boards and was licensed as a nurse in the State of New York in 2008.

*After Working in New York, ██████████ Moves to
North Carolina to Work for Defendant Duke*

56. ██████████ worked as a nurse in New York City for eight years.

57. She first worked in the Neuroscience Unit and Neurosurgery ICU at NYU Langone Medical Center ("NYU") for five years.

58. She then worked for three years in the Burn ICU at New York Presbyterian-Weill Cornell Medical Center ("Cornell").

59. Additionally, while in New York, she performed *per diem* home care/private duty nursing and also trained to be a birth doula.

60. ██████████ compiled an impeccable record while working as a nurse in New York.

61. In fact, while working at NYU, ██████████ helped develop a new hospital guideline for patient care in pentobarbital comas, which was featured as a poster presentation at the April 2012 conference of the American Association of Neuroscience Nurses in Seattle, Washington.

62. During her eight years of working in New York, ██████████ never once received any form of discipline from her employers.

63. After much prayer and deliberation, ██████████ decided to move to the Triangle and work as a nurse in the Emergency Department of Duke University Hospital.

64. ██████████ employment with Defendant Duke began in August 2016.

65. In August 2016, ██████████ attended approximately two weeks of classroom orientation with Defendant Duke.

66. On August 15, 2016, while still in classroom orientation, ██████████ received a document regarding Defendant Duke's policies from Clinical

Team Lead [REDACTED] [REDACTED] served as one of Defendant Duke's principal educators during [REDACTED] orientation.

67. In explaining the aforementioned document to six new Emergency Department nurses (including [REDACTED], [REDACTED] discussed how Duke University Hospital operates. She stated that Defendant Duke does not allow employees a religious accommodation with regard to abortion. When [REDACTED] discussed the section titled, "Patient Care and Staff Beliefs," she explained that even if a nurse has a religious objection to abortion, she must still participate in aborting a baby because Defendant Duke categorically refuses to grant this religious accommodation.

68. [REDACTED] then further stated that a large number of abortions are performed in Defendant Duke's Emergency Department.

69. When making each of the statements described above, [REDACTED] was speaking on behalf of, and with authority from, Defendant Duke.

70. Additionally, due to her seniority and the nature of her position, [REDACTED] is privy to information regarding how Defendant Duke reviews and decides requests for religious accommodation and other human resource matters.

71. [REDACTED] statements about Defendant Duke's policy on religious exemptions had a chilling effect on the exercise of Title VII rights.

72. [REDACTED] statements about Defendant Duke's policy on religious exemptions constituted religious discrimination and harassment in violation of Title VII in that they required or coerced employees to abandon or alter religious beliefs or practices as a condition of employment with Defendant Duke.

73. Defendant Duke, acting through [REDACTED] intended the aforementioned statements regarding religious accommodations to intimidate and dissuade employees from exercising their rights under Title VII.

74. Furthermore, the statements of [REDACTED] evidenced Defendant Duke's hostility and discriminatory attitude towards persons of religious faith.

75. The existence and enforcement of a policy like that described by [REDACTED] violates (1) Title VII; (2) 42 U.S.C § 300a-7 (also known as the Church Amendments); (3) the Weldon Amendment; and (4) Section 1303(b) of the Affordable Care Act, both as written and as interpreted and implemented by President Obama's Executive Order No. 13535.

76. At all relevant times during the August 2016 training in which [REDACTED] participated, [REDACTED] was an employee of Defendant Duke and acting within the course and scope of her employment with Defendant Duke.

77. The acts and omissions of [REDACTED] in this case are imputable to Defendant Duke under the doctrines of *respondeat superior* and vicarious liability.

[REDACTED] *Requests Reasonable
Religious Accommodations*

78. Though she was fearful of how Defendant Duke would respond (in light of [REDACTED] comments), [REDACTED] nevertheless made a request for religious accommodation by letter dated October 5, 2016.

79. Specifically, [REDACTED] letter of October 5, 2016, requested that she be exempt from receiving vaccines for religious reasons and provided a description of her pro-life religious views.

80. Defendant Duke granted [REDACTED] request on October 27, 2016.

81. On the same day (October 27, 2016), one of Defendant Duke's Clinical Team Leads in the Emergency Department, [REDACTED] (now [REDACTED]), asked [REDACTED] for a copy of her letter of October 5th and also asked that it be forwarded to [REDACTED] [REDACTED] nurse manager.

82. As a result, [REDACTED] supervisors in the Emergency Department immediately became aware of [REDACTED] religious beliefs as well as the fact that those beliefs compel her to adhere to pro-life positions.

*Defendant Duke Begins to Discriminate Against
Because of Her Religion and Retaliate
Against Her Because She Engaged in Protected Activity*

83. Despite granting [REDACTED] request for a religious accommodation, Defendant Duke thereafter began a pattern of employment actions and decisions adverse to [REDACTED] that negatively affected her status as an employee of Defendant Duke and more generally as a nurse.

84. Prior to making a request for religious accommodation and making her religious views known to Defendant Duke, [REDACTED] had not been disciplined or reprimanded by Defendant Duke.

85. Barely two weeks after two of [REDACTED] supervisors received the October 5th letter describing her religious beliefs, however, [REDACTED] (one of the two supervisors who had received a copy of [REDACTED] request for religious accommodation) and [REDACTED] (who had stated during [REDACTED] training that employees can never refuse to participate in an abortion in the Emergency Department) asked to meet with [REDACTED] on November 15, 2016.

86. During that November 15, 2016 meeting, [REDACTED] and [REDACTED] provided vague and unsubstantiated criticisms of [REDACTED] work performance in the Emergency Department.

87. Both [REDACTED] and [REDACTED] however, emphasized that they had no concerns about [REDACTED] clinical skills.

88. Defendant Duke has never provided any objective evidence that [REDACTED] work performance was less than satisfactory.

89. The criticism [REDACTED] received during the November 15, 2016 meeting had no basis in fact, but was rather a pretext designed to mask Defendant Duke's unlawful discrimination and retaliation against [REDACTED]

90. During the November 15, 2016 meeting, [REDACTED] stated that she would convene a meeting including herself, [REDACTED] and [REDACTED] preceptor in the Emergency Department, [REDACTED] on November 17, 2016.

91. [REDACTED] failed to convene the meeting on November 17, 2016, as had been represented merely two days earlier.

92. On November 25, 2016, [REDACTED] emailed Clinical Team Lead [REDACTED] to inquire about a clinical ladder promotion, which would have provided her an increase in pay.

93. On November 26, 2016, [REDACTED] emailed [REDACTED] in response, saying that she would talk with her about the next steps in applying for a promotion.

94. [REDACTED] however, never spoke with [REDACTED] and on December 8, 2016, [REDACTED] emailed to say that [REDACTED] (who had stated during [REDACTED] training that employees can never refuse to participate in

an abortion in the Emergency Department) had informed her that she [REDACTED] [REDACTED] was not able to apply for the promotion.

95. Notably, as described more fully below, the email from [REDACTED] [REDACTED] to [REDACTED] denying her the ability to seek the clinical ladder promotion came the day after [REDACTED] made the second of her two requests for religious accommodation based on her pro-life religious views.

96. Due to concern as to why she was still considered to be in her “orientation” period, even though her cohorts were being, or had already been, moved out of “orientation” and into regular status [REDACTED] emailed [REDACTED] and [REDACTED] on November 30, 2016, to inquire about this issue.

97. Neither [REDACTED] nor [REDACTED] responded to [REDACTED] email of November 30, 2016.

98. When she made inquiries of other supervisors in November and December as to the reason for her excessive “orientation” period, [REDACTED] received differing and contradictory answers.

99. Upon information and belief, other members of [REDACTED] cohort had not made requests for religious accommodations and did not share [REDACTED] [REDACTED] same religious views.

100. Accordingly, Defendant Duke kept [REDACTED] on “orientation” longer than necessary so as to discriminate and retaliate against her with the goal of forcing her to quit.

101. Due to the excessive length of her "orientation" period and other harassment initiated by her supervisors [REDACTED] became the subject of gossip, rumors, and degrading and embarrassing comments by some of her fellow employees in the Emergency Department.

102. For example, on one occasion, [REDACTED] heard nurses [REDACTED] talk about her being terminated, which resulted from her supervisors' sharing sensitive personnel issues with her fellow employees.

103. On another occasion, when nurse [REDACTED] did not immediately see [REDACTED] told [REDACTED] that she was happy [REDACTED] was no longer working there.

104. [REDACTED] supervisors also encouraged nurse [REDACTED] to complain about [REDACTED] work performance and, upon information and belief, even failed to discipline [REDACTED] in order to persuade her to provide negative feedback regarding Ms. Pedro.

105. Additionally, when the mother of a young patient wrote a note praising the care [REDACTED] had provided, one or more employees of Defendant Duke ensured the letter was hidden or destroyed.

106. Similarly, [REDACTED] supervisors failed to tell [REDACTED] about letters and other forms of praise she would receive from her patients.

107. [REDACTED] reported these comments and other harassing actions to her supervisors, but her supervisors failed to take any steps to remedy the conduct and even encouraged harassment of [REDACTED]

108. This harassment and Defendant Duke's failure to take remedial action were both motivated by [REDACTED] religious beliefs as well as her protected activity.

109. On December 1, 2017, [REDACTED] asked [REDACTED] to meet with her and [REDACTED] Clinical Team Lead in Defendant Duke's Emergency Department. During this meeting, [REDACTED] was presented with a Performance Improvement Plan that was inexplicably dated November 15, 2016.

110. The meeting of December 1, 2016, was the first time [REDACTED] had been presented with, or had otherwise seen, this Performance Improvement Plan. [REDACTED] asked [REDACTED] to sign this document. When [REDACTED] expressed concern that the allegations listed were untrue, [REDACTED] replied that she ([REDACTED]) would be able to change it later.

111. [REDACTED] was thereby coerced into signing the Performance Improvement Plan because she was fearful that, if she refused to sign, Defendant Duke would claim she was being insubordinate.

112. Also during the December 1, 2016 meeting, it was stated that [REDACTED] would be formally disciplined for the sole reason of not meeting with

her preceptor, [REDACTED] on November 17th, even though the failure to have said meeting was the fault of [REDACTED] rather than [REDACTED]

113. On December 7, 2016, [REDACTED] submitted another request for religious accommodation, as was her right under the law.

114. This request for religious accommodation read, in pertinent part, as follows:

Dear Sir or Madam:

[. .]

Since abortion is a grave violation of my religious beliefs, I am unable to assist with or participate in an abortion in any way, including giving drugs intended to induce an abortion.

Methods of birth control and contraception are also grave violations of my religious beliefs, so I am unable to administer drugs intended as birth control or contraception.

As outlined in my previous request for religious accommodation dated on October 5, 2016, vaccines are a violation of my religious beliefs. Therefore, I am unable to administer any vaccines.

[. .]

Thank you for your time and attention to this matter.

Sincerely,
Sara Pedro

115. Defendant Duke and, more specifically, [REDACTED] supervisors in the Emergency Department, were not pleased that [REDACTED] had now made two requests for religious accommodation.

116. When asking [REDACTED] about her second religious accommodation request, [REDACTED] who was at the time Defendant Duke's Emergency Department Clinical Operations Director, said he did not consider it to be a request for a religious accommodation but rather a "dilemma."

117. On December 8, 2016—the day after making her second request for religious accommodation—[REDACTED] was disciplined by means of a written warning from [REDACTED] for not satisfying the benchmarks set out in the Performance Improvement Plan.

118. The reasons for the written warning had therefore expanded beyond the sole basis given a few days earlier on December 1, 2016—namely, [REDACTED] not meeting with her preceptor.

119. Moreover, with only one exception, the benchmarks set out in the Performance Improvement Plan did not even become due until seven days later on December 15, 2016.

120. Accordingly, in violation of Defendant Duke's own policies and procedures, Defendant Duke disciplined [REDACTED] without affording her an opportunity to make any necessary improvements.

121. The areas of alleged deficiencies described in the written warning of December 8, 2016, had no basis in fact, but were rather a pretext

designed to mask Defendant Duke's unlawful discrimination and retaliation against [REDACTED]

122. During the meeting with [REDACTED] on December 8, 2016, at which she was given this written warning, [REDACTED] asked why she was still in "orientation" while her cohorts were being advanced. [REDACTED] denied having knowledge of the reasons for this action, but indicated that it was a decision made by [REDACTED] (Again, it was [REDACTED] who stated during [REDACTED] training that employees can never refuse to participate in an abortion in the Emergency Department.)

123. When [REDACTED] said to [REDACTED] in the December 8th meeting that she had not once received any form of disciplinary action in the previous eight years that she had worked as a nurse, [REDACTED] responded by saying that she did not care what happened before [REDACTED] came to work for Defendant Duke.

*Defendant Duke Places [REDACTED] on
Administrative Leave for Pretextual Reasons*

124. After the December 8, 2016 meeting, [REDACTED] attempted to formally dispute the written warning through Defendant Duke's human resources representatives.

125. On December 22, 2016, [REDACTED] met with [REDACTED] a human resources representative of Defendant Duke, to complete paperwork

necessary to file a dispute against the written warning that she had been given on December 8.

126. Prior to the meeting with [REDACTED] [REDACTED] emailed [REDACTED] [REDACTED] human resources representative, and [REDACTED] regarding concerns that she was being discriminated against.

127. During her meeting with [REDACTED] asked whether her email asserting that she was being discriminated against on the basis of her religion had been received. [REDACTED] confirmed that she did indeed receive the email and informed [REDACTED] that [REDACTED] would address her concerns when she returned from vacation on January 3, 2017.

128. To [REDACTED] knowledge, Defendant Duke has never completed an investigation into [REDACTED] allegations or otherwise addressed her concerns about discrimination and harassment.

129. Both [REDACTED] complaints to her supervisors about harassment from her co-workers, and her complaints to Defendant Duke's human resources personnel about suspected religious discrimination constituted activity protected by Title VII.

130. Both [REDACTED] complaints to her supervisors and her complaints to Defendant Duke's human resources personnel were reasonable.

131. Nevertheless, Defendant Duke failed to take reasonable steps to prevent and promptly correct the actions complained of by [REDACTED]

132. Upon information and belief, [REDACTED] supervisors in the Emergency Department (including [REDACTED]) quickly became aware that [REDACTED] had complained to Defendant Duke's human resources personnel regarding suspected religious discrimination.

133. On December 30, 2016—a mere eight days after complaining to Duke about alleged religious discrimination and thus engaging in activity protected by Title VII—Ms. Pedro was asked to attend a meeting with [REDACTED] and her preceptor, nurse [REDACTED].

134. In the December 30, 2016 meeting, [REDACTED] informed [REDACTED] that she was being placed on paid administrative leave effective immediately.

135. Once again, the reasons provided by Defendant Duke for its decision had no basis in fact, but were rather a pretext designed to mask Defendant Duke's unlawful discrimination and retaliation against [REDACTED].

136. Also during the December 30, 2016 meeting, while disciplining [REDACTED] inquired into the status of [REDACTED] request for a religious accommodation.

137. [REDACTED] further stated that she wanted to know the results of the request for a religious accommodation before making a final decision about [REDACTED] administrative leave.

138. Such statements by Ms. Denis constitute direct evidence of unlawful discrimination and retaliation.

139. By placing [REDACTED] on administrative leave, human resources personnel—pursuant to Defendant Duke's policies—were prevented from further investigating [REDACTED] allegations of religious discrimination, retaliation, and harassment as well as her challenge to her written warning.

140. Therefore, Defendant Duke did not exercise reasonable care to prevent discriminatory, retaliatory, and harassing actions and further failed to have in place measures to prevent and correct illegal discrimination, retaliation, and harassment.

141. Defendant Duke's decision to place [REDACTED] on administrative leave was based on her religion and the fact that she had engaged in protected activity and was further designed and motivated to cover up the true (and illicit) reasons for Defendant Duke's disciplining of [REDACTED]

142. In addition to its other adverse effects, subjecting [REDACTED] to discipline would also threaten her professional standing (both at Defendant Duke and generally) and her licensure as a nurse.

143. At all times relevant to this complaint, [REDACTED] work for Defendant Duke was more than satisfactory.

144. While working for Defendant Duke, [REDACTED] had no problems with absenteeism, tardiness, insubordination, or violation of any specific hospital rule or policy.

145. In fact, on more than one occasion, [REDACTED] distinguished herself in the course of her work, often preventing acts of malpractice or other violations of law by Defendant Duke. Examples include, but are not limited to, the following:

- a. While [REDACTED] was assisting an HIV-positive patient, the patient vomited large amounts of blood onto [REDACTED] leaving her shoes and clothes saturated with blood. Throughout the situation, though, [REDACTED] remained calm and continued to ensure the patient received proper care. Afterwards [REDACTED] had to discard her scrubs and shoes and receive an HIV test due to the fact that she had been exposed to this virus.
- b. While assigned to work in the psychiatric section of the Emergency Department, [REDACTED] learned a nurse had provided a patient a television remote control, which the patient then used to engage in a sex act in one of the hospital rooms. [REDACTED] was the only nurse who thought to ensure that proper cleaning and sanitization were undertaken so as to protect the health and safety of staff and other patients.
- c. [REDACTED] received a patient who had been assaulted by a brick to his head. When she learned the patient was to be discharged, [REDACTED] approached the attending physician to state that,

based on the patient's clinical findings, she strongly suspected he had a fracture. On reexamining an x-ray of the patient, doctors discovered the x-ray had been misinterpreted previously and that the patient did indeed have a fracture as [REDACTED] suspected.

- d. One of [REDACTED] preceptors, [REDACTED] asked [REDACTED] to prepare a dose of Decadron for a teenage patient. [REDACTED] voiced concern about the amount of the dose and sought clarification from the pharmacist on the correct dose. The pharmacist then agreed with [REDACTED]. An incident report indicating how [REDACTED] prevented this dosing error was then filed.
- e. On November 27, 2016, [REDACTED] was assigned as the primary nurse for a three-year-old boy. His mother was greatly displeased at the care he had received as a patient prior to the beginning of [REDACTED] shift. As a result of the level of care [REDACTED] then provided, the boy's mother later wrote a letter praising the care she gave him.
- f. [REDACTED] is skilled at placing IV's in patients, particularly in pediatric and infant patients. In one specific instance, she placed an IV on the first attempt in a 5-pound premature baby.

- g. A veteran nurse with decades of experience commented to [REDACTED] that she had exceptional pediatric IV skills and clinical capabilities.
- h. Nurse [REDACTED] a so-called "Epic Superuser" with advanced training in Defendant Duke's new electronic trauma charting system, specifically praised [REDACTED] for the quality of her charting.
- i. On December 21, 2016, [REDACTED] received a trauma patient transferred to her from another section of the Emergency Department. [REDACTED] noticed that he had difficulty breathing, which she addressed immediately. Although a trauma reassessment is required for every trauma patient once every hour [REDACTED] noticed that no trauma reassessment had been documented on this patient for more than six hours, and even the last assessment recorded was incomplete. [REDACTED] then documented a thorough physical assessment to ensure proper care. [REDACTED] the oncoming nurse for the next shift, specifically commended [REDACTED] for this work.
- j. On December 29, 2016, [REDACTED] was supplying a patient with a meal tray for dinner, but [REDACTED] was concerned about his clinical presentation. Though [REDACTED] was unalarmed, [REDACTED]

██████████ checked his blood glucose and found it to be significantly abnormal. The patient was then treated for hypoglycemia.

k. ██████████ received a trauma patient into the Emergency Department who had been involved in a serious motor vehicle accident. The patient admitted he had been using illicit drugs prior to the accident, and his physical assessment and behavior were consistent with illicit drug use. ██████████ then asked a Patient Care Technician to obtain evidence bags for his clothes. Nurse ██████████ however, would not allow the Patient Care Technician to do this and told ██████████ "We don't do that here." ██████████ then raised concerns that the Emergency Department at Defendant Duke was unlawfully withholding information from law enforcement.

l. Several weeks after this incident, on December 27, 2016, Clinical Nurse Specialist ██████████ emailed the nurses in the Emergency Department a new guideline on obtaining and communicating blood and urine sample results to law enforcement. ██████████ thoroughly reviewed the new guidelines and emailed ██████████ several questions, especially since the new guidelines conflicted with instructions previously provided by her supervisors. ██████████ responded and said, "What you were told is wrong. That is

why we have written this document as we have not been complying with the law by such refusal to give information to law enforcement.” The verbatim text of [REDACTED] question and [REDACTED] [REDACTED] response were then used at the January 2017 Emergency Department staff meeting in explaining the new policy.

146. At no time did [REDACTED] ever jeopardize or adversely affect the quality of care received by any patient of Defendant Duke.

147. At no time has Defendant Duke ever been able to substantiate any concern about [REDACTED] clinical skills or knowledge.

148. During the December 30th meeting, [REDACTED] stated that she would give [REDACTED] a final decision about her administrative leave by 5:00 pm on January 4, 2017.

149. [REDACTED] received no such answer from Defendant Duke at any time on January 4, 2017.

150. On January 12, 2017, however, [REDACTED] received a letter dated January 6, 2017, from [REDACTED], Defendant Duke's Director of Staff and Labor Relations.

151. The letter from [REDACTED] stated that Defendant Duke was *still* investigating whether it could accommodate [REDACTED] request for a religious accommodation.

152. Also on January 12, 2017, [REDACTED] emailed [REDACTED] and [REDACTED] continuing to raise multiple concerns about Defendant Duke's handling of her administrative leave.

153. On January 13, 2017, [REDACTED] emailed [REDACTED] asking for an explanation as to what [REDACTED] meant by the word "vaccines" in her request for religious accommodation.

154. On January 16, 2017, [REDACTED] responded to [REDACTED] seeking clarification of her question, but [REDACTED] did not receive any response until she emailed her again on January 23, 2017.

155. On January 23, 2017, [REDACTED] emailed [REDACTED] and [REDACTED] to again raise concerns about repeated discrimination and harassment.

156. On January 25, 2017, [REDACTED] sent [REDACTED] a hostile email challenging her request for a religious accommodation.

157. In her email of January 25, 2017, [REDACTED] advised [REDACTED] that, if she had such concerns, she could call [REDACTED] Assistant Vice President for Harassment, Discrimination and Compliance, in Duke University's Office of Institutional Equity.

158. [REDACTED] email of January 25, 2017, was the first time that [REDACTED] had been directed to contact [REDACTED]. [REDACTED] emailed [REDACTED] the core of her concerns the same day.

159. During this time, it also became necessary for [REDACTED] to renew her ACLS (nursing) certification. Due to the fact that she was still on administrative leave on the date of the test (January 5, 2017), as well as other failures on the part of Defendant Duke [REDACTED] was unable to attend the ACLS class and testing provided by Defendant Duke.

160. As a result [REDACTED] had to pay for a private ACLS class herself and renew her certification on her own. Defendant Duke nonetheless charged [REDACTED] for the cost of the ACLS class she was unable to attend due to Defendant Duke's own actions.

*Defendant Duke Attempts to Interfere
with the EEOC Investigative Process*

161. On January 26, 2017 [REDACTED] emailed [REDACTED] to ask her to meet with her and [REDACTED] the next day on January 27, 2017.

162. In response, on January 26, 2017 [REDACTED] emailed [REDACTED] [REDACTED] to inform them that she had complained of religious discrimination to the EEOC.

163. [REDACTED] also emailed [REDACTED] [REDACTED] to inform them that she had retained an attorney and that she wanted him to attend the meeting with her.

164. The email from [REDACTED] also politely asked Defendant Duke to have an attorney present at the meeting.

165. The presence of counsel for both parties at the meeting of January 27th would have been beneficial and prudent for each side, given that [REDACTED] had already made an internal complaint and had also contacted the EEOC to initiate a formal investigation of Defendant Duke's conduct.

166. [REDACTED] received no response from Defendant Duke on January 26, 2017.

167. Moments before [REDACTED] was about to leave her home to report for the meeting on January 27th, she finally received a response to her email of the prior day.

168. In the email, Defendant Duke prohibited [REDACTED] attorney from being present during the meeting, even though the meeting with [REDACTED] [REDACTED] would address her complaint to the EEOC.

169. [REDACTED] then participated in a conference call that included herself, her attorney, and an in-house attorney for Defendant Duke, [REDACTED] [REDACTED] of Duke University's Office of Counsel.

170. In that call, [REDACTED] reiterated Defendant Duke's denial of [REDACTED] request to have an attorney presenting during the meeting with [REDACTED]

171. [REDACTED] further stated that [REDACTED] EEOC charge was a valid topic of discussion during the meeting with [REDACTED] and [REDACTED]

172. As such, Defendant Duke attempted to have *ex parte* discussions with [REDACTED] even though she was represented by counsel, about a matter before the EEOC without having her attorney present.

173. Upon information and belief, statements made by [REDACTED] and other information obtained during the meeting that Defendant Duke sought to conduct with [REDACTED] on January 27, 2017, would have been shared with Defendant Duke's legal counsel and used by Defendant Duke to defend against the EEOC charge filed by [REDACTED]

174. During the conference call with [REDACTED] attorney appealed to [REDACTED] on the grounds of professional courtesy between fellow members of the Bar.

175. In response [REDACTED] stated that Defendant Duke has such a large number of employee complaints that it would be impossible for its legal department to accommodate requests to discuss an employee's concerns in person with the employee's counsel.

176. At all times relevant to this complaint, Defendant Duke's Office of Counsel has employed a staff of over a dozen attorneys, including [REDACTED]

177. Additionally, Defendant Duke has ready access to highly skilled and knowledgeable outside counsel.

178. [REDACTED] began to hyperventilate and suffer a severe panic attack as a direct result of [REDACTED] response.

179. [REDACTED] attorney then again called [REDACTED] and was told she was unavailable. He left her a voicemail asking her to return his call. She never did.

180. [REDACTED] thereafter sought and received immediate medical attention from a WakeMed urgent care facility.

181. After being discharged from WakeMed, [REDACTED] sought follow up care from [REDACTED] M.D., of WakeMed, as well as [REDACTED] LPC.

182. After assessing [REDACTED] [REDACTED] referred [REDACTED] for trauma counseling several times per week.

183. [REDACTED] then met with [REDACTED] Psy.D., L.P., for trauma counseling. Following a psychological examination, [REDACTED] opined, by letter dated February 6, 2017, that [REDACTED] was "experiencing significant psychological distress and . . . struggling with maintenance of daily function." [REDACTED] further opined that [REDACTED] was unable to return to work, as it would likely exacerbate her symptoms.

184. [REDACTED] was, therefore, medically unable to return to work and began availing herself of her paid time off through a personal leave of absence for medical reasons until her paid time off was entirely depleted.

185. Even though she has exhausted her paid time off [REDACTED] is still unable to return to work.

186. Though [REDACTED] had been hopeful that Defendant Duke would grant her second request for religious accommodation, based on her first-hand experience while working for Defendant Duke [REDACTED] contends that Defendant Duke never intended to grant her second request for a religious accommodation, but Defendant Duke also lacked any valid grounds to deny her request. [REDACTED] contends that Defendant Duke therefore intended to force her from her position rather than grant her second request for religious accommodation, which included her request to be excused from assisting in any abortions.

*Defendant Duke Continues to Harass
[REDACTED] and Deny Her Pay and Benefits*

187. Prior to the meeting set by Defendant Duke for January 27, 2017, Defendant Duke offered [REDACTED] the option of returning to work *or taking a personal leave of absence.*

188. After [REDACTED] suffered her medical emergency on January 27th and was therefore unable to return to work, [REDACTED] emailed her

supervisor to inform her that she was medically unable to attend the meeting.

189. Following receipt of medical attention at WakeMed, [REDACTED] emailed her supervisor that she had a medical note excusing her from work on January 28, 2017.

190. Despite the fact that [REDACTED] had expressly been given the option of taking a personal leave of absence and she informed Defendant Duke of her decision to do so *more than the required amount of time prior to her previously scheduled shift of January 28, 2017*, Defendant Duke nevertheless recorded [REDACTED] absence as “unscheduled.”

191. An “unscheduled” absence is considered a basis for discipline.

192. Subsequent efforts to inquire of Defendant Duke as to whether it indeed considered this “unscheduled” absence to be a basis for discipline of [REDACTED] went unanswered by Defendant Duke.

193. Wrongfully classifying [REDACTED] absence as “unscheduled” constituted retaliation for her protected conduct, including filing a charge with the EEOC.

194. Defendant Duke further engaged in unlawful harassment and retaliation of [REDACTED] in several ways following the incident of January 27, 2017.

195. Defendant Duke failed to correct [REDACTED] address with her insurers when [REDACTED] informed Defendant Duke that this information was out of date.

196. Notably, one of her insurers, Cigna, previously had [REDACTED] current address correct, but Defendant Duke changed it to one of her old addresses at some point during her employment.

197. Again, attempts to inquire of Defendant Duke as to [REDACTED] concerns with the address being provided by Defendant Duke to her insurers went unanswered.

198. Defendant Duke moreover failed to provide timely and proper payment to [REDACTED] after January 27, 2017.

199. More specifically, [REDACTED] was not timely compensated for the pay period of 1/23/17 to 2/5/17.

200. [REDACTED] had specifically made written requests for paid time off to cover part of this pay period (1/27/17-2/5/17).

201. Defendant Duke nevertheless inexplicably failed to honor [REDACTED] requests for paid time off, even though [REDACTED] emailed [REDACTED] that it would apply her PTO to January 27 and January 28, and only then compensated her well after it was due to be paid to her.

202. Additionally, at the same time, Defendant Duke issued [REDACTED] a check that included thirty-six hours of paid administrative leave, even

though it had previously informed her in writing that her paid administrative leave ended on January 27th. Because of this erroneous allocation of income by Defendant Duke [REDACTED] was afraid to deposit the check for fear of later being accused of acting improperly.

203. As with almost all of her other inquiries, Defendant Duke did not respond to [REDACTED] when she attempted to obtain clarification and thereby allay her concerns about depositing the check.

204. Furthermore, Defendant Duke also failed to directly deposit [REDACTED] [REDACTED] check into her checking account and instead held the check, telling her to retrieve it from its offices in Durham.

205. [REDACTED] was not able to pick up this check, however, because she lived in Raleigh and did not have a car.

206. Only after causing [REDACTED] much unnecessary trouble, did Defendant Duke eventually send [REDACTED] her check.

207. Because she was forced to take a personal leave of absence for medical reasons, [REDACTED] no longer received income or benefits from Defendant Duke once her PTO had been depleted.

208. Moreover, because Defendant Duke had disciplined [REDACTED] prior to her entering unpaid administrative leave, she was ineligible to participate in its PTO donation program, which would have provided her an opportunity for income.

209. As a result of Defendant Duke's canceling of her health insurance and denying her income, [REDACTED] was unable to obtain the trauma counseling and treatment she required.

210. Additionally, by letter dated October 19, 2016, Defendant Duke had accepted [REDACTED] into its competitive Nurse Loan Forgiveness Program, by which it would satisfy the balance of [REDACTED] remaining student loans. To date, Defendant Duke has made no such payments.

211. Furthermore, Defendant Duke failed to provide [REDACTED] testing to follow up on the HIV exposure she received during her treatment of an HIV-positive patient at Defendant Duke, and [REDACTED] was unable to afford such testing due to her loss of income from Defendant Duke.

212. Thus, following [REDACTED] initial request for a religious accommodation, her subsequent request for a second religious accommodation, and her decision to engage in other forms of protected conduct, Defendant Duke treated [REDACTED] differently than other, similarly situated employees. Such treatment was motivated by [REDACTED] religion and was in retaliation for engaging in activity protected by Title VII. [REDACTED] [REDACTED] was also subjected to a hostile work environment that was permeated with harassment by Defendant Duke. Additionally, she suffered severe harassment from fellow employees that was the result of Defendant Duke failing to correct, and even initiating, said harassment.

213. At all times relevant to the series of event described above, Defendant Duke's employees and agents—including [REDACTED] [REDACTED] [REDACTED]—were acting within the course and scope of their employment or agency relationship with Defendant Duke.

214. The acts and omissions of Defendant Duke's employees and agents in this case—including [REDACTED] [REDACTED]—are imputable to both Defendant Duke University and Defendant Duke University Health System, Inc., under the doctrines of *respondeat superior* and vicarious liability.

215. Defendant Duke engaged in discriminatory practices with malice or with reckless indifference to [REDACTED] federally protected rights.

216. Furthermore, Defendant Duke discriminated in the face of a perceived risk that its actions would violate federal law.

*Effects of Defendant Duke's
Violation of [REDACTED] Civil Rights*

217. [REDACTED] is currently suffering from Post-Traumatic Stress Disorder ("PTSD").

218. The actions of Defendant Duke have also exacerbated [REDACTED] preexisting medical conditions, including asthma, an injury to her back, and an autoimmune disorder.

219. The actions of Defendant Duke described above (and to be more fully established by the proof at trial), constitute the direct and proximate cause of [REDACTED] current manifestation of PTSD and current problems associated with her other medical issues.

220. Though she desires to work [REDACTED] PTSD and other injuries preclude her from regularly engaging in gainful employment, resulting in a nearly total loss of income.

221. [REDACTED] PTSD is expected to preclude her from regularly engaging in gainful employment for the foreseeable future.

222. [REDACTED] suffers significant psychological and emotional distress on a daily basis as a direct and proximate result of the actions of Defendant Duke.

223. Due to her lack of income, [REDACTED] was evicted from her apartment in Raleigh by a Wake County Sheriff's deputy. [REDACTED] then returned to the New York City area, which she could only accomplish by taking a bus. Consequently, she had to abandon countless personal possessions by leaving them in her Raleigh apartment.

224. She has suffered other consequential injuries from her loss of income.

225. [REDACTED] loss of income, loss of personal property, and other related injuries are the direct and proximate result of Defendant Duke's actions.

**COUNT I:
Religious Discrimination in
Violation of Title VII
(Disparate Treatment)**

226. The preceding paragraphs are hereby realleged and incorporated herein by reference.

227. Religion constitutes a protected class under Title VII.

228. [REDACTED] supervisors at Defendant Duke do not hold [REDACTED] [REDACTED] same religious beliefs.

229. [REDACTED] was subjected to adverse employment actions by Defendant Duke.

230. [REDACTED] protected status (religion) was a motivating factor in the decisions of Defendant Duke that constituted adverse employment actions.

231. The above allegations of this complaint describe conduct that constitutes direct evidence of invidious discrimination on the basis of religion in violation of Title VII.

232. At the time Defendant Duke took adverse employment actions against [REDACTED] job performance was satisfactory.

233. At the time Defendant Duke took adverse employment actions against [REDACTED] was qualified for her position and for the position(s) for which she applied.

234. Employees outside of the protected class were treated more favorably than [REDACTED] including by receiving promotions from "orientation" status and by receiving clinical ladder promotions like that for which [REDACTED] applied.

235. Upon information and belief, Defendant Duke has actively discriminated against others who hold pro-life religious views on prior occasions.

236. Defendant Duke's discrimination against [REDACTED] was intentional.

237. Defendant Duke's discrimination against [REDACTED] on the basis of her religion took several forms.

238. Defendant Duke discriminated against [REDACTED] on the basis of her religion in numerous specific ways, including but not limited to the following: (1) its failure to promote [REDACTED] from "orientation" to regular status and denying [REDACTED] a clinical ladder promotion; (2) its repeated disciplining of [REDACTED] wrongfully and without basis, in ways that would

negatively affect her professional standing (both with Defendant Duke and generally) and her licensure; (3) its denial and interference in myriad ways with [REDACTED] receipt of income and fringe benefits, including insurance, from Defendant Duke; (4) its placing [REDACTED] on administrative leave and later compelling her to take an unpaid personal leave of absence for medical reasons; (5) failing to make any payments under the Nurse Loan Forgiveness Program; and (6) other ways described in this complaint or otherwise to be established by the proof at trial.

239. Defendant Duke lacked any justification for the adverse employment actions taken against [REDACTED]

240. Any justification offered by Defendant Duke for its adverse employment actions is either false or insufficient to support the nature of the adverse employment actions taken.

241. Defendant Duke therefore violated Title VII, and [REDACTED] is entitled to the relief set out more fully below, including compensatory damages, back pay, front pay, compensation for benefits under the Nurse Loan Forgiveness Program, past and future medical and counseling expenses, interest, and reasonable attorneys' fees and costs of the action.

242. The events described here further justify an award of punitive damages under Title VII.

**COUNT II:
Religious Discrimination in
Violation of Title VII
(Harassment/Hostile Work Environment)**

243. The preceding paragraphs are hereby realleged and incorporated herein by reference.

244. Defendant Duke also subjected [REDACTED] to harassment and a hostile work environment because of her religion.

245. The statements of [REDACTED] during training regarding Defendant Duke's policy on religious accommodations and abortion constituted *quid pro quo* harassment on the basis of religion in violation of Title VII.

246. The statements of [REDACTED] during training regarding Defendant Duke's policies constituted part of a hostile work environment.

247. Additionally, the harassment and hostile work environment suffered by [REDACTED] on account of her religion further arose from a series of actions by Defendant Duke that include, but are not limited to, the following:

- a. Imposing discipline on [REDACTED] for baseless, unsubstantiated, and ultimately pretextual reasons;
- b. Imposing discipline that negatively affects [REDACTED] professional standing and/or licensure;
- c. Violating its own internal policies and procedures regarding the imposition of discipline on employees;

- d. Failing to articulate objective benchmarks by which to measure Ms. Pedro's progress as an employee;
- e. Failing to properly communicate with [REDACTED];
- f. Keeping [REDACTED] on "orientation" status longer than necessary and without cause, thereby subjecting her to embarrassment and ridicule;
- g. Denying [REDACTED] the clinical ladder promotion she sought;
- h. Failing to take steps to address harassing and hostile comments made to [REDACTED] by co-workers and otherwise failing to address hostile actions directed toward [REDACTED];
- i. Sharing sensitive information about [REDACTED] employment status with her co-workers and even initiating harassment of [REDACTED] [REDACTED];
- j. Interfering with an internal investigation by its own human resources personnel into [REDACTED] allegations of unlawful discrimination and harassment;
- k. Unreasonably delaying a decision on [REDACTED]'s second request for a religious accommodation;
- l. Misleading [REDACTED] about when she might receive a decision on her second request for a religious accommodation as well as about other aspects of her request;

- m. Not allowing [REDACTED] to work while her second request for a religious accommodation was pending;
- n. Attempting to force [REDACTED] to engage in *ex parte* discussions with employees or agents of Defendant Duke related to her EEOC charge, and expressly denying [REDACTED] the right to have the assistance of counsel during such discussions;
- o. Forcing [REDACTED] into taking a personal leave of absence due to medical reasons, thereby denying her pay and fringe benefits, including health insurance;
- p. Wrongfully classifying [REDACTED] absence on January 28, 2017, as “unscheduled” and therefore subject to discipline;
- q. Forcing [REDACTED] to pay for her own recertification exam and charging her a fee for not attending her previously scheduled ACLS class at Defendant Duke;
- r. Preventing [REDACTED] from participating in Defendant Duke’s PTO leave sharing program;
- s. Failing to timely pay [REDACTED] and imposing unjustified obstacles to, and delays in, [REDACTED] receipt of her pay;
- t. Violating federal and state wage and hour laws;

- u. Exposing [REDACTED] to HIV in the course of her work and then failing to provide follow up HIV testing after denying her the economic means to obtain testing herself;
- v. Failing to make any payments under the Nurse Loan Forgiveness Program;
- w. Failing to update and maintain correct contact information with her insurers, thereby affecting her receipt of benefits;
- x. Failing to respond to numerous inquiries regarding important employment issues; and/or
- y. Other ways to be established by the proof at trial.

248. This course of conduct by Defendant Duke was motivated by [REDACTED] religion, including her religious beliefs and practices.

249. As such, Defendant Duke engaged in a series of separate acts which constitute one unlawful employment practice for purposes of anti-discrimination law.

250. The harassing conduct was so severe and pervasive that a reasonable person in [REDACTED] position would find her work environment to be hostile or abusive.

251. Defendant Duke has no training program to specifically educate its managers and other employees on the need to respect pro-life religious views or religious views that oppose vaccinations.

252. [REDACTED] complained of harassment to Defendant Duke. Nevertheless, Defendant Duke did nothing to remedy it.

253. Defendant Duke therefore violated Title VII, and [REDACTED] is entitled to the relief set out more fully below, including compensatory damages, back pay, front pay, compensation for benefits under the Nurse Loan Forgiveness Program, past and future medical and counseling expenses, interest, and reasonable attorneys' fees and costs of the action.

254. The events described here further justify an award of punitive damages under Title VII.

**COUNT III:
Religious Discrimination in
Violation of Title VII
(Denial of Religious Accommodation)**

255. The preceding paragraphs are hereby realleged and incorporated herein by reference.

256. Defendant Duke further discriminated against [REDACTED] by failing to grant (and/or constructively denying) her second request for religious accommodation of her sincerely held religious beliefs and religious practices.

257. [REDACTED] *bona fide* religious beliefs and practices conflict with certain of Defendant Duke's employment requirements.

258. [REDACTED] brought this conflict to the attention of Defendant Duke.

259. [REDACTED] religious beliefs and practices were the basis for Defendant Duke's adverse employment actions.

260. Accommodating [REDACTED] second request for religious accommodation would not have imposed an undue hardship on Defendant Duke.

261. Defendant Duke therefore violated Title VII, and [REDACTED] is entitled to the relief set out more fully below, including compensatory damages, back pay, front pay, compensation for benefits under the Nurse Loan Forgiveness Program, past and future medical and counseling expenses, interest, and reasonable attorneys' fees and costs of the action.

262. The events described here further justify an award of punitive damages under Title VII.

**COUNT IV:
Retaliation in
Violation of Title VII**

263. The preceding paragraphs are hereby realleged and incorporated herein by reference.

264. [REDACTED] engaged in activity protected by Title VII on several occasions while employed by Defendant Duke, including (but not limited to) making requests for religious accommodation, complaining about perceived discrimination and harassment, and filing a charge with the EEOC.

265. As set forth in the preceding paragraphs of this complaint, Defendant Duke subjected [REDACTED] to adverse employment actions at the time, and after, her protected conduct took place.

266. These adverse employment actions were serious enough that they well might have discouraged a reasonable worker from engaging in protected activity.

267. [REDACTED] was subjected to these adverse employment actions because of her protected conduct.

268. Defendant Duke therefore violated Title VII, and [REDACTED] is entitled to the relief set out more fully below, including compensatory damages, back pay, front pay, compensation for benefits under the Nurse Loan Forgiveness Program, past and future medical and counseling expenses, interest, and reasonable attorneys' fees and costs of the action.

269. The events described here further justify an award of punitive damages under Title VII.

**COUNT V:
Constructive Discharge in
Violation of Title VII**

270. The preceding paragraphs are hereby realleged and incorporated herein by reference.

271. To the extent it is found that [REDACTED] left her employment with Defendant Duke without being formally terminated, such action was the

result of conditions so intolerable that a reasonable person in [REDACTED] position would feel compelled to resign. Therefore, such action constitutes a constructive discharge in violation of Title VII.

272. Defendant Duke therefore violated Title VII, and [REDACTED] is entitled to the relief set out more fully below, including compensatory damages, back pay, front pay, compensation for benefits under the Nurse Loan Forgiveness Program, past and future medical and counseling expenses, interest, and reasonable attorneys' fees and costs of the action.

273. The events described here further justify an award of punitive damages under Title VII.

**COUNT VI:
Termination in Violation of
North Carolina Public Policy**

274. The preceding paragraphs are hereby realleged and incorporated herein by reference.

275. To the extent that Defendant Duke has terminated, or will in the future terminate, [REDACTED] employment, such termination (whether actual or constructive) was unlawful and in violation of North Carolina public policy.

276. Defendant Duke's action therefore gives rise to a claim pursuant to the North Carolina Equal Employment Practices Act, N.C. Gen. Stat. § 143-422.2, and North Carolina common law.

277. As a natural, foreseeable, and proximate result of the wrongful acts alleged herein, [REDACTED] has suffered loss of income and severe emotional distress and mental anguish as well as injury to her reputation.

278. Accordingly, [REDACTED] is entitled to the relief set out more fully below, including compensatory damages, back pay and front pay, compensation for benefits under the Nurse Loan Forgiveness Program, as well as past and future medical and counseling expenses and interest.

**COUNT VII:
Violation of the
Fair Labor Standards Act**

279. The preceding paragraphs are hereby realleged and incorporated herein by reference.

280. Defendant Duke failed to timely pay [REDACTED] certain wages and benefits (including benefits under the Nurse Loan Forgiveness Program) she was owed.

281. Defendant Duke's failure to make timely payment of [REDACTED] wages and benefits violated the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 *et seq.*

282. Defendant Duke's failure to pay [REDACTED] did not result from good faith and reasonable grounds for believing that its act or omission was not a violation of the Fair Labor Standards Act.

283. Defendant Duke is liable to [REDACTED] for compensatory and liquidated damages as well as attorneys' fees, expenses, and costs of the action under 29 U.S.C. § 216(b).

**COUNT VIII:
Violation of the
North Carolina Wage & Hour Act**

284. The preceding paragraphs are hereby realleged and incorporated herein by reference.

285. From August 2016 to the present, Defendant Duke has been [REDACTED] [REDACTED] "employer" within the meaning of N.C. Gen. Stat. § 95-25.2(5) in that it acted directly or indirectly in the interest of an employer in relation to [REDACTED] [REDACTED]

286. From August 2016 to the present, [REDACTED] has been an "employee" of Defendant Duke within the meaning of N.C. Gen. Stat. § 95-25.2(4).

287. As described above, Defendant Duke failed to pay [REDACTED] certain wages and benefits (including benefits under the Nurse Loan Forgiveness Program) within the time periods mandated pursuant to North Carolina law, including N.C. Gen. Stat. § 95-25.6 and/or N.C. Gen. Stat. § 95-25.7.

288. Defendant Duke knew that it owed [REDACTED] these wages and benefits.

289. Defendant Duke nonetheless failed to tender them in a timely manner.

290. Defendant Duke failed to tender these wages and benefits in the usual and customary manner.

291. As a direct and proximate result of Defendant Duke's failures, [REDACTED] suffered unreasonable delay and difficulty in receiving wages and benefits that Defendant Duke was legally obligated to pay her.

292. Defendant Duke's violations of the North Carolina Wage and Hour Act were knowing and willful.

293. Accordingly, [REDACTED] is entitled to compensatory damages as well as liquidated damages pursuant N.C. Gen. Stat. § 95-25.22(a1) in addition to interest under N.C. Gen. Stat. § 24-1, and attorneys' fees, costs, and fees related to bringing this action pursuant to N.C. Gen. Stat. § 95-25.22(d).

**COUNT IX:
Breach of Contract**

294. The preceding paragraphs are hereby realleged and incorporated herein by reference.

295. A legally valid and enforceable contract exists between Defendant Duke and [REDACTED] with respect to the Nurse Loan Forgiveness Program.

296. All conditions precedent to performance of the contract have occurred.

297. No conditions subsequent have excused Defendant Duke's performance.

298. Defendant Duke has breached this contract.

299. Defendant Duke's breach of contract was unjustified and without cause.

300. [REDACTED] has been damaged by Defendant Duke's breach of contract.

301. Accordingly, [REDACTED] is entitled to damages for Defendant Duke's breach of contract.

**COUNT X:
Breach of the Covenant of
Good Faith and Fair Dealing**

302. The preceding paragraphs are hereby realleged and incorporated herein by reference.

303. Defendant Duke was under an obligation to act in good faith and with fair dealing as to the terms of the contract it had with [REDACTED] for repayment of her student loans under the Nurse Loan Forgiveness Program.

304. Defendant Duke has breached its obligation to act in good faith and with fair dealing with respect to repayment of [REDACTED] student loans under the Nurse Loan Forgiveness Program.

305. Defendant Duke's breach of the covenant of good faith and fair dealing was unjustified and without cause.

306. [REDACTED] has been harmed as a result of Defendant Duke's breach of the covenant of good faith and fair dealing.

307. Accordingly, [REDACTED] is entitled to damages for Defendant Duke's breach of the covenant of good faith and fair dealing.

**COUNT XI:
Intentional Infliction of
Emotional Distress**

308. The preceding paragraphs are hereby realleged and incorporated herein by reference.

309. As described above, Defendant Duke has engaged in extreme and outrageous conduct, which was intended to cause severe emotional distress.

310. Defendant Duke's conduct has been without legal justification.

311. [REDACTED] has in fact sustained severe emotional distress as a direct and proximate result of Defendant Duke's conduct, entitling her to an award of compensatory damages, including past and future loss of income, compensation for benefits under the Nurse Loan Forgiveness Program, and past and future medical and counseling expenses.

**COUNT XII:
Negligent Infliction of
Emotional Distress**

312. The preceding paragraphs are hereby realleged and incorporated herein by reference.

313. Alternatively, the actions of Defendant Duke negligently inflicted emotional distress upon [REDACTED]

314. Defendant Duke owed a duty of care to [REDACTED]

315. Defendant Duke negligently breached that duty.

316. Defendant Duke was negligent in the following respects:

- a. Violating its own internal policies regarding employee discipline;
- b. Failing to reasonably manage its response to allegations of discrimination, harassment, and retaliation;
- c. Failing to take reasonable steps to protect [REDACTED] following her complaints of discrimination, harassment, and retaliation;
- d. Failing to properly manage [REDACTED] leave days, income, and fringe benefits so as to ensure she received what she was entitled to receive;
- e. Providing incorrect wage payments and failing to promptly correct or clarify its errors;
- f. Exposing [REDACTED] to HIV in the course of her work and then failing to provide follow up HIV testing after denying her the economic means to obtain testing herself; and/or
- g. Other ways to be established by the proof at trial.

317. It was reasonably foreseeable that this negligent conduct would cause [REDACTED] severe emotional distress and mental anguish.

318. As a direct and proximate result of Defendant Duke's negligence, [REDACTED] has in fact sustained severe emotional distress and mental anguish, entitling her to an award of compensatory damages, including past and future loss of income, compensation for benefits under the Nurse Loan Forgiveness Program, and past and future medical and counseling expenses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff [REDACTED] respectfully prays that the Court grant her the following relief:

1. Grant her a trial by jury on all claims so triable;
2. Grant her compensatory damages for back pay, lost fringe benefits, benefits under the Nurse Loan Forgiveness Program, past and future medical and counseling expenses, past and future emotional distress, past and future pain and suffering, past and future loss of enjoyment of life, loss of personal property, expenses necessary to secure new employment, and past and future injury to her reputation;
3. Grant her an award of front pay, including future fringe benefits;
4. Grant her an award of punitive damages pursuant to 42 U.S. Code § 1981a(b)(1);
5. Grant her liquidated damages pursuant to 29 U.S.C. § 216(b) and N.C. Gen. Stat. § 95-25.22(a1);
6. Grant her prejudgment and post-judgment interest;

7. Grant her attorneys' fees and costs pursuant 42 U.S.C. § 2000e-5(k), 29 U.S.C. § 216(b), N.C. Gen. Stat. § 95-25.22(d), and as may be otherwise allowed by applicable law;

8. Tax costs of this action against Defendant Duke University and/or Defendant Duke University Health System, Inc.; and

9. Grant her such other and further relief as the Court may deem just and proper.

Respectfully submitted, this the 27th day of October, 2017.

THOMAS MORE LAW CENTER

BY: s

A large black rectangular redaction covers the signature and name of the attorney. The text "BY: s" is visible to the left of the redaction.

*Admitted to practice law in North Carolina, South Carolina, and Tennessee. Not admitted to practice law in Michigan.

† *Pro hac vice* pursuant to L.R. 83.1(d).

JS-44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Sara Theresa Pedro

(b) County of Residence of First Listed Plaintiff Bronx (New York)
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

Duke University and Duke University Health System, Inc.

County of Residence of First Listed Defendant Durham (North Carolina)
(BY U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- 1 U.S. Government Plaintiff
- 3 Federal Question *(U.S. Government Not a Party)*
- 2 U.S. Government Defendant
- 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

- | | | | | | |
|---|----------------------------|-----------------------------|---|-----------------------------|-----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 3 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 6 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 7 | <input type="checkbox"/> 8 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 9 | <input type="checkbox"/> 10 | Foreign Nation | <input type="checkbox"/> 11 | <input type="checkbox"/> 12 |

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS	PROPERTY/INJURY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 118 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <i>(Excludes Veterans)</i> <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care <input type="checkbox"/> 368 Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 369 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 605 Drug Related Sectors of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 420 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 420 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 420 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 325 False Claims Act <input type="checkbox"/> 370 Civil Term (31 USC 372-383) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Arbitration <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 430 Commerce <input type="checkbox"/> 460 Disposition <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 690 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statute
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Eminent Domain <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts in Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 250 All Other Real Property	<input type="checkbox"/> 400 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<input type="checkbox"/> 461 Habeas Corpus <input type="checkbox"/> 463 Alien Detention <input type="checkbox"/> 510 Appeals to Vacate Sentence <input type="checkbox"/> 520 General <input type="checkbox"/> 521 Death Penalty <input type="checkbox"/> 530 Misdemeanor & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detention - Conditions of Confinement	<input type="checkbox"/> 700 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 750 Other Labor Litigation <input type="checkbox"/> 791 Equalization Reimbursement Income Security Act	<input type="checkbox"/> 801 SSA (1935) <input type="checkbox"/> 802 Black Lung (923) <input type="checkbox"/> 803 OPWC/DIFW (405(g)) <input type="checkbox"/> 804 SSD Title XVI <input type="checkbox"/> 805 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7509 <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7509

V. ORIGIN *(Place an "X" in One Box Only)*

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District *(en banc)*
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*.
42 U.S.C. § 2000e et seq.; 29 U.S.C. § 201 et seq.; 28 U.S.C. § 1347(a).
 Brief description of cause:
Religious discrimination, harassment, and retaliation under Title VII; FLSA; NC statutory and common law claims.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.C.P. DEMAND \$ _____ CHECK YES only if demanded in complaint.
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See Instructions) JUDGE _____ DOCKET NUMBER _____

DATE 10/27/2017 NUMBER OF COPIES OF RECORD _____

FOR OFFICE USE ONLY RECEIPT # _____ AMOUNT _____ APPLYING I/P _____ JUDGE _____ MAG. JUDGE _____

JS 44 Reverse (Rev. 06/17)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation - Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation - Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553. Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

Document 1-1 Filed 10/27/17 Page 2 of 2



Exhibit 8



January 10, 2018

Centralized Case Management Operations
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201

**Re: Complaint for Discrimination by State of Hawaii in Violation of Federal
Conscience-Protecting Statutes**

Contact attorney for complainants:

[REDACTED]
American Center for Law and Justice
6375 New Hope Rd.
P.O. Box 60
New Hope, KY 40052
(502) 549-7020
[REDACTED]@aclj.org

Complaints filed on behalf of:

Aloha Pregnancy Care and Counseling Center,
Inc.
45-1151 G Kamehameha Hwy.
Kaneohe, HI 96744
(808) 234-7233

*Person/Agency/Organization committing
discrimination:*

State of Hawaii
c/o Attorney General Douglas Chin
Department of the Attorney General
425 Queen Street
Honolulu, HI 96813
(808) 586-1500

Date and nature of discriminatory acts:

On July 12, 2017, the Hawaii legislature enacted Hawaii Senate Bill 501 (hereafter, "the Act"), a bill which compels limited service pregnancy centers, such as the Complainant, to disseminate a message crafted by the State which is, in effect, an advertisement for free or low-cost contraceptive services and abortions. A copy of the law is attached.

Among other things, the Act requires that certain facilities, such as those operated by Complainant, post in their waiting rooms, or distribute to their clients in written or digital form, a

6375 New Hope Road
New Hope, Kentucky 40052
(502) 549-7020
(502) 549-5252 (Fax/voice)

message from the State of Hawaii that the State “has public programs that provide immediate free or low-cost access to comprehensive family planning services, including, but not limited to, all FDA-approved methods of contraception and pregnancy-related services for eligible women.” One of the “comprehensive family planning services” that Hawaii pays for is elective abortions.

Those who fail or refuse to comply with the Act are subject to a civil penalty of \$500 for a first offense and \$1000 for each subsequent offense.

Complainant is a non-profit, faith-based pregnancy resource center that offers pregnancy related care and counseling to its clients free of charge and consistent with Complainant’s religious beliefs. Those beliefs compel Aloha not to perform, counsel for, or provide referrals for, or education about contraceptives or abortion. Because of these beliefs, Complainant objects to posting or distributing the State’s dictated message, because they view it as requiring them to approve of and refer for contraceptives and abortions. At a minimum, the Act unlawfully requires Complainant’s counselors to tailor their discussion of contraception and abortion in a manner and at a time dictated by the State instead of by the Complainant itself.

Inasmuch as the Act compels the Complainant to participate in, and refer for contraception and abortions, it violates Complainant’s rights under at least two federal conscience-protecting statutes:

- The Public Health Service Act, 42 USC § 238n, prohibiting the federal government and any state or local government receiving federal financial assistance from discriminating against any health care entity on the basis that the entity: 1) *refuses* to undergo training in the performance of induced abortions, to require or provide such training, *to perform such abortions, or to provide referrals for such training or such abortions*; 2) refuses to make arrangements for such activities; or 3) attends (or attended) a post-graduate physician training program, or any other program of training in the health professions, that does not (or did not) perform induced abortions or require, provide, or refer for training in the performance of induced abortions, or make arrangements for the provision of such training (emphasis added);
- The Weldon Amendment, originally passed as part of the HHS appropriation and readopted (or incorporated by reference) in each subsequent HHS appropriations act since 2005. It provides that “[n]one of the funds made available in this Act [making appropriations for the Departments of Labor, Health and Human Services, and Education] may be made available to a Federal agency or program, *or to a state or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions*” (emphasis added). It also defines “health care entity” to include “an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.”

The Complainant herein faces ongoing discrimination by the State of Hawaii which is currently defending the discriminatory aspects of the law in U.S. District Court.¹ The Complainant hereby requests OCR to investigate this matter and take appropriate action to remedy this ongoing discrimination in violation of federal law.

Date: January 10, 2018

AMERICAN CENTER FOR LAW AND JUSTICE

By: 

¹ The Complainant and the State are currently litigating the constitutionality of the Act in the matter of *Aloha Pregnancy Care and Counseling v. Chin*, Case No. 1:17-cv-00343 (D. Haw.).

THE SENATE
TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAII

S.B. NO. 501
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that all women in Hawaii,
2 regardless of income, should have meaningful access to effective
3 reproductive health services. Public programs providing
4 insurance coverage and direct services for reproductive health
5 care and counseling to eligible, low-income women are currently
6 available through the department of health and department of
7 human services.

8 Thousands of women in Hawaii are in need of publicly-funded
9 family planning services, contraception services and education,
10 pregnancy-related services, prenatal care, and birth-related
11 services. In 2010, sixteen thousand women in Hawaii experienced
12 an unintended pregnancy, which can carry enormous social and
13 economic costs to both individual families and to the State.
14 Many women in Hawaii, however, remain unaware of the public
15 programs available to provide them with contraception, health
16 education and counseling, family planning, prenatal care,
17 pregnancy-related, and birth-related services.

2017-2606 SB501 CD1 SMA-3.doc



1

S.B. NO. 501
S.D. 1
H.D. 2
C.D. 1

1 Because family planning decisions are time sensitive and
2 care early in pregnancy is important, Hawaii must make every
3 possible effort to advise women of all available reproductive
4 health programs. In Hawaii, low-income women can receive
5 immediate access to free or low-cost comprehensive family
6 planning services and pregnancy-related care through Med-QUEST
7 and the department of health's family planning program.
8 Providers who contract with these programs are able to
9 immediately enroll patients in these programs at the time of a
10 health center visit.

11 Requiring facilities that provide pregnancy- or family
12 planning-related services to provide accurate health information
13 and to inform clients of the availability of and enrollment
14 procedures for reproductive health programs will help ensure
15 that all women in the State can quickly obtain the information
16 and services that they need to make and implement informed,
17 timely, and personally appropriate reproductive health
18 decisions.

19 The purpose of this Act is to ensure that women in Hawaii
20 are able to make personal reproductive health decisions with



S.B. NO. 501
S.D. 1
H.D. 2
C.D. 1

1 full and accurate information regarding their rights to access
2 the full range of health care services that are available.

3 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
4 amended by adding two new sections to be appropriately
5 designated and to read as follows:

6 "§321-A Limited service pregnancy centers; notice of
7 reproductive health services. (a) For purposes of this
8 section, "limited service pregnancy center" or "center":

9 (1) Means a facility that:

10 (A) Advertises or solicits clients or patients with
11 offers to provide prenatal sonography, pregnancy
12 tests, or pregnancy options counseling;

13 (B) Collects health information from clients or
14 patients; and

15 (C) Provides family planning or pregnancy-related
16 services, including but not limited to obstetric
17 ultrasound, obstetric sonogram, pregnancy
18 testing, pregnancy diagnosis, reproductive health
19 counseling, or prenatal care; and

20 (2) Shall not include a health care facility. For the
21 purposes of this paragraph, a "health care facility"



S.B. NO. 501
S.D. 1
H.D. 2
C.D. 1

1 means any facility designed to provide comprehensive
2 health care, including but not limited to hospitals
3 licensed pursuant to chapter 321, intermediate care
4 facilities, organized ambulatory health care
5 facilities, emergency care facilities and centers,
6 health maintenance organizations, federally qualified
7 health centers, and other facilities providing
8 similarly organized comprehensive health care
9 services.

10 (b) Every limited service pregnancy center in the State
11 shall disseminate on-site to clients or patients the following
12 written notice in English or another language requested by a
13 client or patient:

14 "Hawaii has public programs that provide immediate free or
15 low-cost access to comprehensive family planning services,
16 including, but not limited to, all FDA-approved methods of
17 contraception and pregnancy-related services for eligible women.

18 To apply online for medical insurance coverage, that will
19 cover the full range of family planning and prenatal care
20 services, go to mybenefits.hawaii.gov.



S.B. NO. 501
S.D. 1
H.D. 2
C.D. 1

1 Only ultrasounds performed by qualified healthcare
2 professionals and read by licensed clinicians should be
3 considered medically accurate."

4 The notice shall contain the internet address for online
5 medical assistance applications and the statewide phone number
6 for medical assistance applications.

7 (c) The information required by subsection (b) shall be
8 disclosed in at least one of the following ways:

9 (1) A public notice on a sign sized at least eight and
10 one-half inches by eleven inches, written in no less
11 than twenty-two point type, and posted in a clear and
12 conspicuous place within the center's waiting area so
13 that it may be easily read by individuals seeking
14 services from the center; or

15 (2) A printed or digital notice written or rendered in no
16 less than fourteen point type that is distributed
17 individually to each patient or client at the time of
18 check-in for services; provided that a printed notice
19 shall be available to all individuals who cannot or do
20 not wish to receive the notice in a digital format.



S.B. NO. 501
S.D. 1
H.D. 2
C.D. 1

1 (d) No limited service pregnancy center that collects
2 health information from any individual seeking or receiving its
3 services shall disclose any individually identifiable health
4 information to any other person, entity, or organization without
5 express written authorization from the subject individual. Any
6 disclosure made under this section shall be limited by the
7 express terms of the written authorization and all applicable
8 state and federal laws and regulations, including the federal
9 Health Insurance Portability and Accountability Act of 1996 and
10 title 45 Code of Federal Regulations part 164.

11 (e) A limited service pregnancy center that provides or
12 assists in the provision of pregnancy testing shall provide the
13 individual tested with a free written statement of the results
14 of the pregnancy test in English or another language requested
15 by a client or patient immediately after the test is completed.

16 (f) Upon receipt of a written request from an individual
17 to examine or copy all or part of the individual's recorded
18 health information or other information retained by a limited
19 service pregnancy center, the center shall, promptly as required
20 under the circumstances but in no case later than fifteen
21 working days after receiving the request:



S.B. NO. 501
S.D. 1
H.D. 2
C.D. 1

- 1 (1) Make the information available for examination by the
2 individual during regular business hours;
3 (2) Provide a free copy to the individual, if requested;
4 (3) Inform the individual if the information does not
5 exist or cannot be found; and
6 (4) If the center does not maintain the record or
7 information, inform the individual of that fact and
8 provide the name and address of the entity that
9 maintains the record or information.

10 §321-B Limited service pregnancy centers; enforcement;
11 private right of action. (a) A limited service pregnancy
12 center that violates section 321-A shall be liable for a civil
13 penalty of \$500 for a first offense and \$1,000 for each
14 subsequent offense. If the center is provided with reasonable
15 notice of noncompliance, which informs the center that it is
16 subject to a civil penalty if it does not correct the violation
17 within thirty days from the date the notice is sent to the
18 center, and the violation is not corrected as of the expiration
19 of the thirty-day notice period, the attorney general may bring
20 an action in the district court of the district in which the
21 center is located to enforce this section.



S.B. NO. 501
S.D. 1
H.D. 2
C.D. 1

1 A civil penalty imposed pursuant to this subsection shall
2 be deposited to the credit of the general fund.

3 (b) Any person who is aggrieved by a limited service
4 pregnancy center's violation of section 321-A may bring a civil
5 action against the limited service pregnancy center in the
6 district court of the district in which the center is located to
7 enjoin further violations and to recover actual damages
8 sustained together with the costs of the suit including
9 reasonable attorneys' fees. The court may, in its discretion,
10 increase the award of damages to an amount not to exceed three
11 times the actual damages sustained. If damages are awarded
12 pursuant to this subsection, the court may, in its discretion,
13 impose on a liable center a civil fine of not more than \$1,000
14 to be paid to the plaintiff.

15 A party seeking civil damages under this subsection may
16 recover upon proof of a violation by a preponderance of the
17 evidence.

18 For the purposes of this subsection, "person" includes a
19 natural or legal person.

20 (c) The enforcement procedure and remedies provided by
21 this section shall be in addition to any other procedure or



S.B. NO. 501
S.D. 1
H.D. 2
C.D. 1

1 remedy that may be available to the State or a person aggrieved
2 by a violation of this chapter.

3 (d) This section and section 321-A are not intended to
4 require regulation or oversight of limited service pregnancy
5 centers by the department of health."

6 SECTION 3. In codifying the new sections added by section
7 2 of this Act, the revisor of statutes shall substitute
8 appropriate section numbers for the letters used in designating
9 the new sections in this Act.

10 SECTION 4. If any provision of this Act, or the
11 application thereof to any person or circumstance, is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act that can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 5. New statutory material is underscored.

17 SECTION 6. This Act shall take effect upon its approval.



S.B. NO. 501
S.D. 1
H.D. 2
C.D. 1

Report Title:

Limited Service Pregnancy Centers; Disclosures; Privacy; Remedy

Description:

Requires all limited service pregnancy centers to disclose the availability of and enrollment information for reproductive health services. Defines limited service pregnancy center. Establishes privacy and disclosure requirements for individual records and information. Authorizes civil penalties and civil actions for enforcement and remedy. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

2017-2606 SB501 CD1 SMA-3.doc



Exhibit 9



**DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE FOR CIVIL RIGHTS (OCR)
CIVIL RIGHTS DISCRIMINATION COMPLAINT**

Form Approved: OMB No. 0990-0269.
See OMB Statement on Reverse.



YOUR FIRST NAME [REDACTED]	YOUR LAST NAME [REDACTED]
HOME CELL PHONE (Please include area code) [REDACTED]	WORK PHONE (Please include area code) [REDACTED]
STREET ADDRESS [REDACTED]	CITY [REDACTED]
STATE [REDACTED]	E-MAIL ADDRESS (If available) [REDACTED]

Are you filing this complaint for someone else? Yes No
If Yes, whose civil rights do you believe were violated?

FIRST NAME The Little Sisters of the Poor	LAST NAME [REDACTED]
--	-------------------------

I believe that I have been (or someone else has been) discriminated against on the basis of:

- Race / Color / National Origin
 Age
 Religion
 Sex
 Disability
 Other (specify): _____

Who or what agency or organization do you believe discriminated against you (or someone else)?

PERSON/AGENCY/ORGANIZATION
Commonwealth of Pennsylvania, Attorney General Josh Shapiro

STREET ADDRESS Office of Attorney General , Strawberry Square, 16th Floor		CITY Harrisburg
STATE Pennsylvania	ZIP 17120	PHONE (Please include area code) (717) 787-3391

When do you believe that the civil right discrimination occurred?

LIST DATE(S)
10/11/2017, 01/11/2018

Describe briefly what happened. How and why do you believe that you have been (or someone else has been) discriminated against? Please be as specific as possible. (Attach additional pages as needed)

Pennsylvania is trying to force religious objectors to provide insurance coverage for abortion-inducing drugs and devices, along with contraceptives and sterilization. Pennsylvania itself does not require health insurance plans governed by state law to cover contraceptives, <https://www.governor.pa.gov/governor-wolf-calls-legislature-make-birth-control-coverage-mandate/>, but that has not stopped it from challenging the federal government's religious exemption of the Little Sisters of the Poor (LSP) from a federal contraception mandate. Pennsylvania has filed a federal

This field may be truncated due to size limit. See the "Allegation Description" file in the case folder.

Please sign and date this complaint. You do not need to sign if submitting this form by email because submission by email represents your signature.

SIGNATURE [REDACTED]	DATE (mm/dd/yyyy) 01/11/2018
-------------------------	---------------------------------

Filing a complaint with OCR is voluntary. However, without the information requested above, OCR may be unable to proceed with your complaint. We collect this information under authority of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and other civil rights statutes. We will use the information you provide to determine if we have jurisdiction and, if so, how we will process your complaint. Information submitted on this form is treated confidentially and is protected under the provisions of the Privacy Act of 1974. Names or other identifying information about individuals are disclosed when it is necessary for investigation of possible discrimination, for internal systems operations, or for routine uses, which include disclosure of information outside the Department of Health and Human Services (HHS) for purposes associated with civil rights compliance and as permitted by law. It is illegal for a recipient of Federal financial assistance from HHS to intimidate, threaten, coerce, or discriminate or retaliate against you for filing this complaint or for taking any other action to enforce your rights under Federal civil rights laws. You are not required to use this form. You also may write a letter or submit a complaint electronically with the same information. To submit an electronic complaint, go to OCR's web site at: www.hhs.gov/ocr/civilrights/complaints/index.html. To mail a complaint see reverse page for OCR Regional addresses.

The remaining information on this form is optional. Failure to answer these voluntary questions will not affect OCR's decision to process your complaint.

Do you need special accommodations for us to communicate with you about this complaint? (Check all that apply)

- Braille
 Large Print
 Cassette tape
 Computer diskette
 Electronic mail
 TDD
 Sign language interpreter (specify language): _____
 Foreign language interpreter (specify language): _____ Other: _____

If we cannot reach you directly, is there someone we can contact to help us reach you?

FIRST NAME		LAST NAME	
HOME / CELL PHONE (Please include area code)		WORK PHONE (Please include area code)	
STREET ADDRESS		CITY	
STATE	ZIP	E-MAIL ADDRESS (If available)	

Have you filed your complaint anywhere else? If so, please provide the following. (Attach additional pages as needed)

PERSON/AGENCY/ORGANIZATION/ COURT NAME(S)

DATE(S) FILED	CASE NUMBER(S) (If known)
---------------	---------------------------

To help us better serve the public, please provide the following information for the person you believe was discriminated against (you or the person on whose behalf you are filing).

ETHNICITY (select one) RACE (select one or more)
 Hispanic or Latino
 American Indian or Alaska Native
 Asian
 Native Hawaiian or Other Pacific Islander
 Not Hispanic or Latino
 Black or African American
 White
 Other (specify): _____
 PRIMARY LANGUAGE SPOKEN (if other than English) _____

How did you learn about the Office for Civil Rights?

- HHS Website/Internet Search
 Family/Friend/Associate
 Religious/Community Org
 Lawyer/Legal Org
 Phone Directory
 Employer
 Fed/State/Local Gov
 Healthcare Provider/Health Plan
 Conference/OCR Brochure
 Other (specify): _____

To mail a complaint, please type or print, and return completed complaint to the OCR Regional Address based on the region where the alleged violation took place. If you need assistance completing this form, contact the appropriate region listed below.

<p>Region I - CT, ME, MA, NH, RI, VT Office for Civil Rights, DHHS JFK Federal Building - Room 1875 Boston, MA 02203 (617) 565-1340; (617) 565-1343 (TDD) (617) 565-3809 FAX</p>	<p>Region V - IL, IN, MI, MN, OH, WI Office for Civil Rights, DHHS 233 N. Michigan Ave. - Suite 240 Chicago, IL 60601 (312) 886-2359; (312) 353-5693 (TDD) (312) 886-1807 FAX</p>	<p>Region IX - AZ, CA, HI, NV, AS, GU, The U.S. Affiliated Pacific Island Jurisdictions Office for Civil Rights, DHHS 90 7th Street, Suite 4-100 San Francisco, CA 94103 (415) 437-8310; (415) 437-8311 (TDD) (415) 437-8329 FAX</p>
<p>Region II - NJ, NY, PR, VI Office for Civil Rights, DHHS 26 Federal Plaza - Suite 3312 New York, NY 10278 (212) 264-3313; (212) 264-2355 (TDD) (212) 264-3039 FAX</p>	<p>Region VI - AR, LA, NM, OK, TX Office for Civil Rights, DHHS 1301 Young Street - Suite 1169 Dallas, TX 75202 (214) 767-4056; (214) 767-8940 (TDD) (214) 767-0432 FAX</p>	
<p>Region III - DE, DC, MD, PA, VA, WV Office for Civil Rights, DHHS 150 S. Independence Mall West - Suite 372 Philadelphia, PA 19106-3499 (215) 861-4441; (215) 861-4440 (TDD) (215) 861-4431 FAX</p>	<p>Region VII - IA, KS, MO, NE Office for Civil Rights, DHHS 601 East 12th Street - Room 248 Kansas City, MO 64106 (816) 426-7277; (816) 426-7065 (TDD) (816) 426-3686 FAX</p>	
<p>Region IV - AL, FL, GA, KY, MS, NC, SC, TN Office for Civil Rights, DHHS 61 Forsyth Street, SW. - Suite 16T70 Atlanta, GA 30303-8909 (404) 562-7886; (404) 562-7884 (TDD) (404) 562-7881 FAX</p>	<p>Region VIII - CO, MT, ND, SD, UT, WY Office for Civil Rights, DHHS 999 18th Street, Suite 417 Denver, CO 80202 (303) 844-2024; (303) 844-3439 (TDD) (303) 844-2025 FAX</p>	<p>Region X - AK, ID, OR, WA Office for Civil Rights, DHHS 701 Fifth Avenue, Suite 1600, MS - 11 Seattle, WA 98104 (206) 615-2290; (206) 615-2296 (TDD) (206) 615-2297 FAX</p>

Burden Statement

Public reporting burden for the collection of information on this complaint form is estimated to average 45 minutes per response, including the time for reviewing instructions, gathering the data needed and entering and reviewing the information on the completed complaint form. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: HHS/OS Reports Clearance Officer, Office of Information Resources Management, 200 Independence Ave. S.W., Room 531H, Washington, D.C. 20201. **Please do not mail complaint form to this address.**

HHS-699 (7/09) (BACK)



COMPLAINANT CONSENT FORM

The Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) has the authority to collect and receive material and information about you, including personnel and medical records, which are relevant to its investigation of your complaint.

To investigate your complaint, OCR may need to reveal your identity or identifying information about you to persons at the entity or agency under investigation or to other persons, agencies, or entities.

The Privacy Act of 1974 protects certain federal records that contain personally identifiable information about you and, with your consent, allows OCR to use your name or other personal information, if necessary, to investigate your complaint.

Consent is voluntary, and it is not always needed in order to investigate your complaint; however, failure to give consent is likely to impede the investigation of your complaint and may result in the closure of your case.

Additionally, OCR may disclose information, including medical records and other personal information, which it has gathered during the course of its investigation in order to comply with a request under the Freedom of Information Act (FOIA) and may refer your complaint to another appropriate agency.

Under FOIA, OCR may be required to release information regarding the investigation of your complaint; however, we will make every effort, as permitted by law, to protect information that identifies individuals or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

Please read and review the documents entitled, *Notice to Complainants and Other Individuals Asked to Supply Information to the Office for Civil Rights* and *Protecting Personal Information in Complaint Investigations* for further information regarding how OCR may obtain, use, and disclose your information while investigating your complaint.

In order to expedite the investigation of your complaint if it is accepted by OCR, please read, sign, and return one copy of this consent form to OCR with your complaint. Please make one copy for your records.

- As a complainant, I understand that in the course of the investigation of my complaint it may become necessary for OCR to reveal my identity or identifying information about me to persons at the entity or agency under investigation or to other persons, agencies, or entities.



- I am also aware of the obligations of OCR to honor requests under the Freedom of Information Act (FOIA). I understand that it may be necessary for OCR to disclose information, including personally identifying information, which it has gathered as part of its investigation of my complaint.
- In addition, I understand that as a complainant I am covered by the Department of Health and Human Services' (HHS) regulations which protect any individual from being intimidated, threatened, coerced, retaliated against, or discriminated against because he/she has made a complaint, testified, assisted, or participated in any manner in any mediation, investigation, hearing, proceeding, or other part of HHS' investigation, conciliation, or enforcement process.

After reading the above information, please check ONLY ONE of the following boxes:

CONSENT: I have read, understand, and agree to the above and give permission to OCR to reveal my identity or identifying information about me in my case file to persons at the entity or agency under investigation or to other relevant persons, agencies, or entities during any part of HHS' investigation, conciliation, or enforcement process.

CONSENT DENIED: I have read and I understand the above and do not give permission to OCR to reveal my identity or identifying information about me. I understand that this denial of consent is likely to impede the investigation of my complaint and may result in closure of the investigation.

Signature: _____ Date: 01/11/2018
*Please sign and date _____ need to sign if submitting this form by email because submission by email represents your signature.

Name (Please print): _____

Address: _____

Telephone Number: _____



NOTICE TO COMPLAINANTS AND OTHER INDIVIDUALS ASKED TO SUPPLY INFORMATION TO THE OFFICE FOR CIVIL RIGHTS

Privacy Act

The Privacy Act of 1974 (5 U.S.C. §552a) requires OCR to notify individuals whom it asks to supply information that:

— OCR is authorized to solicit information under:

- (i) Federal laws barring discrimination by recipients of Federal financial assistance on grounds of race, color, national origin, disability, age, sex, religion under programs and activities receiving Federal financial assistance from the U.S. Department of Health and Human Services (HHS), including, but not limited to, Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), the Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.), and Sections 794 and 855 of the Public Health Service Act (42 U.S.C. §§295m and 296g);
- (ii) Titles VI and XVI of the Public Health Service Act (42 U.S.C. §§291 et seq. and 300s et seq.) and 42 C.F.R. Part 124, Subpart G (Community Service obligations of Hill-Burton facilities);
- (iii) 45 C.F.R. Part 85, as it implements Section 504 of the Rehabilitation Act in programs conducted by HHS; and
- (iv) Title II of the Americans with Disabilities Act (42 U.S.C. §12131 et seq.) and Department of Justice regulations at 28 C.F.R. Part 35, which give HHS "designated agency" authority to investigate and resolve disability discrimination complaints against certain public entities, defined as health and service agencies of state and local governments, regardless of whether they receive federal financial assistance.
- (v) The Standards for the Privacy of Individually Identifiable Health Information (The Privacy Rule) at 45 C.F.R. Part 160 and Subparts A and E of Part 164, which enforce the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (42 U.S.C. §1320d-2).

OCR will request information for the purpose of determining and securing compliance with the Federal laws listed above. Disclosure of this requested information to OCR by individuals who are not recipients of federal financial assistance is voluntary; however, even individuals who voluntarily disclose information are subject to prosecution and penalties under 18 U.S.C. § 1001 for making false statements.

Additionally, although disclosure is voluntary for individuals who are not recipients of federal financial assistance, failure to provide OCR with requested information may preclude OCR from making a compliance determination or enforcing the laws above.



OCR has the authority to disclose personal information collected during an investigation without the individual's consent for the following routine uses:

- (i) to make disclosures to OCR contractors who are required to maintain Privacy Act safeguards with respect to such records;
- (ii) for disclosure to a congressional office from the record of an individual in response to an inquiry made at the request of the individual;
- (iii) to make disclosures to the Department of Justice to permit effective defense of litigation; and
- (iv) to make disclosures to the appropriate agency in the event that records maintained by OCR to carry out its functions indicate a violation or potential violation of law.

Under 5 U.S.C. §552a(k)(2) and the HHS Privacy Act regulations at 45 C.F.R. §5b.11 OCR complaint records have been exempted as investigatory material compiled for law enforcement purposes from certain Privacy Act access, amendment, correction and notification requirements.

Freedom of Information Act

A complainant, the recipient or any member of the public may request release of OCR records under the Freedom of Information Act (5 U.S.C. §552) (FOIA) and HHS regulations at 45 C.F.R. Part 5.

Fraud and False Statements

Federal law, at 18 U.S.C. §1001, authorizes prosecution and penalties of fine or imprisonment for conviction of "whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry".



PROTECTING PERSONAL INFORMATION IN COMPLAINT INVESTIGATIONS

To investigate your complaint, the Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) will collect information from different sources. Depending on the type of complaint, we may need to get copies of your medical records, or other information that is personal to you. This Fact Sheet explains how OCR protects your personal information that is part of your case file.

HOW DOES OCR PROTECT MY PERSONAL INFORMATION?

OCR is required by law to protect your personal information. The Privacy Act of 1974 protects Federal records about an individual containing personally identifiable information, including, but not limited to, the individual's medical history, education, financial transactions, and criminal or employment history that contains an individual's name or other identifying information.

Because of the Privacy Act, OCR will use your name or other personal information with a signed consent and only when it is necessary to complete the investigation of your complaint or to enforce civil rights laws or when it is otherwise permitted by law.

Consent is voluntary, and it is not always needed in order to investigate your complaint; however, failure to give consent is likely to impede the investigation of your complaint and may result in the closure of your case.

CAN I SEE MY OCR FILE?

Under the Freedom of Information Act (FOIA), you can request a copy of your case file once your case has been closed; however, OCR can withhold information from you in order to protect the identities of witnesses and other sources of information.

CAN OCR GIVE MY FILE TO ANY ONE ELSE?

If a complaint indicates a violation or a potential violation of law, OCR can refer the complaint to another appropriate agency without your permission.

If you file a complaint with OCR, and we decide we cannot help you, we may refer your complaint to another agency such as the Department of Justice.

CAN ANYONE ELSE SEE THE INFORMATION IN MY FILE?

Access to OCR's files and records is controlled by the Freedom of Information Act (FOIA). Under FOIA, OCR may be required to release information about this case upon public request. In the event that OCR receives such a request, we will make every effort,



as permitted by law, to protect information that identifies individuals, or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

If OCR receives protected health information about you in connection with a HIPAA Privacy Rule investigation or compliance review, we will only share this information with individuals outside of HHS if necessary for our compliance efforts or if we are required to do so by another law.

DOES IT COST ANYTHING FOR ME (OR SOMEONE ELSE) TO OBTAIN A COPY OF MY FILE?

In most cases, the first two hours spent searching for document(s) you request under the Freedom of Information Act and the first 100 pages are free. Additional search time or copying time may result in a cost for which you will be responsible. If you wish to limit the search time and number of pages to a maximum of two hours and 100 pages; please specify this in your request. You may also set a specific cost limit, for example, cost not to exceed \$100.00.

If you have any questions about this complaint and consent package,
Please contact OCR at <http://www.hhs.gov/ocr/office/about/contactus/index.html>

OR

Contact your OCR Regional Office
(see Regional Office contact information on page 2 of the Complaint Form)

Exhibit 10

RICHARD C. BAKER
WHITMAN H. BRISKY
JOHN W. MAUCK
NOEL W. STERETT

MAUCK & BAKER, LLC

ONE NORTH LASALLE STREET, SUITE 600
CHICAGO, ILLINOIS 60602

WWW.MAUCKBAKER.COM
TEL: 312.726.1243 FAX: 866.619.8661

[REDACTED]
OF COUNSEL

.....
SORIN A. LEAHU

January 16, 2018

Via E-Mail and U.S. Mail: OCRCComplaint@hhs.gov

Centralized Case Management Operations
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, DC 20201

Re: Complaint of Discrimination in Violation of Federal Statutes

Dear Sir or Madam:

Mauck & Baker, LLC, represents [REDACTED] (also known as [REDACTED]), a licensed practical nurse ("LPN") who was subjected to unlawful discrimination by the Winnebago County Health Department, a state agency subject to the Church Amendments (42 U.S.C. § 300a-7), the Public Health Service (PHS) Act (§ 245 (42 U.S.C. § 238a)), and/or the Weldon Amendment (Continuing Appropriations Resolution, Pub. L. No. 113-164, Sec. 101(a) (Sept. 19, 2015)) by virtue of its status as a recipient of federal funding.

[REDACTED] is a pediatric nurse with forty years of experience. She serves as a nurse in furtherance of and in conformance with her religious convictions to care for children. Her religious convictions also prohibit her from performing, assisting in, referring for, or participating in any way with abortion or abortion-causing drugs. Her right to serve as a pediatric nurse without violating her conscience or compromising her religious convictions relating to abortion or abortion-causing drugs are protected by the First Amendment to the United States Constitution, the Constitution of the State of Illinois, the Illinois Religious Freedom Restoration Act, 775 ILCS 35/15, and the Illinois Healthcare Right of Conscience Act, 745 ILCS 70/1 *et seq.*, in addition to the federal conscience clauses named above.

For nearly eighteen years [REDACTED] served as a pediatric nurse at the Winnebago County Health Department and until 2015 was never forced to participate in abortion related services. However, in the summer of 2015, the county's new Public Health Administrator, [REDACTED] informed [REDACTED] that she could no longer work in the health department clinics if she was unwilling to participate in the provision of abortion related

Centralized Case Management Operations
U.S. Department of Health and Human Services
Complaint of Discrimination
January 16, 2018
Page 2

services. Her termination had nothing to do with her performance as [REDACTED] had recently received the "Employee of the Week" and "Employee of the Quarter" awards.

The attached First Amended Complaint, [REDACTED] *et al.*, Case No. 2016 L 160, (attached as Exhibit 1), contains the factual and legal descriptions of specific violations of our clients' rights. The letter from [REDACTED] to [REDACTED] dated June 30, 2015 (Ex. B to the First Amend. Compl.) shows that [REDACTED] informed [REDACTED] that she was basing her decision to terminate [REDACTED] from the clinic environment on account of [REDACTED] religious convictions and conscientious objections and also on account of the terms of the federal grants the health department receives. The Defendants' "Third Affirmative Defense" (attached as Exhibit 2) shows how the Health Department has tried to justify its unlawful discrimination against Sandra by referring to the terms of Title X and the federal funds it receives. But as the aforementioned federal conscience clauses make plain, Title X and the terms of the federal grants actually *prohibited* [REDACTED] termination on account of her religious and conscientious objections.

[REDACTED] state court case is pending before the Circuit Court of Winnebago County in Rockford, Illinois. On February 15, 2018, the court will hold a status hearing at which the judge may rule on the parties' cross-motions for summary judgment.

Please promptly inform us of the actions your office plans to take regarding this violation. Thank you for your attention to this matter.

Sincerely yours,

[REDACTED]

cc: Client [REDACTED] Assistant Deputy States Attorney for Winnebago County

Exhibit 11



May 9, 2018

Centralized Case Management Operations
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201

RECEIVED
MAY 11 2018
HHS/OCR HQ

Attn: Conscience and Religious Freedom Division

Re: **Complaint for Discrimination in Violation of 42 U.S.C. § 300a-7(c)(1)**
("Church Amendment")

Contact attorney for complainant:

Complaint filed on behalf of:

Francis J. Manion, Esq.
Geoffrey R. Surtees, Esq.
American Center for Law and Justice
6375 New Hope Rd.
P.O. Box 60
New Hope, KY 40052
502-549-7020
fmanion@aclj.org

[REDACTED]

*Person/Agency/Organization
committing discrimination:*

The University of Vermont Medical
Center
111 Colchester Avenue
Burlington, Vermont 05401
802-847-0000

Date and nature of discriminatory acts:

In 2017, the complainant, [REDACTED] RN, was coerced by her employer, University of Vermont Medical Center, Inc. ("UVMMC") into participating in an abortion. Ms [REDACTED] a Catholic, had previously informed her employer that she

*
6375 New Hope Road
New Hope, Kentucky 40052
(502) 549-7020
(502) 549-5232 (Fax/voice)



could not participate in such procedures as a matter of religious belief. Her employer deliberately misled ██████ about the nature of the procedure, and then, after ██████ confirmed that she was, in fact, being assigned to an abortion, refused her request that other equally qualified and available personnel take her place. Fearing a charge of patient abandonment which could bring with it loss of employment and revocation of her nursing license, ██████ participated in the procedure under duress. She suffered immediate emotional distress, attempted to suppress the event psychologically, and has been haunted by nightmares ever since. In addition, her employer has created a hostile environment targeting ██████ and other employees who conscientiously object to participating in abortion procedures.

The coerced-participation event described above appears to have been related to a change in UVMMC policy regarding the hospital's performance of abortions. Under the leadership, since 2013, of a hospital board President with decades-long experience in senior leadership of Planned Parenthood facilities in Vermont, Portland, Oregon, and New York City, UVMMC reversed a longstanding policy which limited abortions in its facilities to those considered "medically necessary." While the policy appears to have been changed *sub silentio* at some point even before 2017, hospital staff, including ██████ and other nurses, were only formally informed of the change in October of 2017. Thus, it is highly possible that other staff and, perhaps, ██████ herself, have been deceived into participating in other abortion procedures which were misleadingly labeled as "miscarriages" or "medically necessary" but which were, in fact, purely elective abortions.

In addition, following public controversy which arose after the formal disclosure to staff of the hospital's new policy in the Fall of 2017, UVMMC, in February 2018, adopted a revised "Conflict of Care" policy. (Copy attached hereto). This policy is sharply inconsistent with existing federal conscience laws and inappropriately continues to leave the conscience rights of hospital employees to the virtually unbridled discretion of supervisors who, as ██████ and others will attest, have a history of demeaning, belittling, and failing to respect the views of conscientious objectors.

The Church Amendment protects the conscience rights of individuals and entities that object to performing or assisting in the performance of abortion or sterilization procedures if doing so would be contrary to the provider's religious beliefs or moral convictions, and prohibits discrimination in employment of "any physician or other health care personnel . . . because of his religious beliefs or moral convictions respecting sterilization procedures or abortions." 42 U.S.C. §300a-7 *et seq.*

It is clear that ██████ (and perhaps others employed at UVMMC) has suffered and continues to suffer discrimination and violations of her conscience rights under federal law. We urge your office to immediately initiate an



investigation of these charges and order appropriate remedial and corrective actions as soon as possible.

Our investigation has disclosed identities and contact information of individuals in addition to our client who have information pertinent to this matter. That information, to the extent said individuals have already spoken publicly about it or authorize us to disclose it, will be provided upon request.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Francis J. Manion".

Francis J. Manion
Senior Counsel
American Center for Law & Justice

Date: May 9, 2018



Documents Status: **Approved**

IDENT	HR-F-09
Type of Document	Policy
Applicability Type	Corporate
Title of Owner	Dir Human Resources
Title of Approving Official	VP Human Resources
Date Effective	2/5/2018
Date of Next Review	2/5/2021

THE
University of Vermont
 MEDICAL CENTER

TITLE: Conflict of Care: Staff Conscientious Objection

PURPOSE: UVM Medical Center respects workforce diversity and the cultural values, ethics and religious beliefs of our staff. In situations where a conflict may exist between the employee's cultural values, ethics, and religious beliefs and their participation in any aspect of patient care, UVMMC supports a process by which an employee may request to be excused from performing specific duties.

Patients and their families' perspectives and choices are valued and honored in all phases of care. Accordingly, all patients are entitled to comprehensive, quality care, without regard to their diagnosis, race, color, sex, sexual orientation, gender identity or expression, ancestry, place of birth, HIV status, national origin, religion, marital status, age, language, socioeconomic status, physical or mental disability, protected veteran status.

UVMMC encourages open dialogue between the employee and their leader.

POLICY STATEMENT: Employees may request to be excused from participating in a type of care/treatment in situations where that care/treatment conflicts with the employee's cultural values, ethics, or religious beliefs. Procedures/treatments which may present conflict may include but are *not limited* to the following:

- Blood and blood component administration
- Elective termination of pregnancy
- Initiation and cessation of life support
- DNR/Life support issues for critically ill/terminally ill populations
- Assisting with the harvesting of human organs
- Sterilization procedures
- Reproductive technologies

Alternative staffing arrangements will be considered, and if appropriate, arranged. At no time will staff be allowed to act in a manner that negatively impacts the patient's care or treatment.

PROCEDURE:

- I. When the need to provide care or treatment of a patient is in conflict with an employee's cultural values, ethics or religious beliefs, the employee may request to be reassigned to other duties and not participate in the specific type of care or treatment. In the event a conflict of care arises, care of the patient will be maintained until alternate staffing arrangements can be provided.
- II. UVMMC supports open dialogue between the employee and their leader when a conflict exists for the employee. We recognize that not all conflicts can be predicted. When possible we encourage employees to proactively raise concerns about potential conflicts in order to minimize impact to patient care.
- III. During the hiring process, the hiring manager shall discuss the typical scope of practice and service within the department in which the candidate has applied to work. Employees are expected to perform all the duties of their positions as set forth in their job descriptions, given to them at the time of hire or whenever revised.
- IV. All new employees are informed about this Conflict of Care policy during new employee orientation.

Printed on: 4/12/2018 11:00 AM By: [REDACTED]

DISCLAIMER: Only the online policy is considered official. Please compare with on-line document for accuracy.

[The main body of the page contains extremely faint and illegible text, likely representing a redacted document or a scan of a document with very low contrast. The text is arranged in several paragraphs, but the individual words and sentences are not discernible.]

Documents Status: **Approved**

- V. The direct Supervisor/designee shall be responsible for administering and monitoring a process to accommodate an employee's cultural values, ethics, and religious beliefs regarding treatment of patients.
- a) An employee who desires to be reassigned from a specific type of care or treatment shall submit the request in writing to the Supervisor/designee. Written request may be received on the form provided in this policy OR via an email addressed to the Supervisor/designee containing the details as requested/outlined on the form.
 - b) The written request will be acknowledged by the Supervisor/designee and maintained in the appropriate unit resource binder for scheduling purposes within the unit. The Supervisor/designee will assign staff as necessary for appropriate patient coverage. The written request will be placed in the employee's electronic personnel file by the Supervisor/designee.
 - c) Any conflict which may occur in an emergent situation for which staff may not have previously submitted a written request, may be brought to the Supervisor/designee. Alternative coverage may be sought at the discretion of the Supervisor/designee. The written request shall be submitted by the employee directly following the event and the request will be placed in the employee's electronic personnel file by the Supervisor/designee.
 - d) Any employee who is excused from an aspect of care will be re-assigned to other responsibilities.
 - e) In any scenario where circumstances prevent arrangements for alternate coverage, the staff member will be expected to provide the assigned care to ensure patient care is not negatively impacted.
 - f) Refusal to perform assigned job functions will be addressed in accordance with established corrective action procedures by the supervisor, in consultation with leadership and/or Human Resources.
- VI. All employees have access to the Ethics Consultation through UVMHC's Director of Clinical Ethics and can request input on ethical issues by contacting Provider Access Services (847-2700), ask who the ethics consultant on call is and should then contact that consultant by phone or in person.
- VII. An employee experiencing ongoing conflict of care issues should seek a transfer to a department or position where conflict of care issues are less likely to occur.

MONITORING PLAN: N/A

DEFINITIONS: N/A

RELATED POLICIES: Code of Conduct B1N; Clinical Ethics Consultations ETH15; Compliance & Privacy Plan B31

REFERENCES: 2017, Hospital Accreditation Standards, The Joint Commission LD.04.02

REVIEWERS: [REDACTED]

OWNER: [REDACTED], Dir Human Resources

APPROVING OFFICIAL: [REDACTED] Human Resources

Printed on: 4/12/2018 11:00 AM By: [REDACTED]

DISCLAIMER: Only the online policy is considered official. Please compare with on-line document for accuracy.

[The following text is extremely faint and largely illegible due to the quality of the scan. It appears to be a multi-paragraph document, possibly a letter or a report, with several lines of text per paragraph. The content is difficult to discern but seems to follow a standard narrative structure.]

Documents Status: **Approved**

Conflict of Care Disclosure Form

To be completed by the employee making the request: *Make a copy of this form for your records and then give this form to your leader.*

Your Name: _____ (Please Print)

Your Signature: _____ Date: _____

Please identify the clinical circumstances where you experience personal conflict. Please provide specific details regarding which procedure/treatment you are requesting to be excused from.

Please briefly provide your reasons for requesting removal from the patient's care team.

Received by: _____ (Please Print)

Leader Signature

Date Received

Printed on: 4/12/2018 11:00 AM By: [REDACTED]

DISCLAIMER: Only the online policy is considered official. Please compare with on-line document for accuracy.

[The main body of the page contains extremely faint and illegible text, likely representing a large redacted area or a very low-quality scan of a document.]

Exhibit 12



August 4, 2017

RECEIVED
AUG 04 2017
HHS/DCGR-HQ

Centralized Case Management Operations
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201

Re: **Complaint for Discrimination in Violation of 42 U.S.C. 300a-7(c)(1) ("Church Amendment")**

Contact attorney for complainant:

Complaint filed on behalf of:



American Center for Law and Justice
6375 New Hope Rd.
P.O. Box 60
New Hope, KY 40052



Person/Agency/Organization committing discrimination:

Indiana University South Bend
School of Nursing
1700 Mishawaka Ave.
South Bend, IN 46615
(574) 520-4872

Date and nature of discriminatory acts:

In January 2017, complainant, [REDACTED], applied for a full-time faculty position with Indiana University South Bend ("IUSB") to teach a course on Maternal Child Nursing which she had already been teaching at IUSB as an adjunct. Shortly after she began working at IUSB on August 1, 2016, complainant published an internet article entitled "How a Formerly Pro-Choice Nursing Instructor Discusses Abortion with her Students." Available at: <http://thetorchblog.net/?p=996> (August 12, 2016).

6375 New Hope Road
New Hope, Kentucky 40052
(502) 349-7026
(502) 349-5232 (Facsimile)

Complainant interviewed for the full-time position on January 31, 2017 before a committee of four faculty members of the IUSB Nursing School. During the interview, [REDACTED] Assistant Dean of Nursing, asked questions of [REDACTED] which indicated that [REDACTED] was familiar with [REDACTED] article.

One of the other members of the search/interview committee believed that [REDACTED] was asking [REDACTED] about her views on abortion and interrupted her by saying something to the effect of that, on a mother-baby unit, abortion is not an issue. [REDACTED] did not correct or clarify that she was *not* asking about abortion.

On or about February 20, 2017, [REDACTED] learned that she was not hired for the position, purportedly due to a "lack of teaching experience." [REDACTED] has 19 years of relevant teaching experience (along with her Doctorate of Nursing Practice). The individual who was hired in her stead has less than 3 years teaching experience.

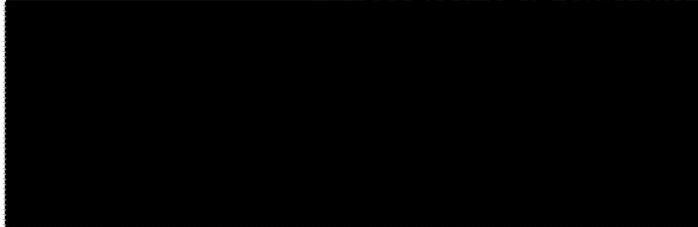
Further, [REDACTED] has learned that the decision not to hire her was made by IUSB on the recommendation of [REDACTED] alone, i.e., without a vote of the search committee, contrary to normal procedure. In addition to her duties at IUSB, [REDACTED] is employed as an advance practice nurse by Planned Parenthood. See Attached.

The evidence indicates that complainant was denied the position for which she applied due to [REDACTED] and/or IUSB's perceptions regarding her moral convictions and/or religious beliefs concerning abortion as set forth in her widely circulated internet article.

The Church Amendment prohibits discrimination in employment of "any physician or other health care personnel . . . because of his religious beliefs or moral convictions respecting sterilization procedures or abortions." 42 U.S.C. § 300a-7(c)(1). On information and belief, IUSB is an entity covered by the Church Amendment, and the circumstances surrounding IUSB's decision not to hire Isabell point to a violation of that statute.

Date: August 4, 2017

AMERICAN CENTER FOR LAW AND JUSTICE



7/11/2017

Details



[New Search](#)

[Licensing Documents](#)

[Control Certification](#)

[Nursing Board](#)

Entity Information

[Redacted]

CSR Process and/or Information

Planned Parenthood of Indiana
2005 Grape Road, Suite B
Mishawaka IN 46545

License Information

License No:	[Redacted]
Profession:	Nursing Board
License Type:	CSR-Prescriptive Authority
Obtained By Method:	Application
Issue Date:	[Redacted]
Expiration Date:	[Redacted]
License Status:	[Redacted]

Program Authority and/or CSR Drug Schedules

No Data Available

Drug Schedule 1:	Drug Schedule 2:	Drug Schedule 2N:	Drug Schedule 3:
	Y	Y	Y
Drug Schedule 3N:	Drug Schedule 4:	Drug Schedule 5:	
Y	Y	Y	

Restrictions

No Data Available

Related Licenses

License No: [Redacted]	Name: [Redacted]
License Type: APN Prescriptive Authority	Status: Active
	Relationship: Same Licensee

Exhibit 13



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE FOR CIVIL RIGHTS (OCR)
CIVIL RIGHTS DISCRIMINATION COMPLAINT

Form Approved: OMB No. 0945-0002
Expiration Date: 04/30/2019.



YOUR FIRST NAME Thomas More Society		YOUR LAST NAME N/A	
HOME PHONE (Please include area code) ()		WORK PHONE (Please include area code) [REDACTED]	
STREET ADDRESS 19 South LaSalle Street, Suite 603		CITY Chicago	
STATE IL	ZIP 60603	E-MAIL ADDRESS (If available) [REDACTED]	

Are you filing this complaint for someone else? Yes No
If Yes, whose civil rights do you believe were violated?

FIRST NAME
[REDACTED]

: Hope Life Center; and others similarly situated

LAST NAME

I believe that I have been (or someone else has been) discriminated against on the basis of:

- Race / Color / National Origin
 Age
 Religion
 Sex
 Disability
 Other (specify): Abortion and First Amendment

Who or what agency or organization do you believe discriminated against you (or someone else)?

PERSON/AGENCY/ORGANIZATION

State of Illinois

STREET ADDRESS Gov. Bruce Rauner, Office of the Governor, 207 State House		CITY Springfield
STATE IL	ZIP 62,076	PHONE (Please include area code) (+1)(217) 782-0244

When do you believe that the civil rights discrimination occurred?

LIST DATE(S)

Starting January 1, 2017

Describe briefly what happened. How and why do you believe that you have been (or someone else has been) discriminated against? Please be as specific as possible. (Attach additional pages as needed)

Please see explanatory letter accompanying this complaint form.

Please sign and date this complaint. You do not need to sign if submitting this form by email because submission by email represents your signature.

SIGNATURE

DATE (mm/dd/yyyy)

1-04-2018

Filing a complaint with OCR is voluntary. However, without the information requested above, OCR may be unable to proceed with your complaint. We collect this information under authority of Section 1557 of the Affordable Care Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and other civil rights statutes. We will use the information you provide to determine if we have jurisdiction and, if so, how we will process your complaint. Information submitted on this form is treated confidentially and is protected under the provisions of the Privacy Act of 1974. Names or other identifying information about individuals are disclosed when it is necessary for investigation of possible discrimination, for internal systems operations, or for routine uses, which include disclosure of information outside the Department of Health and Human Services (HHS) for purposes associated with civil rights compliance and as permitted by law. It is illegal for a recipient of Federal financial assistance from HHS to intimidate, threaten, coerce, or discriminate or retaliate against you for filing this complaint or for taking any other action to enforce your rights under Federal civil rights laws. You are not required to use this form. You also may write a letter or submit a complaint electronically with the same information. To submit an electronic complaint, go to OCR's web site at:

www.hhs.gov/ocr/civilrights/complaints/index.html. To mail a complaint, please see page 2 of this form for the mailing address.

HHS-700/11/15) (FRONT)

The remaining information on this form is optional. Failure to answer these voluntary questions will not affect OCR's decision to process your complaint.

Do you need special accommodations for us to communicate with you about this complaint? (Check all that apply)

- Braille
 Large Print
 Cassette tape
 Computer diskette
 Electronic mail
 TDD
 Sign language interpreter (specify language): _____
 Foreign language interpreter (specify language): _____ Other: _____

If we cannot reach you directly, is there someone we can contact to help us reach you?

FIRST NAME [REDACTED] Attorney at Thomas More Society		LAST NAME	
HOME PHONE (Please include area code) ()		WORK PHONE (Please include area code) [REDACTED]	
STREET ADDRESS 19 South LaSalle Street		CITY Chicago	
STATE IL	ZIP 60,603	E-MAIL ADDRESS (if available) tolp@thomasmoresociety.org	

Have you filed your complaint anywhere else? If so, please provide the following. (Attach additional pages as needed)

PERSON/AGENCY/ORGANIZATION/ COURT NAME(S)

Hope Life Center is a plaintiff in Abigail Women's Center, et. al, v. Rauner, et al., in the Circuit Court of the 7th Judicial District, Sangamon County, Chancery Division

DATE(S) FILED February 9, 2017	CASE NUMBER(S) (If known) CASE NO. 2017CH000066 (consolidated with CASE NO. 2017CH000052)
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To help us better serve the public, please provide the following information for the person you believe was discriminated against (you or the person on whose behalf you are filing).

ETHNICITY (select one) RACE (select one or more)
 Hispanic or Latino American Indian or Alaska Native Asian Native Hawaiian or Other Pacific Islander
 Not Hispanic or Latino Black or African American White Other (specify): _____
 PRIMARY LANGUAGE SPOKEN (if other than English) _____

How did you learn about the Office for Civil Rights?

- HHS Website/Internet Search
 Family/Friend/Associate
 Religious/Community Org
 Lawyer/Legal Org
 Phone Directory
 Employer
 Fed/State/Local Gov
 Healthcare Provider/Health Plan
 Conference/OCR Brochure
 Other (specify): _____

To submit a complaint, please type or print, sign, and return completed complaint form package (including consent form) to the OCR Headquarters address below.

U.S. Department of Health and Human Services
 Office for Civil Rights
 Centralized Case Management Operations
 200 Independence Ave., S.W.
 Suite 515F, HHH Building
 Washington, D.C. 20201
 Customer Response Center: (800) 368-1019
 Fax: (202) 619-3818
 TDD: (800) 537-7697
 Email: ocrmail@hhs.gov

Burden Statement

Public reporting burden for the collection of information on this complaint form is estimated to average 45 minutes per response, including the time for reviewing instructions, gathering the data needed and entering and reviewing the information on the completed complaint form. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: HHS/OS Reports Clearance Officer, Office of Information Resources Management, 200 Independence Ave. S.W., Room 531H, Washington, D.C. 20201. Please do not mail complaint form to this address.

HHS-700 11/15) (BACK)



COMPLAINANT CONSENT FORM

The Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) has the authority to collect and receive material and information about you, including personnel and medical records, which are relevant to its investigation of your complaint.

To investigate your complaint, OCR may need to reveal your identity or identifying information about you to persons at the entity or agency under investigation or to other persons, agencies, or entities.

The Privacy Act of 1974 protects certain federal records that contain personally identifiable information about you and, with your consent, allows OCR to use your name or other personal information, if necessary, to investigate your complaint.

Consent is voluntary, and it is not always needed in order to investigate your complaint; however, failure to give consent is likely to impede the investigation of your complaint and may result in the closure of your case.

Additionally, OCR may disclose information, including medical records and other personal information, which it has gathered during the course of its investigation in order to comply with a request under the Freedom of Information Act (FOIA) and may refer your complaint to another appropriate agency.

Under FOIA, OCR may be required to release information regarding the investigation of your complaint; however, we will make every effort, as permitted by law, to protect information that identifies individuals or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

Please read and review the documents entitled, *Notice to Complainants and Other Individuals Asked to Supply Information to the Office for Civil Rights* and *Protecting Personal Information in Complaint Investigations* for further information regarding how OCR may obtain, use, and disclose your information while investigating your complaint.

In order to expedite the investigation of your complaint if it is accepted by OCR, please read, sign, and return one copy of this consent form to OCR with your complaint. Please make one copy for your records.

- As a complainant, I understand that in the course of the investigation of my complaint it may become necessary for OCR to reveal my identity or identifying information about me to persons at the entity or agency under investigation or to other persons, agencies, or entities.



- I am also aware of the obligations of OCR to honor requests under the Freedom of Information Act (FOIA). I understand that it may be necessary for OCR to disclose information, including personally identifying information, which it has gathered as part of its investigation of my complaint.
- In addition, I understand that as a complainant I am covered by the Department of Health and Human Services' (HHS) regulations which protect any individual from being intimidated, threatened, coerced, retaliated against, or discriminated against because he/she has made a complaint, testified, assisted, or participated in any manner in any mediation, investigation, hearing, proceeding, or other part of HHS' investigation, conciliation, or enforcement process.

After reading the above information, please check ONLY ONE of the following boxes:

CONSENT: I have read, understand, and agree to the above and give permission to OCR to reveal my identity or identifying information about me in my case file to persons at the entity or agency under investigation or to other relevant persons, agencies, or entities during any part of HHS' investigation, conciliation, or enforcement process.

CONSENT DENIED: I have read and I understand the above and do not give permission to OCR to reveal my identity or identifying information about me. I understand that this denial of consent is likely to impede the investigation of my complaint and may result in closure of the investigation.

Signature: _____ Date: 1-4-2018

**Please sign and date this complaint. You do not need to sign if submitting this form by email because submission by email represents your signature.*

Name (Please print): [Redacted] Attorney, Thomas More Society

Address: 19 South LaSalle Street, Suite 603, Chicago, IL 60603

Telephone Number: [Redacted]



NOTICE TO COMPLAINANTS AND OTHER INDIVIDUALS ASKED TO SUPPLY INFORMATION TO THE OFFICE FOR CIVIL RIGHTS

Privacy Act

The Privacy Act of 1974 (5 U.S.C. §552a) requires OCR to notify individuals whom it asks to supply information that:

— OCR is authorized to solicit information under:

- (i) Federal laws barring discrimination by recipients of Federal financial assistance on grounds of race, color, national origin, disability, age, sex, religion under programs and activities receiving Federal financial assistance from the U.S. Department of Health and Human Services (HHS), including, but not limited to, Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), the Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.), and Sections 794 and 855 of the Public Health Service Act (42 U.S.C. §§295m and 296g);
- (ii) Titles VI and XVI of the Public Health Service Act (42 U.S.C. §§291 et seq. and 300s et seq.) and 42 C.F.R. Part 124, Subpart G (Community Service obligations of Hill-Burton facilities);
- (iii) 45 C.F.R. Part 85, as it implements Section 504 of the Rehabilitation Act in programs conducted by HHS; and
- (iv) Title II of the Americans with Disabilities Act (42 U.S.C. §12131 et seq.) and Department of Justice regulations at 28 C.F.R. Part 35, which give HHS "designated agency" authority to investigate and resolve disability discrimination complaints against certain public entities, defined as health and service agencies of state and local governments, regardless of whether they receive federal financial assistance.
- (v) The Standards for the Privacy of Individually Identifiable Health Information (The Privacy Rule) at 45 C.F.R. Part 160 and Subparts A and E of Part 164, which enforce the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (42 U.S.C. §1320d-2).

OCR will request information for the purpose of determining and securing compliance with the Federal laws listed above. Disclosure of this requested information to OCR by individuals who are not recipients of federal financial assistance is voluntary; however, even individuals who voluntarily disclose information are subject to prosecution and penalties under 18 U.S.C. § 1001 for making false statements.

Additionally, although disclosure is voluntary for individuals who are not recipients of federal financial assistance, failure to provide OCR with requested information may preclude OCR from making a compliance determination or enforcing the laws above.



OCR has the authority to disclose personal information collected during an investigation without the individual's consent for the following routine uses:

- (i) to make disclosures to OCR contractors who are required to maintain Privacy Act safeguards with respect to such records;
- (ii) for disclosure to a congressional office from the record of an individual in response to an inquiry made at the request of the individual;
- (iii) to make disclosures to the Department of Justice to permit effective defense of litigation; and
- (iv) to make disclosures to the appropriate agency in the event that records maintained by OCR to carry out its functions indicate a violation or potential violation of law.

Under 5 U.S.C. §552a(k)(2) and the HHS Privacy Act regulations at 45 C.F.R. §5b.11 OCR complaint records have been exempted as investigatory material compiled for law enforcement purposes from certain Privacy Act access, amendment, correction and notification requirements.

Freedom of Information Act

A complainant, the recipient or any member of the public may request release of OCR records under the Freedom of Information Act (5 U.S.C. §552) (FOIA) and HHS regulations at 45 C.F.R. Part 5.

Fraud and False Statements

Federal law, at 18 U.S.C. §1001, authorizes prosecution and penalties of fine or imprisonment for conviction of "whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry".



PROTECTING PERSONAL INFORMATION IN COMPLAINT INVESTIGATIONS

To investigate your complaint, the Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) will collect information from different sources. Depending on the type of complaint, we may need to get copies of your medical records, or other information that is personal to you. This Fact Sheet explains how OCR protects your personal information that is part of your case file.

HOW DOES OCR PROTECT MY PERSONAL INFORMATION?

OCR is required by law to protect your personal information. The Privacy Act of 1974 protects Federal records about an individual containing personally identifiable information, including, but not limited to, the individual's medical history, education, financial transactions, and criminal or employment history that contains an individual's name or other identifying information.

Because of the Privacy Act, OCR will use your name or other personal information with a signed consent and only when it is necessary to complete the investigation of your complaint or to enforce civil rights laws or when it is otherwise permitted by law.

Consent is voluntary, and it is not always needed in order to investigate your complaint; however, failure to give consent is likely to impede the investigation of your complaint and may result in the closure of your case.

CAN I SEE MY OCR FILE?

Under the Freedom of Information Act (FOIA), you can request a copy of your case file once your case has been closed; however, OCR can withhold information from you in order to protect the identities of witnesses and other sources of information.

CAN OCR GIVE MY FILE TO ANY ONE ELSE?

If a complaint indicates a violation or a potential violation of law, OCR can refer the complaint to another appropriate agency without your permission.

If you file a complaint with OCR, and we decide we cannot help you, we may refer your complaint to another agency such as the Department of Justice.

CAN ANYONE ELSE SEE THE INFORMATION IN MY FILE?

Access to OCR's files and records is controlled by the Freedom of Information Act (FOIA). Under FOIA, OCR may be required to release information about this case upon public request. In the event that OCR receives such a request, we will make every effort,



as permitted by law, to protect information that identifies individuals, or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

If OCR receives protected health information about you in connection with a HIPAA Privacy Rule investigation or compliance review, we will only share this information with individuals outside of HHS if necessary for our compliance efforts or if we are required to do so by another law.

DOES IT COST ANYTHING FOR ME (OR SOMEONE ELSE) TO OBTAIN A COPY OF MY FILE?

In most cases, the first two hours spent searching for document(s) you request under the Freedom of Information Act and the first 100 pages are free. Additional search time or copying time may result in a cost for which you will be responsible. If you wish to limit the search time and number of pages to a maximum of two hours and 100 pages; please specify this in your request. You may also set a specific cost limit, for example, cost not to exceed \$100.00.

If you have any questions about this complaint and consent package,
Please contact OCR at <http://www.hhs.gov/ocr/office/about/contactus/index.html>

OR

Contact the Customer Response Center at (800) 368-1019
(see contact information on page 2 of the Complaint Form)

THOMAS MORE SOCIETY

A National Public Interest Law Firm

January 4, 2018

Via US Mail & email: ocrmail@hhs.gov

U.S. Department of Health and Human Services
Office of Civil Rights
Centralized Case Management Operations
200 Independence Ave., S.W.
Suite 515F, HHH Building
Washington, D.C. 20201

Re: Violations of Federal Law arising from Illinois Public Act 99-690.

Dear members of the Office of Civil Rights for the Department:

We write on behalf of our clients, [REDACTED] and Hope Life Center, to request that the Office of Civil Rights investigate what we believe to be ongoing, serious violations of federal law by the State of Illinois. The basis for our request is Illinois' enactment and enforcement of Illinois Public Act 99-690, which became effective January 1, 2017, and which amends the 1977 Illinois Health Care Right of Conscience Act, 745 ILCS 70/1, *et seq.*, in ways that gut its protection of state and federal conscience rights. (P.A. 99-690 is attached as **Exhibit 1**.) As explained below, we believe that P.A. 99-690 violates existing federal laws that have been enacted to protect the conscience rights of healthcare providers. We respectfully request your office to investigate this claim and to take appropriate action to prevent the State's application of P.A. 99-690 to our clients, and similarly situated health care providers in Illinois, who cannot comply with the amendment because of their sincerely held religious beliefs.

The complainant, [REDACTED], is a physician licensed to practice in Illinois. He serves, pro bono, as a medical director of Hope Life Center, a pregnancy resource center providing limited medical services (pregnancy testing, ultrasounds, and STD tests) to women facing unplanned pregnancies. Although abortion, sterilization, and abortifacient contraception are "legal treatment options" for these women under P.A. 99-690, [REDACTED] cannot, in conscience, perform or promote these procedures, or refer women to, or provide identifying information about, providers of these procedures. Yet, P.A. 99-690 now requires him, and the officers, employees, and volunteers who work at Hope Life Center, to perform these very actions.

[REDACTED] and Hope Life Center thus face an unacceptable dilemma under the new Illinois law. P.A. 99-690 requires them to discuss so-called "benefits" of the very abortion and sterilization procedures they, as a matter of conscience, vigorously oppose. See P.A. 99-690 at Sec. 6 and Sec. 6.1(1). And it requires them, if asked, to refer for, or provide information about, providers of the very abortion services they abhor. See P.A. 99-690 at Sec.

19 S. LaSalle | Suite 603 | Chicago, IL 60603 || P: 312.782.1680 | F: 312.782.1887
501 Scouler | 2027 Dodge | Omaha, NE 68102 || P: 402-346-5010 | F: 402 345 8853
www.thomasmoresociety.org

"Injustice anywhere is a threat to justice everywhere." – Rev. Dr. Martin Luther King

HHS, Office of Civil Rights
January 4, 2018
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6.1(3)(ii)&(iii). Failure to comply with the amendment subjects them to loss of conscience protection under the Health Care Right of Conscience Act, the possibility of professional discipline, liability for penalties and damages (including attorneys fees), and discrimination in funding and licensing under Illinois law. See 745 ILCS §70/6.1 (stripping protection of IHRCA from those who do not comply with its conditions); see also, 745 ILCS §70/4 & §70/9—70/11.4 (forms of protection stripped away by Section 6.1); see also, 745 ILCS §70/10 (private cause of action for violations of statute, including statutory minimum damage award and liability for attorney’s fees and costs).

We believe that Illinois is using this amendment (P.A. 99-690) to target and discriminate against healthcare providers in violation of federal law. First, the Hyde-Weldon Amendment, 114 P.L. 116, Title V, §507(d), as incorporated in 114 P.L. 223, Title III, Division C, Section 101(a)(8), prohibits any state or local government receiving federal HHS funds from discriminating against any health care entity based on its refusal to “provide, pay for, provide coverage of, or refer for” abortions. Second, Coates-Snow, 42 U.S.C. §238n, prohibits a state or local government that receives federal financial assistance from discriminating against a healthcare entity because it refuses to “perform” induced abortions, “provide referrals for” abortions, or “make arrangements for” abortions. Third, the Church Amendment, 42 U.S.C. §300a-7 prohibits an entity receiving federal funds under a wide range of federal legislation from discriminating against physicians or healthcare personnel because they refuse “to perform or assist in the performance of any sterilization procedure or abortion. . . contrary to [the person’s] religious beliefs or moral convictions.” The State of Illinois and its political subdivisions are subject to these federal laws by virtue of federal funding of many social welfare programs including Medicare, Medicaid, Child’s Health Insurance Program, Head Start, Supplemental Nutrition Assistance Program, and Temporary Assistance for Needy Families. Yet P.A. 99-690 purports to nullify the protection Illinois physicians and health care providers enjoy under these federal laws.

P.A. 99-690 violates federal law in its purpose, practical operation, and effects. Section 6.1(1) compels physicians and other healthcare providers to inform patients about supposed “benefits” of abortions, abortifacient drugs, or sterilization, as legal treatment options. Provision of medical advice within the professional competence of a medical provider is an integral part of medical practice. Yet P.A. 99-690’s discussion requirement coerces physicians and other healthcare providers, against their consciences, to assist in the promotion and provision of abortion or sterilization. This result, we believe, is directly contrary to the federal laws cited. In addition, Section 6.1(3)(ii)&(iii) of P.A. 99-690 requires medical professionals, upon request, to refer for abortion or sterilization, or in the alternative, to supply patients with a list of abortion and/or sterilization providers. In this way, P.A. 99-690 coerces physicians and other healthcare providers to promote and participate in abortion and sterilization, contrary to the cited federal laws.

A review of the publicly available committee proceedings and floor debates of the Illinois General Assembly shows that the clear intent of this law was to force medical professionals and their medical facilities to cooperate with abortion in ways that violate the deeply held religious

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and moral beliefs of those professionals and facilities. The Illinois General Assembly knew well the risks of enacting P.A. 99-690, as even the fiscal note entered on the bill by the Illinois Department of Healthcare & Family Services recognized that:

It is unclear if the passage of SB 1564 would jeopardize federal funding for the Illinois Medical Assistance Program. The Church Amendment codified at 42 U.S.C. § 300a-7, stipulates that for healthcare services funded in whole or in part by a program administered by the U.S. Department of Health and Human Services (HHS), no person may be required to ‘perform or assist in the performance of any sterilization procedure or abortion if his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions.’ *The requirement in SB 1564 that the provider refer individuals to other providers who perform the procedure, especially if abortion or sterilization, violates the Church amendment*; such referral could be interpreted as assistance with a morally objectionable procedure.

(emphasis added). See Bill Status of P.A. 99-690, at <http://www.ilga.gov/legislation/billstatus.asp?DocNum=1564&GAID=13&GA=99&DocTypeID=SB&LegID=88256&SessionID=88&SpecSess=> (accessed on December 19, 2017).

P.A. 99-690 also violates our clients’ First Amendment rights to free speech and the free exercise of religion. The law is content-based, compelling speech, and viewpoint discriminatory, targeting only conscientious objectors. It is not religiously neutral because on its face it blatantly discriminates against the religious beliefs and practices of pro life physicians and health providers. The unconstitutionality of P.A. 99-690 was recognized earlier this year when its application against conscientious objectors was preliminarily enjoined on First Amendment grounds. See *NIFLA, et al., v. Rauner, et al.*, 16 C 51030, (N.D. Ill., July 19, 2017, Hon. Frederick J. Kapala, attached as **Exhibit 2**. The decision did not, however, find that the Plaintiffs had a private right of action under the Coates-Snowe Amendment, observing that “enforcement of § 238n is left up to the Department of Health and Human Services which may terminate funding in the event of non-compliance. See 45 C.F.R. § 88.2.” *Id.* at p.4.

We are therefore requesting the Office of Civil Rights of the Department of Health and Human Services to investigate this complaint that alleges that P.A. 99-690 violates the federal laws cited, and to act to prohibit enforcement of P.A. 99-690 by the State of Illinois against our clients and all similarly situated health care providers in the State through all means at its disposal. We urge the Office to take prompt and effective action to prevent the State of Illinois from ever using P.A. 99-690 to punish physicians and healthcare providers who refrain, because of conscience, to counsel patients about so-called benefits of abortion or who refrain from assisting women desiring an abortion by referring them to (or providing information about) abortion providers.

We also respectfully request, for the benefit of physicians and healthcare providers throughout the nation, that your office issue interpretive guidelines making it clear that the cited federal

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laws reach, and prohibit, any state law which, like P.A. 99-690, targets and punishes religious and conscience-based opposition to the practice of abortion. The cited federal laws were enacted precisely to protect conscience-based refusals to participate in abortion, and should be interpreted so as to be effective in prohibiting state laws like P.A. 99-690, which seek to force conscience objectors to participate in and promote abortion against their will. Without this office's interpretive guidance some states will continue to interpret these laws in ways contrary to their manifest purpose, and will continue to enact laws punishing conscience-based refusals to participate in abortion, as did Illinois through enactment of P.A. 99-690. Such state actions flouting the federal laws cited should not be countenanced. This office's regulatory guidance would facilitate that desired outcome.

Thank you for considering this complaint. Contact the undersigned in the event additional information is needed to bring your investigation to conclusion.

Respectfully,



Counsel, Thomas More Society
19 South LaSalle Street, Suite 603
Chicago, IL 60603
tolp@thomasmoresociety.org

Enclosures:

Exhibit 1 - Text of P.A.99-690

Exhibit 2 - Hon. Frederick J. Kapala's decision in *NIFLA, et al., v. Rauner*

EXHIBIT ONE

Public Act 099-0690

SB1564 Enrolled

LRB099 05684 HEP 25727 b

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Health Care Right of Conscience Act is amended by changing Sections 2, 3, 6, and 9 and by adding Sections 6.1 and 6.2 as follows:

(745 ILCS 70/2) (from Ch. 111 1/2, par. 5302)

Sec. 2. Findings and policy. The General Assembly finds and declares that people and organizations hold different beliefs about whether certain health care services are morally acceptable. It is the public policy of the State of Illinois to respect and protect the right of conscience of all persons who refuse to obtain, receive or accept, or who are engaged in, the delivery of, arrangement for, or payment of health care services and medical care whether acting individually, corporately, or in association with other persons; and to prohibit all forms of discrimination, disqualification, coercion, disability or imposition of liability upon such persons or entities by reason of their refusing to act contrary to their conscience or conscientious convictions in providing, paying for, or refusing to obtain, receive, accept, deliver, pay for, or arrange for the payment of health care services and medical care. It is also the public policy of the State of

Public Act 099-0690

SB1564 Enrolled

LRB099 05684 HEP 25727 b

Illinois to ensure that patients receive timely access to information and medically appropriate care.

(Source: P.A. 90-246, eff. 1-1-98.)

(745 ILCS 70/3) (from Ch. 111 1/2, par. 5303)

Sec. 3. Definitions. As used in this Act, unless the context clearly otherwise requires:

(a) "Health care" means any phase of patient care, including but not limited to, testing; diagnosis; prognosis; ancillary research; instructions; family planning, counselling, referrals, or any other advice in connection with the use or procurement of contraceptives and sterilization or abortion procedures; medication; or surgery or other care or treatment rendered by a physician or physicians, nurses, paraprofessionals or health care facility, intended for the physical, emotional, and mental well-being of persons;

(b) "Physician" means any person who is licensed by the State of Illinois under the Medical Practice Act of 1987;

(c) "Health care personnel" means any nurse, nurses' aide, medical school student, professional, paraprofessional or any other person who furnishes, or assists in the furnishing of, health care services;

(d) "Health care facility" means any public or private hospital, clinic, center, medical school, medical training institution, laboratory or diagnostic facility, physician's office, infirmary, dispensary, ambulatory surgical treatment

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center or other institution or location wherein health care services are provided to any person, including physician organizations and associations, networks, joint ventures, and all other combinations of those organizations;

(e) "Conscience" means a sincerely held set of moral convictions arising from belief in and relation to God, or which, though not so derived, arises from a place in the life of its possessor parallel to that filled by God among adherents to religious faiths; ~~and~~

(f) "Health care payer" means a health maintenance organization, insurance company, management services organization, or any other entity that pays for or arranges for the payment of any health care or medical care service, procedure, or product; and ~~-~~

(g) "Undue delay" means unreasonable delay that causes impairment of the patient's health.

The above definitions include not only the traditional combinations and forms of these persons and organizations but also all new and emerging forms and combinations of these persons and organizations.

(Source: P.A. 90-246, eff. 1-1-98.)

(745 ILCS 70/6) (from Ch. 111 1/2, par. 5306)

Sec. 6. Duty of physicians and other health care personnel. Nothing in this Act shall relieve a physician from any duty, which may exist under any laws concerning current standards~~7~~ of

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~~normal~~ medical practice or care practices and procedures, to inform his or her patient of the patient's condition, prognosis, legal treatment options, and risks and benefits of treatment options, provided, however, that such physician shall be under no duty to perform, assist, counsel, suggest, recommend, refer or participate in any way in any form of medical practice or health care service that is contrary to his or her conscience.

Nothing in this Act shall be construed so as to relieve a physician or other health care personnel from obligations under the law of providing emergency medical care.

(Source: P.A. 90-246, eff. 1-1-98.)

(745 ILCS 70/6.1 new)

Sec. 6.1. Access to care and information protocols. All health care facilities shall adopt written access to care and information protocols that are designed to ensure that conscience-based objections do not cause impairment of patients' health and that explain how conscience-based objections will be addressed in a timely manner to facilitate patient health care services. The protections of Sections 4, 5, 7, 8, 9, 10, and 11 of this Act only apply if conscience-based refusals occur in accordance with these protocols. These protocols must, at a minimum, address the following:

(1) The health care facility, physician, or health care personnel shall inform a patient of the patient's

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condition, prognosis, legal treatment options, and risks and benefits of the treatment options in a timely manner, consistent with current standards of medical practice or care.

(2) When a health care facility, physician, or health care personnel is unable to permit, perform, or participate in a health care service that is a diagnostic or treatment option requested by a patient because the health care service is contrary to the conscience of the health care facility, physician, or health care personnel, then the patient shall either be provided the requested health care service by others in the facility or be notified that the health care will not be provided and be referred, transferred, or given information in accordance with paragraph (3).

(3) If requested by the patient or the legal representative of the patient, the health care facility, physician, or health care personnel shall: (i) refer the patient to, or (ii) transfer the patient to, or (iii) provide in writing information to the patient about other health care providers who they reasonably believe may offer the health care service the health care facility, physician, or health personnel refuses to permit, perform, or participate in because of a conscience-based objection.

(4) If requested by the patient or the legal representative of the patient, the health care facility,

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physician, or health care personnel shall provide copies of medical records to the patient or to another health care professional or health care facility designated by the patient in accordance with Illinois law, without undue delay.

(745 ILCS 70/6.2 new)

Sec. 6.2. Permissible acts related to access to care and information protocols. Nothing in this Act shall be construed to prevent a health care facility from requiring that physicians or health care personnel working in the facility comply with access to care and information protocols that comply with the provisions of this Act.

(745 ILCS 70/9) (from Ch. 111 1/2, par. 5309)

Sec. 9. Liability. No person, association, or corporation, which owns, operates, supervises, or manages a health care facility shall be civilly or criminally liable to any person, estate, or public or private entity by reason of refusal of the health care facility to permit or provide any particular form of health care service which violates the facility's conscience as documented in its ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other governing documents.

Nothing in this Act ~~act~~ shall be construed so as to relieve a physician, ~~or other~~ health care personnel, or a health care

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facility from obligations under the law of providing emergency medical care.

(Source: P.A. 90-246, eff. 1-1-98.)

EXHIBIT TWO

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS**

National Institute of Family and Life)	
Advocates, et al.,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Case No: 16 C 50310
)	
Governor Bruce Rauner, et al.,)	
)	
<i>Defendants.</i>)	Judge Frederick J. Kapala

ORDER

Defendants’ motion to dismiss plaintiffs’ complaint [15] is granted in part and denied in part. Counts II, IV, and V are dismissed in their entirety and those portions of Counts I, III, and V that are based upon the Illinois Constitution are dismissed. All claims against Governor Rauner are dismissed and he is terminated as a defendant in this case. The motion to dismiss is denied in all other respects. Plaintiffs’ motion for preliminary injunction [35] is granted.

STATEMENT

Plaintiffs, the National Institute of Family and Life Advocates, four non-profit pro-life pregnancy centers, and Dr. Tina Gingrich, M.D., have filed a Verified Complaint for Injunctive and Declaratory Relief against Illinois Governor Bruce Rauner and Secretary of the Illinois Department of Financial & Professional Regulation Bryan A. Schneider challenging the constitutionality of an amendment to the Illinois Healthcare Right of Conscience Act (“HCRCA”), 745 ILCS 70/1 et seq. This court has jurisdiction under 28 U.S.C. § 1331. Before the court are defendants’ motion to dismiss plaintiffs’ complaint and plaintiffs’ motion for a preliminary injunction. For the reasons that follow, the motion to dismiss is granted in part and denied in part and the motion for a preliminary injunction is granted.

I. BACKGROUND

In the wake of Roe v. Wade, 410 U.S. 113 (1973), Illinois and other states enacted laws protecting physicians, hospitals, and others from civil liability arising from the refusal to recommend, perform, or assist in the performance of an abortion. See 745 ILCS 30/1. The HCRCA was enacted in 1977 “to respect and protect the right of conscience of all persons who refuse to . . . act contrary to their conscience or conscientious convictions in providing . . . health care services and medical care.” 745 ILCS 70/2. Consistent with this goal, the HCRCA provides that “[n]o physician or health care personnel shall be civilly or criminally liable . . . by reason of his or her refusal to perform, assist, counsel, suggest, recommend, refer or participate in any way in any particular form of health care service which is contrary to the conscience of such physician or health

care personnel.” Id. § 70/4. The HCRCA also makes it unlawful for public officials to discriminate against any person, in any manner, in licensing “because of such person’s conscientious refusal to receive, obtain, accept, perform, assist, counsel, suggest, recommend, refer or participate in any way in any particular form of health care services contrary to his or her conscience.” Id. § 70/5. “Conscience” is defined as “a sincerely held set of moral convictions arising from belief in and relation to God, or which, though not so derived, arises from a place in the life of its possessor parallel to that filled by God among adherents to religious faiths.” Id. § 70/3(e).

Forty years later, the Illinois General Assembly passed Public Act 99-690, signed into law on July 29, 2016 and effective January 1, 2017, also known as SB 1564 (“the amended act”), which now requires physicians and other health care personnel seeking protection under the HCRCA to adopt and follow certain protocols:

§ 6.1. Access to care and information protocols. All health care facilities shall adopt written access to care and information protocols that are designed to ensure that conscience-based objections do not cause impairment of patients’ health and that explain how conscience-based objections will be addressed in a timely manner to facilitate patient health care services. The protections of Sections 4, 5, 7, 8, 9, 10, and 11 of this Act only apply if conscience-based refusals occur in accordance with these protocols. These protocols must, at a minimum, address the following:

(1) The health care facility, physician, or health care personnel shall inform a patient of the patient’s condition, prognosis, legal treatment options, and risks and benefits of the treatment options in a timely manner, consistent with current standards of medical practice or care.

(2) When a health care facility, physician, or health care personnel is unable to permit, perform, or participate in a health care service that is a diagnostic or treatment option requested by a patient because the health care service is contrary to the conscience of the health care facility, physician, or health care personnel, then the patient shall either be provided the requested health care service by others in the facility or be notified that the health care will not be provided and be referred, transferred, or given information in accordance with paragraph (3).

(3) If requested by the patient or the legal representative of the patient, the health care facility, physician, or health care personnel shall: (i) refer the patient to, or (ii) transfer the patient to, or (iii) provide in writing information to the patient about other health care providers who they reasonably believe may offer the health care service the health care facility, physician, or health personnel refuses to permit, perform, or participate in because of a conscience-based objection.

(4) If requested by the patient or the legal representative of the patient, the health care facility, physician, or health care personnel shall provide copies of medical records to the patient or to another health care professional or health care facility designated by the patient in accordance with Illinois law, without undue delay.

Id. § 70/6.1. The amended act also includes an affirmative duty that physicians and other health care personnel inform his or her patient of the patient’s “legal treatment options, and risks and benefits of treatment options.” Id. § 70/6.

Plaintiffs are health care facilities and health professionals who offer medical services to support women in giving birth and discourage them from seeking abortion. Plaintiffs explain that they treat every unborn child as a human being with inalienable dignity and as a patient along with the child’s mother. Consequently, their religious and pro-life beliefs prohibit them from providing women with the names of other health care providers who may perform abortions because that would implicate them in destroying a human life and violate one of the leading principles of the Hippocratic Oath, that doctors do no harm to those under their care. Based on these ethical and religious beliefs, plaintiffs do not consider abortion to have medical “benefits,” and do not consider abortion a “treatment option.” Plaintiffs maintain that the amended act compels them to tell pregnant women the names of other doctors they believe offer abortions, and compels them to tell pregnant women that abortion has “benefits” and is a “treatment option” for pregnancy. Plaintiffs have religious and moral objections to speaking about abortion in these ways.

In their verified complaint for declaratory and injunctive relief, plaintiffs challenge the amended act in five counts. In particular, plaintiffs allege that it violates the Free Speech Clause of the First Amendment to the U.S. Constitution and Article I, § 4 of the Illinois Constitution (Count I); the Illinois Religious Freedom Restoration Act, 775 ILCS 35/1 et seq. (Count II); the free exercise of religion clause of the First Amendment to the U.S. Constitution and Article I, § 3 of the Illinois Constitution (Count III); the Coats-Snowe Amendment, 42 U.S.C. § 238n (Count IV); and the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution and Article I, § 2 of the Illinois Constitution (Count V).

II. MOTION TO DISMISS

Initially, defendants contend that plaintiffs’ state-law claims are barred under the sovereign immunity afforded by the Eleventh Amendment. In response, plaintiffs have agreed to withdraw their state-law claims. Accordingly, Count II, advancing a claim under the Illinois Religious Freedom Restoration Act, as well as those portions of Counts I, III, and V based upon the Illinois Constitution are dismissed.

Next, defendants argue that plaintiffs’ First Amendment free speech and free exercise claims in Counts I and III fail to state a claim upon which relief can be granted. Although defendants have cited the applicable Twombly/Iqbal plausibility standard in their memorandum of law filed in support of their motion to dismiss plaintiffs’ complaint, they have not incorporated that standard into their arguments seeking dismissal of the First Amendment claims in Counts I and III. Instead, defendants contend, for example, that intermediate scrutiny should be applied, not strict scrutiny, but that the amended act survives either; and that the amended act imposes no substantial burden on plaintiffs’ exercise of religion. These are substantive arguments more appropriately made in opposing plaintiffs’ request for a preliminary injunction or for a permanent injunction, not arguments that plaintiffs’ complaint is somehow insufficiently pleaded. Thus, defendants have advanced an insufficient basis to dismiss Counts I and III. In any event, in light of this court’s finding below that plaintiffs have made a substantial showing of a likelihood of success on the merits of their claim

under the Free Speech Clause of the First Amendment, defendants' motion to dismiss Counts I and III is denied.

Next, defendants argue that plaintiffs' Coates-Snowe Amendment claim in Count IV fails because: (1) § 238n prohibits discrimination against any "health care entity" which "includes an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions," 42 U.S.C. § 238n(c)(2), and therefore the only plaintiff afforded protection is Dr. Gingrich; (2) there is no private right of action under § 238n; and (3) even if there were such an action, plaintiffs have failed to state a claim under § 238n. The relevant part of the Coates-Snowe Amendment prohibits health care entities that receive federal financial assistance from discriminating on the basis that the entity refuses to perform or provide training in the performance of abortion or to refer for abortion or such training. *Id.* § 238n(a). However, because the court agrees that the Coates-Snowe Amendment does not confer a private right of action for such discrimination, it need not reach defendants' other arguments. Section 238n does not contain an express private right of action and a strong presumption exists against creation of an implied right of action. *See Endsley v. City of Chi.*, 230 F.3d 276, 281 (7th Cir. 2000). Instead, enforcement of § 238n is left up to the Department of Health and Human Services which may terminate funding in the event of non-compliance. *See* 45 C.F.R. § 88.2. Plaintiffs do not cite any legislative history to suggest a private right of action was intended nor do they cite any decision where such an action has been recognized. Therefore, this court, "will not imply a private right of action where none appears in the statute," *Endsley*, 230 F.3d at 281, and Count IV is dismissed.

Next, defendants argue that plaintiffs' equal protection claim under the Fourteenth Amendment fails because they have not pleaded dissimilar treatment of similarly situated classes. Defendants also argue that Count V should be dismissed because plaintiffs' equal protection claim adds nothing to their First Amendment free exercise claim. Irrespective of whether plaintiff's have identified similarly situated groups that are treated dissimilarly under the amended act, they have pleaded that such differential treatment impairs their fundamental right of freedom of religion. Plaintiffs do maintain that they have stated an Equal Protection claim by pleading dissimilar treatment of similarly situated classes, but they do not dispute the contention that their equal protection claim adds nothing to their First Amendment claims. Consequently, the court agrees that plaintiffs' Fourteenth Amendment Equal Protection claim in Count V is unnecessary and redundant in light of the more specific First Amendment free exercise claim in Count III. *See Goodman v. Carter*, No. 2000 C 948, 2001 WL 755137, at *7 (N.D. Ill. July 2, 2001) (finding a separate equal protection analysis unnecessary because "the protection afforded religious practice by the Equal Protection Clause is no greater than that granted by the First Amendment"). Accordingly, Count V is dismissed.

Finally, defendants argue that plaintiffs' claims against Governor Rauner should be dismissed because he is not a proper defendant in a case challenging the constitutionality of a state statute. In support of this argument, defendants cite *Johnson v. Rauner*, No. 15 C 131, 2016 WL 3917372, at *3 (N.D. Ill. July 20, 2016) (dismissing Governor Rauner as defendant in an action challenging the Sex Offender Registration Act on constitutional grounds); *Illinois League of Advocates for the Developmentally Disabled v. Quinn*, No. 13 C 1300, 2013 WL 5548929, at *4 (N.D. Ill. Oct. 8, 2013) (citing *Ex Parte Young*, 209 U.S. 123, 157 (1908), in concluding that Governor Quinn was

not a proper defendant because the proper defendant has some connection with the enforcement of the challenged law and the governor's general obligations to enforce the law are insufficient); Weinstein v. Edgar, 826 F. Supp. 1165, 1166 (N.D. Ill. 1993) ("Implicit in the right to sue state officials for prospective injunctive relief, however, is the requirement that the state official bear some connection with the enforcement of the challenged statute."). In response, plaintiffs do not take issue with these authorities or maintain that they are somehow inapplicable or distinguishable. Instead, plaintiffs simply argue that the injunction issued in Morr-Fitz, Inc. v. Quinn, 2012 IL App (4th) 110398, ¶ 84, enjoined "all defendants" which included Governor Pat Quinn. The problem with plaintiffs' argument is that there is no indication that Governor Quinn ever moved to dismiss the claims brought against him in Morr-Fritz. Accordingly, the claims against Governor Rauner are dismissed and he is terminated as a defendant in this case.

III. MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs move, based on their claim under the Free Speech Clause of the First Amendment, for a preliminary injunction enjoining defendants from enforcing the amended act to the extent that enforcement would penalize health facilities or professionals who object to furnishing information about other health care providers who offer abortion or who object to describing abortion as a beneficial treatment option.¹ Defendants' oppose the motion. When bringing a motion for a preliminary injunction, plaintiffs must demonstrate: (1) that they are likely to succeed on the merits of their claim; (2) that they are likely to suffer irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in their favor; and (4) that an injunction is in the public interest. Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 20 (2008). "The purpose of [a preliminary injunction] is not to conclusively determine the rights of the parties, but to balance the equities as the litigation moves forward." Trump v. Int'l Refugee Assistance Project, 582 U.S. ____, No. 16-1436, 2017 WL 2722580, at *5 (U.S. June 26, 2017). The Seventh Circuit has recently explained that in First Amendment cases such as this the likelihood of success on the merits is the lynchpin factor:

[I]n First Amendment cases, the likelihood of success on the merits will often be the determinative factor. That is because even short deprivations of First Amendment rights constitute irreparable harm, and the balance of harms normally favors granting preliminary injunctive relief because the public interest is not harmed by preliminarily enjoining the enforcement of a statute that is probably unconstitutional. So the analysis begins and ends with the likelihood of success on the merits of the [First Amendment] claim.

Higher Soc'y of Ind. v. Tippecanoe Cty., Ind., 858 F.3d 1113, 1116 (7th Cir. 2017) (citations omitted). "[T]he threshold for demonstrating a likelihood of success on the merits is low." D.U. v. Rhoades, 825 F.3d 331, 338 (7th Cir. 2016). "[P]laintiff's chances of prevailing need only be better

¹Plaintiffs also move for a preliminary injunction based on their claim under the First Amendment Free Exercise Clause. However, because the court grants plaintiffs a preliminary injunction based on their First Amendment Free Speech claim and has enjoined enforcement of the amended act against them, the court need not address plaintiffs' free exercise claim. The parties will have a full and fair opportunity to litigate that claim as this case moves forward.

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than negligible.” *Id.* The court will therefore address the likelihood of plaintiffs’ success on the merits of their First Amendment Free Speech claim.

The First Amendment to the United States Constitution, as incorporated by the Fourteenth Amendment, prohibits states from enacting laws “abridging the freedom of speech.” U.S. Const. amend. I. The Free Speech Clause of the First Amendment provides protection from both government suppressed speech and government compelled speech. Agency for Int’l Dev. v. All. for Open Soc’y Int’l, Inc., ___ U.S. ___, 133 S. Ct. 2321, 2327 (2013) (“It is . . . a basic First Amendment principle that freedom of speech prohibits the government from telling people what they must say.”); Knox v. Serv. Employees Int’l Union, Local 1000, 567 U.S. 298, 309 (2012) (“The government may not prohibit the dissemination of ideas that it disfavors, nor compel the endorsement of ideas that it approves.”). Thus, the First Amendment prohibits not only direct burdens on speech, but also indirect burdens that are created when the government conditions receipt of a benefit on compelling or foregoing constitutionally-protected speech. See Perry v. Sindermann, 408 U.S. 593, 597 (1972). This principle, known as the unconstitutional conditions doctrine, acknowledges that the government, having no obligation to furnish a benefit, nevertheless cannot force a citizen to choose between a benefit and free speech. Rumsfeld v. Forum for Academic & Institutional Rights, Inc., 547 U.S. 47, 59-60 (2006); Perry, 408 U.S. at 597.

The parties dispute the proper level of scrutiny that should be applied to the amended act. Defendants contend that intermediate scrutiny applies to legislation like the amended act which regulates professional speech. Plaintiffs, on the other hand, contend that the amended act is subject to strict scrutiny because it is a content- and viewpoint-based regulation.

In support of their position, defendants argue that federal courts have generally applied intermediate scrutiny to regulations aimed at medical professionals. For example, defendants cite National Institute of Family and Life Advocates v. Harris, wherein the Ninth Circuit applied intermediate scrutiny to a California law requiring all pregnancy-related clinics to disseminate a notice stating the existence of publicly-funded family-planning services, including contraception and abortion. 839 F.3d 823, 828 (9th Cir. 2016). The Ninth Circuit only did so, however, after concluding that the law, while content-based because it required speech on a particular matter, did not discriminate based on viewpoint because it “applies to all licensed and unlicensed facilities, regardless of what, if any, objections they may have to certain family-planning services.” *Id.* at 835. Thus, neither Harris nor the other cases cited by defendants stand for the proposition that content-based laws that discriminate based on viewpoint are subject to intermediate scrutiny.

In any event, in this court’s view, any dispute about the applicable level of scrutiny to be applied to the amended act is resolved by the Supreme Court’s recent decision in Matal v. Tam, 582 U.S. ___, No. 15-1293, 2017 WL 2621315 (U.S. June 19, 2017). In Tam, the question of whether trademarks are commercial speech to which the relaxed scrutiny, i.e. intermediate scrutiny, applied was left unanswered in the opinion of the Court because the Court concluded that the regulation under review did not withstand even relaxed scrutiny. *Id.* at *18-19. Nevertheless, in concurring opinions, five justices agreed that even commercial speech that is viewpoint discriminatory is subject to heightened or strict scrutiny. *Id.* at *23 (“Commercial speech is no exception, the Court has explained, to the principle that the First Amendment requires heightened scrutiny whenever the government creates a regulation of speech because of disagreement with the message it conveys.

Unlike content based discrimination, discrimination based on viewpoint, including a regulation that targets speech for its offensiveness, remains of serious concern in the commercial context.” (citations omitted) (Kennedy, J. with Ginsburg, Sotomayor, and Kagan J.J.); *id.* at *25 (“I also write separately because I continue to believe that when the government seeks to restrict truthful speech in order to suppress the ideas it conveys, strict scrutiny is appropriate, whether or not the speech in question may be characterized as commercial.”) (Thomas, J., concurring in part and concurring in judgment)). Thus, it is clear that the prevailing view of a majority of the Supreme Court is that content-based laws that discriminate based on point of view, even if for the purpose of regulating commercial or professional speech, are still subject to strict scrutiny.

In this case, there is a substantial likelihood that plaintiffs will be successful in demonstrating that the amended act is content-based because it “[m]andat[es] speech that a speaker would not otherwise make” which “necessarily alters the content of the speech.” Riley v. Nat’l Fed’n of the Blind of N.C., Inc., 487 U.S. 781, 795 (1988). Defendants do not advance a discernible argument that the amended act is not content-based. The parties do dispute, however, whether the amended act is viewpoint discriminatory. A law discriminates based on viewpoint when it regulates speech “based on the specific motivating ideology or the opinion or perspective of the speaker [and] is a more blatant and egregious form of content discrimination.” Reed v. Town of Gilbert, Ariz., 576 U.S. ___, 135 S. Ct. 2218, 2230 (2015).

Defendants maintain that the pre-existing ethical standards of informed consent governing the medical profession, which are incorporated into Illinois law, unambiguously require health care providers to disclose all relevant treatment options to their patients. Defendants argue that the HCRCA was amended to ensure that health care providers with conscience-based objections to certain treatments nevertheless provide their patients with certain information to make an informed decision regarding their health, and thus the amended act is not a viewpoint-based law.

However, the HCRCA was enacted to excuse health care providers from performing legal treatment options like abortion because they had conscience-based objections and the HCRCA provided them with protection from any resulting civil liability or professional discipline. 745 ILCS 70/4. The HCRCA also excused such health care providers from referring their patients to other providers who would perform the abortion and excused them from in any way assisting, counseling, suggesting, recommending, or participating in abortion as a legal treatment option. *Id.* The amended act fundamentally changes the HCRCA by conditioning its protection on a protocol requiring health care providers with conscience-based objections to abortion to now do some of the things the HCRCA formerly excused them from doing. In particular, the amended act now requires plaintiffs to inform their patients about abortion and counsel them on the risks and benefits of abortion. *Id.* § 70/6.1(1). In addition, if requested by the patient or her legal representative, those with conscience-based objections must now either refer their patient to a provider who will perform the abortion, transfer her to a provider who will perform the abortion, or provide her with the information about other providers who will perform the abortion. *Id.* § 70/6.1(3). It is clear that the amended act targets the free speech rights of people who have a specific viewpoint. Thus, plaintiffs have demonstrated a better than negligible chance of succeeding in showing that the amended act discriminates based on their viewpoint by compelling them to tell their patients that abortion is a legal treatment option, which has benefits, and, at a minimum and upon request, to give their patients

the identifying information of providers who will perform an abortion. Moreover, in conditioning the protections of the HCRCRA on compelled speech, the amended act has potentially violated the unconstitutional conditions doctrine. See Rumsfeld, 547 U.S. at 59-60 (explaining that while the government has no obligation to furnish a benefit it cannot force a citizen to choose between a benefit and free speech); see also United States v. American Library Ass'n, Inc., 539 U.S. 194, 210 (2003). (“[T]he government may not deny a benefit to a person on a basis that infringes his constitutionally protected . . . freedom of speech even if he has no entitlement to that benefit.”).

A comparison to the regulation under review in Harris demonstrates the viewpoint discrimination present in the amended act. The law being challenged in Harris required that all licensed and unlicensed pregnancy-related clinics disseminate a notice stating the existence of publically-funded family-planning services, including contraception and abortion. Harris, 839 F.3d at 828-29. In concluding that the law did not discriminate based on the point of view or ideology of the compelled speaker, the court in Harris relied on the circumstance that the law applied to all pregnancy-related clinics “regardless of what, if any, objections they may have to certain family-planning services.” Id. at 835. In contrast, the amended act under review in this case applies only to health care providers with conscience-based objections to certain legal treatment options such as abortion. Therefore, the court finds that plaintiffs have demonstrated a likelihood of showing that the amended act discriminates against health care providers that are of the point of view that abortion is wrong by compelling only them to speak a message that, from their viewpoint, is abhorrent.

Having found that plaintiffs have demonstrated a likelihood of success in showing that the amended act is content-based and viewpoint discriminatory, the amended act will be subject to strict scrutiny, that is, it must be the least restrictive means of achieving a compelling state interest. See McCullen v. Coakley, 573 U.S. ___, 134 S. Ct. 2518, 2530 (2014). Defendants contend that even if strict scrutiny applies, the amended act survives because it is the least restrictive means of protecting Illinois’ compelling interest in protecting the health and autonomy of its citizens by ensuring that they receive information that they need to make informed medical decisions. Plaintiffs argue that defendants have not demonstrated a need for the compelled speech, let alone a compelling state interest in having those with conscience-based objections to make these statements to their patients. Defendants also argue that the requirements of the amended act, particularly the compelled discussion of abortion as a legal treatment option and providing the patient with information about other health care providers who they reasonably believe may offer abortion, are clearly not the least restrictive means to achieve this interest when this information is or could be provided through other means such as telephone directories and internet websites. At this stage of the litigation and on this record, suffice it to say that defendants have yet to satisfy their burden of proving that the compelled speech requirements of the amended act are the least restrictive means of achieving its interest. See St. John’s United Church of Christ v. City of Chi., 502 F.3d 616, 646 (7th Cir. 2007) (noting that under strict scrutiny review, the government bears the burden of proving both elements). In contrast, plaintiffs have demonstrated a better than negligible chance of showing that Illinois has multiple options less restrictive than compelling those with conscience-based objections to abortion to communicate to a patient that abortion is a legal treatment option as well as the information she will need to obtain an abortion. Moreover, the special concern of overburdening speech is implicated when, as here, the compelled speech is on a matter of public debate:

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Regardless of whether less restrictive means exist, the Services Disclosure overly burdens Plaintiffs' speech. When evaluating compelled speech, we consider the context in which the speech is made. Here, the context is a public debate over the morality and efficacy of contraception and abortion, for which many of the facilities regulated by Local Law 17 provide alternatives. [E]xpression on public issues has always rested on the highest rung on the hierarchy of First Amendment values. Mandating speech that a speaker would not otherwise make necessarily alters the content of the speech. A requirement that pregnancy services centers address abortion, emergency contraception, or prenatal care at the beginning of their contact with potential clients alters the centers' political speech by mandating the manner in which the discussion of these issues begins.

Evergreen Ass'n, Inc. v. City of N.Y., 740 F.3d 233, 249 (2d Cir. 2014) (citations omitted).

The court finds further that even if the intermediate scrutiny applicable to laws regulating professional or commercial speech were applied in this case, see Central Hudson Gas & Elec. Corp. v. Public Serv. Comm. of New York, 447 U.S. 557, 561-62 (1980), plaintiffs have demonstrated a better than negligible chance of showing that the amended act would still likely fail. Once again, at this stage of the litigation and on this record, defendants have not proven that the amended act is narrowly tailored to achieve a substantial government interest. See Bolger v. Youngs Drug Prods. Corp., 463 U.S. 60, 71 n.20 (1983) ("The party seeking to uphold a restriction on commercial speech carries the burden of justifying it."). Plaintiffs have, on the other hand, demonstrated a better than negligible chance of showing that a law compelling the health care provider with conscience-based objections to abortion to serve as the source of information about the legal treatment option of abortion and to serve as a directory of health care providers performing abortions is not narrowly tailored to achieve a substantial government interest. For these reasons, plaintiffs have demonstrated a likelihood of success on their First Amendment Free Speech claim and a preliminary injunction will issue.²

IV. CONCLUSION

For these reasons, defendants' motion to dismiss is granted in part and denied in part. Plaintiff's motion for a preliminary injunction is granted. The Secretary of the Illinois Department of Financial & Professional Regulation is hereby enjoined pursuant to Federal Rule of Civil Procedure 65(a) from enforcing the amended act to the extent that enforcement would penalize health care facilities, health care personnel, or physicians who object to providing information about health care providers who may offer abortion or who object to describing abortion as a beneficial

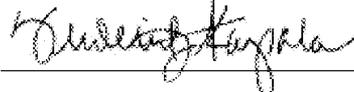
²Even if the court were to consider the remaining factors, the court would find that they weigh in favor of granting the preliminary injunction. The second factor is satisfied because irreparable harm is presumed. See Christian Legal Soc'y v. Walker, 453 F.3d 853, 867 (7th Cir. 2006) ("Violations of First Amendment rights are presumed to constitute irreparable injuries."). With respect to factors three and four, the court concludes that in balancing the equities in consideration of the public interest, Illinois is not harmed by preliminarily enjoining the enforcement of a law that probably violates the First Amendment. See Higher Soc'y of Ind. 858 F.3d at 1116. Moreover, the legal right to an abortion is widely known and a person desiring such a procedure, except in the most extraordinary circumstances, would have little difficulty in finding a provider.

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treatment option. This preliminary injunction is effective until the conclusion of this action or further order of the court.

Date: 7/19/2017

ENTER:

A handwritten signature in black ink, appearing to read "Frederick J. Kapala", written over a horizontal line.

FREDERICK J. KAPALA

District Judge

Exhibit 14



**DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE FOR CIVIL RIGHTS (OCR)
CIVIL RIGHTS DISCRIMINATION COMPLAINT**

Form Approved: OMB No. 0990-0269.
See OMB Statement on Reverse.



YOUR FIRST NAME [REDACTED]		YOUR LAST NAME [REDACTED]	
H / CELL PHONE (Please include area code) [REDACTED] x [REDACTED]		W ONE (Please include area code) [REDACTED]	
S [REDACTED]		CITY [REDACTED]	
SI [REDACTED]	ZIP [REDACTED]	E-MAIL ADDRESS (If available) [REDACTED]	

Are you filing this complaint for someone else? Yes No
If Yes, whose civil rights do you believe were violated?

FIRST NAME [REDACTED]	LAST NAME [REDACTED]
--------------------------	-------------------------

I believe that I have been (or someone else has been) discriminated against on the basis of:

- Race / Color / National Origin
 Age
 Religion / Conscience
 Sex
 Disability
 Other (specify): _____

Who or what agency or organization do you believe discriminated against you (or someone else)?

PERSON/AGENCY/ORGANIZATION

State of Wisconsin Department of Safety and Professional Services

STREET ADDRESS 4822 Madison Yards Way		CITY Madison
STATE Wisconsin	ZIP 53705	PHONE (Please include area code) [REDACTED]

When do you believe that the discrimination occurred?

LIST DATE(S)

04/13/2005

Describe briefly what happened. How and why do you believe that you have been discriminated against? Please be as specific as possible.
(Attach additional pages as needed)

In Wisconsin in 2002 as a pharmacist I did not feel comfortable with a prescription refill. I determined that the refill was being used for contraception. Therefore, I made a conscientious objection out of a sincerely held religious belief not to dispense or to participate in the transfer of the refill order.

The State Board of Pharmacy determined that my objection was "unprofessional." I was formally
This field may be truncated due to size limit. See the "Allegation Description" file in the case folder.

Please sign and date this complaint. You do not need to sign if submitting this form by email because submission by email represents your signature.

SIGNATURE [REDACTED]	DATE (mm/dd/yyyy) 09/17/2018
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Filing a complaint with OCR is voluntary. However, without the information requested above, OCR may be unable to proceed with your complaint. We collect this information under authority of Sections 1553 and 1557 of the Affordable Care Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Church Amendments, the Coats-Snowe Amendment, the Weldon Amendment, and other civil rights statutes. We will use the information you provide to determine if we have jurisdiction and, if so, how we will process your complaint. Information submitted on this form is treated confidentially and is protected under the provisions of the Privacy Act of 1974. Names or other identifying information about individuals are disclosed when it is necessary for investigation of possible discrimination, for internal systems operations, or for routine uses, which include disclosure of information outside the Department of Health and Human Services (HHS) for purposes associated with civil rights compliance and as permitted by law. It is illegal for a recipient of Federal financial assistance from HHS to intimidate, threaten, coerce, or discriminate or retaliate against you for filing this complaint or for taking any other action to enforce your rights under Federal civil rights laws. You are not required to use this form. You also may write a letter or submit a complaint electronically with the same information. To submit an electronic complaint, go to OCR's web site at: www.hhs.gov/ocr/civilrights/complaints/index.html. To submit a complaint using alternative methods, see reverse page (page 2 of the complaint form).

The remaining information on this form is optional. Failure to answer these voluntary questions will not affect OCR's decision to process your complaint.

Do you need special accommodations for us to communicate with you about this complaint? (Check all that apply)

- Braille
 Large Print
 Cassette tape
 Computer diskette
 Electronic mail
 TDD
 Sign language interpreter (specify language): _____
 Foreign language interpreter (specify language): _____ Other: _____

If we cannot reach you directly, is there someone we can contact to help us reach you?

FIRST NAME		LAST NAME	
HOME PHONE (Please include area code)		WORK PHONE (Please include area code)	
STREET ADDRESS		CITY	
STATE	ZIP	E-MAIL ADDRESS (If available)	

Have you filed your complaint anywhere else? If so, please provide the following. (Attach additional pages as needed)

PERSON/AGENCY/ORGANIZATION/ COURT NAME(S)

DATE(S) FILED	CASE NUMBER(S) (If known)
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To help us better serve the public, please provide the following information for the person you believe was discriminated against (you or the person on whose behalf you are filing).

ETHNICITY (select one) RACE (select one or more)
 Hispanic or Latino
 American Indian or Alaska Native
 Asian
 Native Hawaiian or Other Pacific Islander
 Not Hispanic or Latino
 Black or African American
 White
 Other (specify): _____
 PRIMARY LANGUAGE SPOKEN (if other than English) _____

How did you learn about the Office for Civil Rights?

- HHS Website/Internet Search
 Family/Friend/Associate
 Religious/Community Org
 Lawyer/Legal Org
 Phone Directory
 Employer
 Fed/State/Local Gov
 Healthcare Provider/Health Plan
 Conference/OCR Brochure
 Other (specify): _____

To submit a complaint, please type or print, sign, and return completed complaint form package (including consent form) to the OCR Headquarters address below.

**U.S. Department of Health and Human
 Services
 Office for Civil Rights
 Centralized Case Management Operations
 200 Independence Ave., S.W.
 Suite 515F, HHH Building
 Washington, D.C. 20201
 Customer Response Center: (800) 368-1019
 Fax: (202) 619-3818
 TDD: (800) 537-7697
 Email: ocrmail@hhs.gov**

Burden Statement

Public reporting burden for the collection of information on this complaint form is estimated to average 45 minutes per response, including the time for reviewing instructions, gathering the data needed and entering and reviewing the information on the completed complaint form. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: HHS/OS Reports Clearance Officer, Office of Information Resources Management, 200 Independence Ave. S.W., Room 531H, Washington, D.C. 20201. **Please do not mail complaint form to this address.**



COMPLAINANT CONSENT FORM

The Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) has the authority to collect and receive material and information about you, including personnel and medical records, which are relevant to its investigation of your complaint.

To investigate your complaint, OCR may need to reveal your identity or identifying information about you to persons at the entity or agency under investigation or to other persons, agencies, or entities.

The Privacy Act of 1974 protects certain federal records that contain personally identifiable information about you and, with your consent, allows OCR to use your name or other personal information, if necessary, to investigate your complaint.

Consent is voluntary, and it is not always needed in order to investigate your complaint; however, failure to give consent is likely to impede the investigation of your complaint and may result in the closure of your case.

Additionally, OCR may disclose information, including medical records and other personal information, which it has gathered during the course of its investigation in order to comply with a request under the Freedom of Information Act (FOIA) and may refer your complaint to another appropriate agency.

Under FOIA, OCR may be required to release information regarding the investigation of your complaint; however, we will make every effort, as permitted by law, to protect information that identifies individuals or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

Please read and review the documents entitled, *Notice to Complainants and Other Individuals Asked to Supply Information to the Office for Civil Rights* and *Protecting Personal Information in Complaint Investigations* for further information regarding how OCR may obtain, use, and disclose your information while investigating your complaint.

In order to expedite the investigation of your complaint if it is accepted by OCR, please read, sign, and return one copy of this consent form to OCR with your complaint. Please make one copy for your records.

- As a complainant, I understand that in the course of the investigation of my complaint it may become necessary for OCR to reveal my identity or identifying information about me to persons at the entity or agency under investigation or to other persons, agencies, or entities.



- I am also aware of the obligations of OCR to honor requests under the Freedom of Information Act (FOIA). I understand that it may be necessary for OCR to disclose information, including personally identifying information, which it has gathered as part of its investigation of my complaint.
- In addition, I understand that as a complainant I am covered by the Department of Health and Human Services' (HHS) regulations which protect any individual from being intimidated, threatened, coerced, retaliated against, or discriminated against because he/she has made a complaint, testified, assisted, or participated in any manner in any mediation, investigation, hearing, proceeding, or other part of HHS' investigation, conciliation, or enforcement process.

After reading the above information, please check ONLY ONE of the following boxes:

CONSENT: I have read, understand, and agree to the above and give permission to OCR to reveal my identity or identifying information about me in my case file to persons at the entity or agency under investigation or to other relevant persons, agencies, or entities during any part of HHS' investigation, conciliation, or enforcement process.

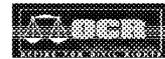
CONSENT DENIED: I have read and I understand the above and do not give permission to OCR to reveal my identity or identifying information about me. I understand that this denial of consent is likely to impede the investigation of my complaint and may result in closure of the investigation.

Signature: _____ Date: 09/17/2018
*Please sign and date _____ ed to sign if submitting this form by email because submission by email represents your signature.

Name (Please print): _____

Address: _____

Telephone Number: _____ x _____ (H) _____



NOTICE TO COMPLAINANTS AND OTHER INDIVIDUALS ASKED TO SUPPLY INFORMATION TO THE OFFICE FOR CIVIL RIGHTS

Privacy Act

The Privacy Act of 1974 (5 U.S.C. § 552a) requires OCR to notify individuals whom it asks to supply information that:

— OCR is authorized to solicit information under:

- (i) Federal laws barring discrimination by recipients of Federal financial assistance on grounds of race, color, national origin, disability, age, sex, religion, and conscience under programs and activities receiving Federal financial assistance from the U.S. Department of Health and Human Services (HHS), including, but not limited to, Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*), Sections 794 and 855 of the Public Health Service Act (42 U.S.C. §§ 295m and 296g), Section 1553 of the Affordable Care Act (42 U.S.C. § 18113), the Church Amendments (42 U.S.C. § 300a-7), the Coats-Snowe Amendment (42 U.S.C. § 238n) and the Weldon Amendment (*e.g.*, Consolidated Appropriations Act of 2017, Pub. L. 115-31, Div. H, Tit. V, § 507);
- (ii) Titles VI and XVI of the Public Health Service Act (42 U.S.C. §§ 291 *et seq.* and 300s *et seq.*) and 42 C.F.R. Part 124, Subpart G (Community Service obligations of Hill- Burton facilities);
- (iii) 45 C.F.R. Part 85, as it implements Section 504 of the Rehabilitation Act in programs conducted by HHS; and
- (iv) Title II of the Americans with Disabilities Act (42 U.S.C. § 12131 *et seq.*) and Department of Justice regulations at 28 C.F.R. Part 35, which give HHS “designated agency” authority to investigate and resolve disability discrimination complaints against certain public entities, defined as health and service agencies of state and local governments, regardless of whether they receive federal financial assistance.
- (v) The Standards for the Privacy of Individually Identifiable Health Information (The Privacy Rule) at 45 C.F.R. Part 160 and Subparts A and E of Part 164, which enforce the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (42 U.S.C. § 1320d-2).

OCR will request information for the purpose of determining and securing compliance with the Federal laws listed above. Disclosure of this requested information to OCR by individuals who are not recipients of Federal financial assistance is voluntary; however, even individuals who voluntarily disclose information are subject to prosecution and penalties under 18 U.S.C. § 1001 for making false statements.

Additionally, although disclosure is voluntary for individuals who are not recipients of Federal financial assistance, failure to provide OCR with requested information may preclude OCR from making a compliance determination or enforcing the laws above.



OCR has the authority to disclose personal information collected during an investigation without the individual's consent for the following routine uses:

- (i) to make disclosures to OCR contractors who are required to maintain Privacy Act safeguards with respect to such records;
- (ii) for disclosure to a congressional office from the record of an individual in response to an inquiry made at the request of the individual;
- (iii) to make disclosures to the Department of Justice to permit effective defense of litigation; and
- (iv) to make disclosures to the appropriate agency in the event that records maintained by OCR to carry out its functions indicate a violation or potential violation of law.

Under 5 U.S.C. § 552a(k)(2) and the HHS Privacy Act regulations at 45 C.F.R. § 5b.11 OCR complaint records have been exempted as investigatory material compiled for law enforcement purposes from certain Privacy Act access, amendment, correction and notification requirements.

Freedom of Information Act

A complainant, the recipient or any member of the public may request release of OCR records under the Freedom of Information Act (5 U.S.C. § 552) (FOIA) and HHS regulations at 45 C.F.R. Part 5.

Fraud and False Statements

Federal law, at 18 U.S.C. §1001, authorizes prosecution and penalties of fine or imprisonment for conviction of "whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry".



PROTECTING PERSONAL INFORMATION IN COMPLAINT INVESTIGATIONS

To investigate your complaint, the Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) will collect information from different sources. Depending on the type of complaint, we may need to get copies of your medical records, or other information that is personal to you. This Fact Sheet explains how OCR protects your personal information that is part of your case file.

HOW DOES OCR PROTECT MY PERSONAL INFORMATION?

OCR is required by law to protect your personal information. The Privacy Act of 1974 protects Federal records about an individual containing personally identifiable information, including, but not limited to, the individual's medical history, education, financial transactions, and criminal or employment history that contains an individual's name or other identifying information.

Because of the Privacy Act, OCR will use your name or other personal information with a signed consent and only when it is necessary to complete the investigation of your complaint or to enforce civil rights laws or when it is otherwise permitted by law.

Consent is voluntary, and it is not always needed in order to investigate your complaint; however, failure to give consent is likely to impede the investigation of your complaint and may result in the closure of your case.

CAN I SEE MY OCR FILE?

Under the Freedom of Information Act (FOIA), you can request a copy of your case file once your case has been closed; however, OCR can withhold information from you in order to protect the identities of witnesses and other sources of information.

CAN OCR GIVE MY FILE TO ANY ONE ELSE?

If a complaint indicates a violation or a potential violation of law, OCR can refer the complaint to another appropriate agency without your permission.

If you file a complaint with OCR, and we decide we cannot help you, we may refer your complaint to another agency such as the Department of Justice.



CAN ANYONE ELSE SEE THE INFORMATION IN MY FILE?

Access to OCR's files and records is controlled by the Freedom of Information Act (FOIA). Under FOIA, OCR may be required to release information about this case upon public request. In the event that OCR receives such a request, we will make every effort, as permitted by law, to protect information that identifies individuals, or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

If OCR receives protected health information about you in connection with a HIPAA Privacy Rule investigation or compliance review, we will only share this information with individuals outside of HHS if necessary for our compliance efforts or if we are required to do so by another law.

DOES IT COST ANYTHING FOR ME (OR SOMEONE ELSE) TO OBTAIN A COPY OF MY FILE?

In most cases, the first two hours spent searching for document(s) you request under the Freedom of Information Act and the first 100 pages are free. Additional search time or copying time may result in a cost for which you will be responsible. If you wish to limit the search time and number of pages to a maximum of two hours and 100 pages; please specify this in your request. You may also set a specific cost limit, for example, cost not to exceed \$100.00.

If you have any questions about this complaint and consent package, Please contact OCR at <http://www.hhs.gov/ocr/office/about/contactus/index.html>

OR

Contact the Customer Response Center at (800) 368-1019

(see contact information on page 2 of the Complaint Form)