



THIRD JUDICIAL DISTRICT COURT FOR SALT LAKE COUNTY, UTAH

PLANNED PARENTHOOD ASSOCIATION OF UTAH, on behalf of itself and its patients, physicians, and staff, <i>Plaintiff,</i> v. STATE OF UTAH, <i>et al.</i>, <i>Defendants.</i>	ORDER GRANTING PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION Case No. 220903886 Judge Andrew Stone
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This matter came before the Court on Plaintiff Planned Parenthood Association of Utah's ("PPAU's") Motion for a Preliminary Injunction. The Motion seeks relief under Rule 65A of the Utah Rules of Civil Procedure against Defendants the State of Utah; Sean D. Reyes, in his official capacity as the Attorney General of the State of Utah; Spencer Cox, in his official capacity as the Governor of Utah; and Mark B. Steinagel, in his official capacity as the Director of the Utah Division of Occupational and Professional Licensing (collectively, "Defendants"). Having considered the Motion and Responses thereto; the Declarations of David Turok, Colleen Helfin, Lauren Hunt, Jane Doe, Alex Roe, and Ann Moe; the brief of Amici American College of Obstetricians & Gynecologists, et al; and the arguments presented in a hearing before this Court on July 11; and for good cause shown, the Court hereby GRANTS the Motion as follows:

Findings and Conclusions

The Court finds:

1. On June 24, 2022, Senate Bill 174, 2020 Leg., Gen Sess. (Utah 2020) (codified at Utah Code Ann. tit. 76, ch. 7A) (the "Act") went into effect.

2. As a result of the Act, PPAU and its staff, who provide abortions among other sexual and reproductive health care in Utah, stopped performing all abortions in the state, effective immediately, unless those abortions were eligible for one of the Act's exceptions. Turok Decl. ¶¶ 4, 21. PPAU resumed providing abortions that would otherwise be prohibited by the Act, after the Court granted its motion for a temporary restraining order on June 27, 2022.

3. PPAU has made a strong showing that, without a preliminary injunction, the Act will cause irreparable harm to PPAU, its patients, and its staff. If left in place, the Act will force some Utahns to continue carrying a pregnancy that they have decided to end, with all of the physical, emotional, and financial costs that entails. *Id.* ¶ 5; *see also id.* ¶¶ 21–43. Some Utahns will turn to self-managed abortion by buying pills or other items online and outside the U.S. health care system, which may in some cases be unsafe and threaten their health. *Id.* ¶ 22. Others will try to go out of state for abortions, if they have the means to do so, likely resulting in delayed care and imposing additional physical, emotional, and financial costs on these individuals and their families. Heflin Decl. ¶¶ 21–24; 37–40; *see also* Doe Decl. ¶ 11; Roe Decl. ¶ 8; Moe Decl. ¶¶ 19–21. Even Utahns who are able to obtain an abortion under one of the law's narrow exceptions will suffer irreparable harm. Turok Decl. ¶¶ 44–54. Finally, PPAU and its staff will also suffer harms, including the threat of criminal and licensing penalties, reputational harm, and harm to their livelihoods. *See id.* ¶ 3; *see also* ACOG Br. 17–21 (discussing the impact of the Act on the ethical obligations of medical professionals).

4. The balance of harms weighs in PPAU's favor. While PPAU, its patients, and its staff will suffer irreparable harm without a preliminary injunction, it is unclear on this record whether and to what extent the Act will ultimately further its legislative goals.

5. The issuance of a preliminary injunction is in the public interest. A preliminary injunction would maintain the status quo while the constitutional issues in this case can be resolved on the merits.

6. PPAU also has demonstrated that there are at least serious issues on the merits that should be the subject of further litigation, specifically as to: (1) a right to equal protection under Utah’s Equal Rights Amendment (article IV, section 1 of the Utah Constitution); (2) a right to the uniform operation of laws under article I, sections 2 and 24 of the Utah Constitution; (3) a right to bodily integrity under article I, sections 1, 7, and 11 of the Utah Constitution, *see, e.g., Malan v. Lewis*, 693 P.2d 661, 674 n.17 (Utah 1984); *Wood v. Univ. of Utah Med. Ctr.*, 2002 UT 134, ¶¶ 28–29, 67 P.3d 436; (4) a right to determine one’s own family composition under article I, sections 2, 25, and 27 of the Utah Constitution, *see, e.g., In re J.P.*, 648 P.2d 1364, 1372–74 (Utah 1982) (recognizing a person’s right to maintain parental ties); (5) a right of conscience under article I, section 4 of the Utah Constitution, *see, e.g., Soc’y of Separationists, Inc. v. Whitehead*, 870 P.2d 916, 935 (Utah 1993) (Utah Constitution protects “religious exercise and freedom of conscience in general” and prevents “the imposition of civil limitations based on one’s religious beliefs or lack thereof”); and (6) a right to privacy under article I, sections 1 and 14 of the Utah Constitution, *see, e.g., Redding v. Brady*, 606 P.2d 1193, 1195 (Utah 1980) (right to privacy under Utah Constitution “should extend to protect against intrusion into or exposure of not only things which might result in actual harm or damage, but also to things which might result in shame or humiliation, or merely violate one’s pride in keeping [] private affairs to [one]self”).

7. To be clear, the Court is not deciding the merits of Plaintiff’s claims at this time.

Rather, based on the arguments presented, the Court is of the view that this case raises novel and complicated issues, and that Plaintiff may prevail on one or more of its claims. The Court's consideration of these issues will benefit from further development, including through any facts that the parties may wish to introduce in the normal course.

8. The Court easily concludes that it has jurisdiction. PPAU has demonstrated an injury in its own right and to its patients, *see supra* ¶ 3, and a decision by this Court enjoining the Act would redress those injuries, *see Sonntag v. Ward*, 2011 UT App 122, ¶ 3, 253 P.3d 1120. The Court also concludes that PPAU, alternatively, has representative standing because it is an appropriate party to litigate this case of significant public import. *Utah Chapter of Sierra Club v. Utah Air Quality Bd.*, 2006 UT 74, ¶¶ 35-39, 148 P.3d 960, 972; *Gregory v. Shurtleff*, 2013 UT 18, ¶¶ 14-18, 299 P.3d 1098.

Preliminary Injunction

Based on the foregoing, and the entire record before the Court, the Court exercises its discretion under Utah Rule of Civil Procedure 65A to GRANT PPAU's Motion for Preliminary Injunction.

The Court hereby ENJOINS AND RESTRAINS Defendants and their officers, employees, servants, agents, appointees, or successors from administering and enforcing the Act with respect to any abortion provided while this Order is in effect, including in any future enforcement actions for conduct that occurred during the pendency of this injunction.¹

¹ At the preliminary injunction hearing, Defendants sought clarification that any preliminary injunction order would not prevent them from enforcing other provisions of the Utah Code that regulate abortion, specifically Utah's prohibition on providing post-viability abortions and abortions after 18 weeks of pregnancy. *See* Utah Code §§ 76-7-302, 76-7-302.5. The Court confirms that its order does not restrict the administration or enforcement of these laws, which PPAU does not challenge in this case.

The Court also hereby ORDERS Defendant State of Utah to provide a copy of this Preliminary Injunction to all county and local prosecutors.

IT IS FURTHER ORDERED that the security requirement of Utah Rule of Civil Procedure 65A is waived due to the fact that “the injunction carries no risk of monetary loss to the [D]efendant[s].” *See Corp. of President of Church of Jesus Christ of Latter-Day Saints v. Wallace*, 573 P.2d 1285, 1287 (Utah 1978).

This Preliminary Injunction is effective immediately upon entry and shall remain in effect pending the final resolution of this case, unless earlier extended or dissolved by the Court.

End of Order

Entered as of the date and time indicated on the first page above.

In accordance with Utah R. Civ. P. 10(e) and Utah State District Courts E-filing Standard No. 4, this Order does not bear the handwritten signature of the Court, but instead displays an electronic signature at the top of the first page of this Order.

CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2022, I caused the foregoing to be electronically filed and served on the following via the method indicated:

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