

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

PLANNED PARENTHOOD OF THE
HEARTLAND, INC.; EMMA GOLDMAN
CLINIC; and SARAH TRAXLER, M.D.,

Petitioners,

v.

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

Respondents.

Case No. _____

**PETITIONERS' EMERGENCY
MOTION FOR TEMPORARY
INJUNCTIVE RELIEF**

COME NOW Petitioners, Planned Parenthood of the Heartland, Inc. (“PPH”), Sarah Traxler, M.D., and the Emma Goldman Clinic (“EGC”), respectfully move this court for a grant of temporary injunctive relief pursuant to Iowa R. Civ. P. 1.1502, on an immediate and emergency basis, to take effect upon Governor Kim Reynolds’s signing House File 732 (the “Act”),¹ and state:

1. On July 11, 2023, Governor Reynolds convened a special session of the General Assembly, during which the General Assembly passed the Act.
2. On July 11, 2023, Governor Reynolds announced that she will sign the Act on July 14,

¹ In 2017, the General Assembly passed Senate File 471, a bill imposing a mandatory 72-hour delay requirement and an additional trip requirement on people seeking abortions, which also included an immediate effective date. *See* 2017 Senate File 471. Governor Terry Branstad announced he would sign the bill into law on May 5, 2017; because of its immediate effective date, PPH filed a motion for a temporary injunction to enjoin the law two days earlier, on May 3, 2017. *See* Pet. for Decl. J. and Injunctive Relief, ¶ 1, *Planned Parenthood of the Heartland, Inc. v. Reynolds*, No. EQCE81503 (Polk Cnty. Dist. Ct. May 3, 2017) (filed as *Planned Parenthood of the Heartland v. Branstad*). This Court set a hearing on the motion for the following day, May 4, before the law went into effect. *See* Order Setting Hearing on Mot., *id.* After the hearing, this Court issued a ruling that would “become effective immediately upon the governor signing the bill.” Ruling on Pls.’ Pet. For Temp. Inj. at 4, *id.* Similarly, Petitioners in this case request that the Court issue a temporary injunction, to take effect upon Governor Reynolds’s signing the Act on July 14, 2023.

2023. *See* Press Release, Office of Gov. Kim Reynolds, Gov. Reynolds Statement on Special Session to Protect Life (July 11, 2023), <https://governor.iowa.gov/press-release/2023-07-11/gov-reynolds-statement-special-session-protect-life>.
3. The Act has an immediate effective date. Absent expedited temporary relief, when the Act goes into effect, it will prohibit the vast majority of Iowans from accessing abortion. The Ban will irreparably harm Petitioners and their patients, and there is no adequate legal remedy.
 4. The Act bans abortion if embryonic or fetal cardiac activity can be detected, which can occur starting at approximately six weeks of pregnancy, as measured from the first day of a patient's last menstrual period ("LMP"), before many people know they are pregnant. Affidavit of Sarah Traxler, M.D. ("Traxler Aff.") ¶ 13. The vast majority of abortions in Iowa occur after six weeks LMP: nearly 92% of the abortions PPH provided in Iowa in the first half of 2023 and 99% of the ones EGC provided between October 2022 and May 2023 were for patients whose pregnancies had already reached six weeks LMP. Traxler Aff. ¶ 20; Affidavit of Abbey Hardy-Fairbanks, M.D. ("Hardy-Fairbanks Aff.") ¶ 16.
 5. Therefore, in practical effect, the Act would prohibit the vast majority of abortions in Iowa.
 6. The Act does not specify the penalties providers could face for a violation, but the Iowa Board of Medicine has the authority to discipline providers for violating a state law, including by imposing civil penalties of up to ten thousand dollars and revoking their medical licenses. *See* House File 732 § 2(5); Iowa Code §§ 148.6(1), (2)(c); Iowa Code § 272C.3(2).

7. The Ban violates Petitioners' patients' right to access abortion under the Due Process Clause and Inalienable Rights Clause of the Iowa Constitution. Iowa Const. art. I, §§ 1, 9.
8. The number of people harmed by this law is overwhelming: in 2022, PPH provided over 3300 abortions in Iowa, and from October 2021 to September 2022, EGC provided 703 abortions. Traxler Aff. ¶ 20; Hardy-Fairbanks Aff. ¶ 4.
9. The Iowa Supreme Court has recognized that abortion restrictions must satisfy the undue burden test to pass constitutional muster. *Planned Parenthood of the Heartland, Inc. v. Iowa Bd. of Med.*, 865 N.W.2d 252, 263, 269 (Iowa 2015) (“*PPH I*”); *Planned Parenthood of the Heartland, Inc. v. Reynolds*, 975 N.W.2d 710, 716 (Iowa 2022) (“*PPH IV*”) (holding that undue burden “remains the governing standard”); *Planned Parenthood of the Heartland, Inc. v. Reynolds*, No. 22-2036, slip op. at 6 (Iowa June 16, 2023) (“*PPH V*”) (“[T]he undue burden test remains the governing standard.”) (Waterman, J., non-precedential op.).
10. The Act does not satisfy the undue burden standard. At oral argument before the Iowa Supreme Court in April, the State conceded that the six-week ban the General Assembly passed in 2018, which was virtually identical to the Act, did not satisfy the undue burden test. Oral Argument at 2:56, *PPHV V*, https://www.youtube.com/watch?v=_NvW74QA12s; see also *PPH V*, slip op. at 13 (noting it is “clear and indeed conceded by the State at oral argument” that the 2018 ban does not satisfy the undue burden standard) (Waterman, J., non-precedential op.).
11. Temporary injunctive relief under Iowa R. Civ. P. 1.1502 is appropriate when necessary “to maintain the status quo of the parties prior to final judgment and to protect

- the subject of the litigation.” *Kleman v. Charles City Police Dep’t*, 373 N.W.2d 90, 95 (Iowa 1985). Such relief is appropriate if the movant demonstrates: (1) a likelihood of success on the merits; (2) a threat of irreparable injury; and (3) that the balance of harms favors relief. *See generally Opat v. Ludeking*, 666 N.W.2d 597, 603–04 (Iowa 2003); *Max 100 L.C. v. Iowa Realty Co., Inc.*, 621 N.W.2d 178, 181 (Iowa 2001).
12. As explained more fully in Petitioners’ Brief in Support, filed herewith, Petitioners are likely to succeed on the merits of their claims that the Act violates their patients’ rights under the Due Process Clause and Inalienable Rights Clause of the Iowa Constitution.
 13. The constitutional violations themselves constitute irreparable harm. *See LS Power Midcontinent, LLC v. State*, 988 N.W.2d 316, 338 (Iowa 2023). Further, the Act will harm Petitioners’ patients, who will be forced to remain pregnant against their will or to overcome substantial obstacles to seek abortions outside the state. The Act will also irreparably harm Petitioners and their medical providers and other staff members, who will no longer be able to provide medical care consistent with their medical judgment and in support of patient well-being.
 14. While the Ban will cause severe harm to Petitioners and their patients, Respondents will not suffer any harm if Petitioners’ patients continue to have access to abortion, as they have for over fifty years.
 15. Finally, there is no adequate legal remedy. *See Ney v. Ney*, 891 N.W.2d 446, 452 (Iowa 2017). The Ban will cause grievous injury to each person denied an abortion under it, and such injuries cannot later be compensated by damages.
 16. For the reasons set forth above, and incorporating all the arguments set forth in their concurrently filed Brief in Support of Motion for Temporary Injunctive Relief,

Petitioners are entitled to the preliminary relief they seek as necessary to protect the legal rights of their patients, as well as their patients' immediate health and safety while this case proceeds toward final resolution.

WHEREFORE, Petitioners pray that this Court issue an order to take effect upon Governor Kim Reynolds's signing House File 732, ENJOINING Respondents and their agents, employees, appointees, and successors from enforcing House File 732 during the pendency of this case. Petitioners request a hearing on this motion at the earliest possible date.

Respectfully submitted,

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*Application for admission *pro hac vice* forthcoming