
STATE OF MINNESOTA**SECOND JUDICIAL DISTRICT****COUNTY OF RAMSEY****CIVIL DIVISION**

DR. JANE DOE; MARY MOE; FIRST
UNITARIAN SOCIETY OF
MINNEAPOLIS; and OUR JUSTICE,Case Type: Civil Other / Miscellaneous
Court File No.: 62-CV-19-3868
Judge: Hon. Thomas A. Gilligan, Jr.

Plaintiffs,

v.

**DEFENDANTS' ANSWER TO
FIRST AMENDED COMPLAINT**STATE OF MINNESOTA; GOVERNOR
OF MINNESOTA; ATTORNEY
GENERAL OF MINNESOTA;
MINNESOTA COMMISSIONER OF
HEALTH; MINNESOTA BOARD OF
MEDICAL PRACTICE; and
MINNESOTA BOARD OF NURSING,Defendants.

Defendants hereby Answer Plaintiffs' First Amended Complaint as follows:

Except as hereinafter expressly admitted, qualified, denied, or otherwise answered, Defendants deny each and every allegation in the First Amended Complaint.

PRELIMINARY STATEMENT

1. The Minnesota Supreme Court has long recognized abortion access as a fundamental right because "few decisions" are "more intimate, personal, and profound than a woman's decision between childbirth and abortion."¹ *Doe v. Gomez*, 542 N.W.2d 17, 27 (Minn.

¹ Most people with the capacity to become pregnant identify as women. Historically, both jurisprudence and public health data have focused on women when addressing reproductive rights and health. But there is an emerging recognition in society that not all people who may become pregnant identify as women. See, e.g., Thomas Beatie, *Labor of Love: The Story of One Man's Extraordinary Pregnancy* (2008); Robin Marantz Henig, *How Science Is Helping Us Understand Gender*, Nat'l Geographic, Jan. 2017, <https://www.nationalgeographic.com/magazine/2017/01/how-science-helps-us-understand-gender-identity/>.

1995).

ANSWER: Defendants refer to the official text of the Minnesota Constitution and the referenced case and articles, which speak for themselves, and deny the allegations to the extent they are inconsistent with those sources. The remaining allegations are vague such that Defendants are without knowledge or information sufficient to form a belief as to their truth, and Defendants therefore deny the same.

2. Minnesota's laws concerning abortion and treatment of sexually-transmitted infections ("STI's) have become outdated. Many of these laws are out-of-step with contemporary medical practice, are contrary to Minnesota's constitutional respect for individual privacy, and reflect antiquated views about women's role in society. In addition, they fail to honor the diverse religious traditions of Minnesota residents.

ANSWER: These allegations are opinions or legal conclusions to which no response is required. Further, Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of the factual allegations, and Defendants therefore deny the same.

3. These outdated laws harm Minnesotans in several ways. First, they deny people seeking sexual and reproductive healthcare the benefits of scientific progress, forcing their healthcare providers to ignore scientific advancements and practice medicine in accordance with obsolete standards.

ANSWER: These allegations are opinions or legal conclusions to which no response is required. Further, Defendants have not retained an expert yet, so they are

The Minnesota Constitution protects the right of all individuals to make pregnancy-related decisions, regardless of gender identity.

without knowledge or information sufficient to form a belief as to the truth of the factual allegations, and Defendants therefore deny the same.

4. Second, they discriminate against women and religious minorities, denying them equal respect under the law.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

5. Third, they impose burdensome and unnecessary restrictions on healthcare providers, increasing the cost and decreasing the availability of sexual and reproductive healthcare in Minnesota. These harms disproportionately impact low-income people, people of color, immigrants, people who lack health insurance, and others who are marginalized, running afoul of Minnesota's "long tradition of affording persons on the periphery of society a greater measure of government protection and support than may be available elsewhere." *Gomez*, 542 N.W.2d at 30.

ANSWER: These allegations are legal conclusions to which no response is required. Further, Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of the factual allegations, and Defendants therefore deny the same.

6. Plaintiffs—who are healthcare providers, people of faith, and a nonprofit organization that facilitates abortion access—challenge the validity of these laws under the Minnesota Constitution; Minnesota's Uniform Declaratory Judgments Act, Minn. Stat. §§ 555.01-555.16; and Minnesota Rules of Civil Procedure 57 and 65. Their goal is a system of just laws that upholds the rights and dignity of all Minnesotans and ensures that everyone has access to high-quality sexual and reproductive healthcare.

ANSWER: These allegations are Plaintiffs' characterization of their own action and beliefs to which no response is required.

PARTIES, JURISDICTION & VENUE

I. PLAINTIFFS

7. Dr. Jane Doe² is a Board-certified obstetrician-gynecologist licensed by the Minnesota Board of Medical Practice. Dr. Doe's practice includes full-scope obstetric and gynecology care, including pregnancy care, adolescent healthcare, contraception and family planning services, and well-woman gynecology care. She provides abortions for patients with maternal or fetal indications, and she provides referrals to patients seeking abortions in other circumstances. Dr. Doe brings this lawsuit on behalf of herself and her patients.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

8. Mary Moe³ is a certified nurse midwife licensed by the Minnesota Board of Nursing. She has practiced in Minnesota for more than a dozen years. She specializes in providing sexual and reproductive healthcare to at-risk communities and treats patients seeking abortion care. Currently, she attempts to refer those patients to healthcare providers who meet Minnesota's requirements for providing abortions. Some of her patients are unable to access care from these other providers because of financial barriers, lack of transportation, and fear of domestic violence or community retribution. Ms. Moe seeks to provide abortion care in Minnesota herself to minimize the obstacles that her patients face in accessing that care. Ms.

² Jane Doe is a pseudonym. Dr. Doe wishes to keep her true name confidential to protect herself, her family, and her colleagues from violence, harassment, and retaliation.

³ Mary Moe is a pseudonym. Ms. Moe wishes to keep her true name confidential to protect herself, her family, and her colleagues from violence, harassment, and retaliation.

Moe brings this lawsuit on behalf of herself and her patients.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

9. First Unitarian Society of Minneapolis (“First Unitarian Society”) is a Minnesota nonprofit corporation that operates a religious congregation in Minneapolis, Minnesota. Founded in 1881, the First Unitarian Society is a member congregation of the Unitarian Universalist Association. It is deeply committed to promoting social justice, and its vision of social justice includes access to high-quality sexual and reproductive healthcare for all people regardless of income, race, and other socio-economic factors. First Unitarian Society supports its members who seek and provide sexual and reproductive healthcare, including abortion care. It brings this lawsuit on behalf of itself and its members.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

10. Our Justice is a Minnesota nonprofit corporation with a mission to ensure that all people and communities have the power and resources to make sexual and reproductive health decisions with self-determination. Founded in 1967 by a group of doctors, clergy, and community members, Our Justice currently operates an abortion assistance fund (“fund”) that provides financial assistance and resources to people seeking abortion care who cannot afford it. Our Justice maintains a confidential relationship with its fund clients and provides each one with support based on an individualized assessment of need. The organization also operates a support group, called Emerge, for people who have had abortions. Additionally, Our Justice is preparing to launch a program to assist people who must travel to access abortion secure lodging. It brings this lawsuit on behalf of its clients seeking abortion care.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

II. DEFENDANTS

11. The State of Minnesota is a proper defendant because many of the challenged laws may be enforced through criminal penalties, as detailed below, and criminal prosecutions are brought in the State's name.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

12. The Governor of Minnesota ("Governor") is the chief executive officer of the State and "shall take care that the laws be faithfully executed." Minn. Const., art. 5, § 3. The Governor may direct the Attorney General to prosecute "any person charged with an indictable offense," including the criminal laws challenged in this case. Minn. Stat. § 8.01. The Governor's offices are in Ramsey County.

ANSWER: Defendants admit that the Governor's office is in Ramsey County. As for the remaining allegations, Defendants refer to the official text of the Minnesota Constitution and the referenced statute, which speak for themselves, and deny the allegations to the extent they are inconsistent with those authorities.

13. The Attorney General of Minnesota ("Attorney General") is an executive officer whose service is constitutionally mandated. Minn. Const., art. 5, §§ 1, 4. At the request of the Governor or a county attorney, the Attorney General may enforce any of the criminal laws challenged in this case. Minn. Stat. § 8.01. In addition, the Attorney General "shall act as the attorney for all state officers and all boards or commissions created by law in all matters pertaining to their official duties." Minn. Stat. § 8.06. The Attorney General's offices are in Ramsey County.

ANSWER: Defendants admit that the Attorney General’s office is in Ramsey County. As for the remaining allegations, Defendants refer to the official text of the Minnesota Constitution and the referenced statutes, which speak for themselves, and deny the allegations to the extent they are inconsistent with those authorities.

14. The Minnesota Commissioner of Health (“Health Commissioner”) has “general authority as the state’s official health agency,” Minn. Stat. § 144.05, subd. 1, including statutory authority to enforce some of the laws challenged in this action, as detailed below. The Health Commissioner is named as a defendant in accordance with Minn. Stat. § 543.21. The Health Commissioner’s offices are in Ramsey County.

ANSWER: Defendants admit that the Health Commissioner’s office is in Ramsey County. As for the remaining allegations, Defendants refer to the official text of the referenced statutes, which speak for themselves, and deny the allegations to the extent they are inconsistent with those authorities.

15. The Minnesota Board of Medical Practice (“Medical Board”) has statutory authority to impose professional discipline on licensed medical professionals, including physicians and physician assistants, for violating Minnesota laws concerning healthcare. *See* Minn. Stat. §§ 147.091, subd. 1(f), 147A.13, subd. 1(6). The Medical Board is named as a defendant in accordance with Minn. Stat. § 543.21. The Medical Board’s offices are in Hennepin County.

ANSWER: Defendants admit that the Medical Board’s office is in Hennepin County. As for the remaining allegations, Defendants refer to the official text of the referenced statutes, which speak for themselves, and deny the allegations to the extent they are inconsistent with those authorities.

16. The Minnesota Board of Nursing (“Nursing Board”) has statutory authority to impose professional discipline on licensed nurses, including nurse practitioners and nurse midwives, for violating Minnesota laws concerning healthcare. *See* Minn. Stat. § 148.261, subd. 1(18). The Nursing Board is named as a defendant in accordance with Minn. Stat. § 543.21. The Nursing Board’s offices are in Hennepin County.

ANSWER: Defendants deny that the Nursing Board’s office is in Hennepin County. As for the remaining allegations, Defendants refer to the official text of the referenced statutes, which speak for themselves, and deny the allegations to the extent they are inconsistent with those authorities.

III. JURISDICTION AND VENUE

17. This Court has jurisdiction over Plaintiffs’ claims pursuant to Minn. Const. art. VI, § 3, and Minn. Stat. § 484.01, subd. 1.⁴

ANSWER: These allegations are legal conclusions to which no response is required.

18. Venue is proper in Ramsey County pursuant to Minn. Stat. § 542.09 because some of the named defendants reside here.

ANSWER: This allegation is a legal conclusion to which no response is required.

⁴ Minn. Stat. § 145.4249 provides that “[t]he Minnesota Supreme Court has original jurisdiction over an action challenging the constitutionality” of the mandatory disclosure and delay laws identified below. Even if that provision were constitutionally valid, which is doubtful, it does not create exclusive jurisdiction in the Minnesota Supreme Court. Accordingly, this Court has jurisdiction over this case in any event. *See Minn. Voters All. v. Simon*, 885 N.W.2d 660, 666 (Minn. 2016) (*per curiam*) (declining to exercise original jurisdiction and holding that a statutory grant of original jurisdiction to the Supreme Court “does not deprive the district court of its original jurisdiction”).

FACTS

I. BACKGROUND

A. Abortion

19. Abortion is a common medical intervention.

ANSWER: Admit.

20. In 2014, the most recent year for which nationwide data are currently available, approximately 926,200 abortions were induced in the United States. Of those, 9,760 took place in Minnesota.⁵

ANSWER: The article cited speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegations. Defendants refer to the Department of Health’s most recent report to the Legislature on abortions in Minnesota, which is available at <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2019abrpt.pdf>.

21. The Minnesota Department of Health reports that approximately 10,000 abortions have been provided on an annual basis in Minnesota since 2014.⁶

ANSWER: The Department of Health’s reports on abortion statistics for 2008 to 2019 are available at <https://www.health.state.mn.us/data/mchs/pubs/abrpt/abrpt.html>. Defendants deny Plaintiffs’ allegations to the extent they are inconsistent with those reports.

⁵ See Guttmacher Inst., *State Facts About Abortion: Minnesota* 1 (2018), <https://www.guttmacher.org/sites/default/files/factsheet/sfaa-mn.pdf>.

⁶ Minn. Dep’t of Health, *Induced Abortions in Minnesota January – December 2017: Report to the Legislature* 35 (2018) (“Health Dep’t 2017 Report”) (10,177 abortions provided in 2017; 10,017 abortions provided in 2016), <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2017abrptr2.pdf>; Minn. Dep’t of Health, *Induced Abortions in Minnesota January – December 2015: Report to the Legislature* 3 (2016) (“Health Dep’t 2015 Report”) (9,861 abortions provided in 2015), <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2015abrpt.pdf>.

22. At current rates, approximately one in every four women in the United States will have an abortion by age 45.⁷

ANSWER: The article cited speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegation. Defendants refer to the Department of Health's most recent report to the Legislature on abortions in Minnesota, which is available at <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2019abrpt.pdf>.

23. Most abortion patients are in their 20s (60%) and 30s (25%).⁸

ANSWER: The article cited speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegation. Defendants refer to the Department of Health's most recent report to the Legislature on abortions in Minnesota, which is available at <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2019abrpt.pdf>.

24. Nearly 60% of abortion patients have previously given birth to a child.⁹

ANSWER: The article cited speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegation. Defendants refer to the Department of Health's most recent report to the Legislature on abortions in Minnesota, which is available at <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2019abrpt.pdf>.

⁷ Rachel K. Jones & Jenna Jerman, *Population Group Abortion Rates and Lifetime Incidence of Abortions: United States, 2008-2014*, 107 Am. J. Pub. Health 1904, 1908, <https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2017.304042>.

⁸ Jenna Jerman, Rachel K. Jones & Tsuyoshi Onda, *Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008* 5 (2016), https://www.guttmacher.org/sites/default/files/report_pdf/characteristics-us-abortion-patients-2014.pdf.

⁹ *Id.* at 7.

25. No racial or ethnic group comprises the majority of abortion patients. Nationwide, approximately 39% of abortion patients are White; 28% are Black; 25% are Hispanic; 6% are Asian or Pacific Islander; and 3% identify with other racial or ethnic classifications.¹⁰

ANSWER: The article cited speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegations. Defendants refer to the Department of Health's most recent report to the Legislature on abortions in Minnesota, which is available at <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2019abrpt.pdf>.

26. Most abortion patients (62%) are religiously affiliated. Fifty-four percent are Christians; 46% are affiliated with other religious traditions.¹¹

ANSWER: The article cited speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegations. Defendants refer to the Department of Health's most recent report to the Legislature on abortions in Minnesota, which is available at <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2019abrpt.pdf>.

¹⁰ *Id.* at 5.

¹¹ *Id.* at 7.

27. Three-quarters of abortion patients in the United States are low-income, with nearly half living below the federal poverty level.¹² In 2018, the federal poverty level for an individual was an annual income of \$12,140; the federal poverty level for a family of four was an annual income of \$25,100.

ANSWER: The article cited speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegations. Defendants refer to the Department of Health’s most recent report to the Legislature on abortions in Minnesota, which is available at <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2019abrpt.pdf>.

28. Three methods of abortion are commonly used in the United States: medication abortion, aspiration abortion, and D&E abortion.

ANSWER: Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

29. Medication abortion entails the administration of medications that end a pregnancy and cause the uterus to expel its contents. This method may be used from the start of pregnancy through ten weeks gestation as measured from the first day of a patient’s last menstrual period (“lmp”).

ANSWER: Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

30. Aspiration abortion entails the use of suction to empty the contents of the uterus.

¹² *Id.* at 7.

This method is typically used from six weeks lmp through fourteen to sixteen weeks lmp.

ANSWER: Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

31. D&E abortion entails the use of suction and medical instruments to empty the contents of the uterus. This method is typically used beginning at fourteen to sixteen weeks lmp.

ANSWER: Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

32. A fourth method of abortion—called induction—is also sometimes used in the United States. It entails the administration of medications to induce labor and delivery of a fetus, typically after sixteen weeks lmp.

ANSWER: Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

33. A Committee of the National Academies of Sciences, Engineering, and Medicine (“Committee”) recently issued a Consensus Study Report on the Safety and Quality of Abortion Care in the United States after reviewing all available evidence. It concluded that abortion in the United States is safe; serious complications of abortion are rare; and abortion does not increase the risk of long-term physical or mental health disorders.¹³

ANSWER: The report cited speaks for itself. Defendants are otherwise without

¹³ Nat’l Acads. of Scis., Eng’g, and Med., *The Safety and Quality of Abortion Care in the United States* 1-16 (2018), <https://doi.org/10.17226/24950>.

knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegations. Defendants refer to the Department of Health’s most recent report to the Legislature on abortions in Minnesota, which is available at <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2019abrpt.pdf>.

34. The Committee assessed the quality of abortion care based on six factors: safety, effectiveness, patient-centeredness, timeliness, efficiency, and equity. It concluded that the quality of abortion care depends to a great extent on geography. In particular, it found that “[i]n many parts of the country, state regulations have created barriers to optimizing each dimension of quality care.”¹⁴

ANSWER: The report cited speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegations. Defendants refer to the Department of Health’s most recent report to the Legislature on abortions in Minnesota, which is available at <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2019abrpt.pdf>.

35. In a recent decision striking down a pair of Texas abortion restrictions, the U.S. Supreme Court likewise concluded that abortion is safe and complications from abortion are rare. *See Whole Woman’s Health v. Hellerstedt*, ___ U.S. ___, 136 S. Ct. 2292, 2311, 2315 (2016). Indeed, the Supreme Court found that abortion is safer than many other procedures commonly performed in outpatient settings. *See id.* at 2315. It also recognized that unnecessary regulation may diminish the quality of care that patients receive. *See id.* at 2318.

ANSWER: Defendants refer to the case cited, which speaks for itself, and deny the allegations to the extent they are inconsistent with that opinion.

¹⁴ *Id.* at 10.

36. Notably, abortion entails significantly less medical risk than carrying a pregnancy to term and giving birth.¹⁵

ANSWER: The report cited speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegation.

37. The United States has a higher rate of maternal mortality than other developed nations, and it has been increasing in recent years.¹⁶

ANSWER: The report cited speaks for itself. To the extent a response is required, the Health Department admits the allegation. The remaining Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of these studies, and therefore deny the allegation.

38. Pregnancy-related deaths disparately impact communities of color. Black women die from pregnancy-related causes at a much higher rate than White women.¹⁷

ANSWER: The report cited speaks for itself. To the extent a response is required, the Health Department admits the allegation. The remaining Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of these studies,

¹⁵ Elizabeth G. Raymond & David A. Grimes, *The Comparative Safety of Legal Induced Abortion and Childbirth in the United States*, 119 *Obstetrics & Gynecology* 215, 216-17 (2012).

¹⁶ See generally Katy B. Kozhimannil, *Reversing the Rise in Maternal Mortality*, 37 *Health Affairs* 1901, 1901-04 (2018), <https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.2018.1013>; John Lundy, *Hospitals Seek to Address Troubling Increase in Maternal Mortality Across U.S.*, Duluth News Tribune, Feb. 26, 2019, <https://www.duluthnewstribune.com/business/healthcare/4576407-hospitals-seek-address-troubling-increase-maternal-mortality-across-us>; Alison Young, *Hospitals Know How to Protect Mothers. They Just Aren't Doing It.*, USA Today, July 27, 2018, <http://ee.usatoday.com/Olive/ODN/USATSample/shared/ShowArticle.aspx?doc=USA%2F2018%2F07%2F27&entity=Ar00105&sk=B028FA02&mode=text>.

¹⁷ Kozhimannil, *supra*, at 1903 (“In the US no group bears this burden more heavily than black mothers, who are more than three times as likely as white women to die giving birth and—if they survive—more than twice as likely as white women to bury their babies before their first birthday.”).

and therefore deny the allegation.

39. Although abortion is safe throughout pregnancy, the risk, complexity, duration, and cost of abortion increase with gestational age. Delayed access to abortion care therefore harms patients.

ANSWER: Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

40. Nationwide and in Minnesota, the vast majority of abortions occur early in pregnancy. In 2017, more than 80% of abortions took place during the first ten weeks imp. Ninety-three percent of abortions took place during the first-trimester of pregnancy.

ANSWER: Defendants refer to the Department of Health's reports to the Legislature on abortions in Minnesota, which are available at <https://www.health.state.mn.us/data/mchs/pubs/abrpt/abrpt.html>, and deny the allegations to the extent they are inconsistent with those reports.

41. Individuals from every region of Minnesota have had abortions in recent years.¹⁸

ANSWER: Defendants refer to the Department of Health's reports to the Legislature on abortions in Minnesota, which are available at <https://www.health.state.mn.us/data/mchs/pubs/abrpt/abrpt.html>, and deny the allegations to the extent they are inconsistent with those reports.

42. The number of abortion providers in the State has decreased over time.

ANSWER: The allegation is vague as to time, and therefore Defendants are without knowledge or information sufficient to form a belief as to the truth of the

¹⁸ See Health Dep't 2017 Report, *supra*, at 7, 42; Health Dep't 2015 Report, *supra*, at 9.

allegation, and therefore deny the same.

43. Each year, hundreds of Minnesota residents travel out-of-state to access abortion care.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

B. Unintended Pregnancy and STIs

44. Unintended pregnancy can have significant, negative consequences for individuals and society. It is linked with adverse maternal and child health outcomes as well as social and economic challenges.¹⁹

ANSWER: The report cited speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegations. Defendants refer to the Department of Health's most recent report to the Legislature on abortions in Minnesota, which is available at <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2019abrpt.pdf>.

45. In 2011, the most recent year for which nationwide data are currently available, nearly half of all pregnancies in the United States were unintended, including 75% of teen pregnancies.²⁰

ANSWER: The report cited speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegation.

46. In 2010, 40% of all pregnancies in Minnesota were unintended, amounting to

¹⁹ Guttmacher Inst., *State Facts About Unintended Pregnancy: Minnesota 1-2* (2016), https://www.guttmacher.org/sites/default/files/factsheet/mn_17.pdf.

²⁰ *Id.* at 1.

38,000 unintended pregnancies.²¹ Fifty-eight percent of those pregnancies resulted in births, and 28% resulted in abortions.²²

ANSWER: The report cited speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegations.

47. Low-income individuals are disproportionately affected by unintended pregnancy.²³

ANSWER: The report cited speaks for itself. Defendants are without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegation.

48. Among opioid-abusing women, nearly 90% of pregnancies are unintended.²⁴

ANSWER: The report cited speaks for itself. Defendants are without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegation.

49. Most STIs are treatable. The development of antibiotic cures for syphilis and gonorrhea beginning in the 1940s marked a major advancement in public health. The development of anti-retroviral therapy beginning in the 1990s to treat human immunodeficiency virus (“HIV”) and reduce the risk of its transmission marked another such advancement. These advancements have greatly reduced mortality from STIs.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ Sarah H. Heil et al., *Unintended Pregnancy in Opioid-Abusing Women*, 40 J. Substance Abuse Treatment 199, 199-202 (2011).

ANSWER: The Health Department admits the allegations. The other Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

50. Nevertheless, STIs remain a major public health concern in Minnesota. Over 32,000 STI cases were reported to the Minnesota Department of Health in 2018.²⁵ Rates of chlamydia and gonorrhea increased steadily from 2007 to 2018.²⁶ STI rates are especially high among Minnesota teenagers.²⁷

ANSWER: Defendants refer to the Health Department reports cited, which speak for themselves, and deny the allegations to the extent they are inconsistent. The University of Minnesota report speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegation.

51. A dramatic increase in syphilis among women and newborns led the Minnesota Department of Health to recommend, earlier this year, that all pregnant people be screened for the disease at least twice during pregnancy.²⁸

ANSWER: Defendants refer to the report cited, which speaks for itself, and deny the allegations to the extent they are inconsistent.

²⁵ Minn. Dep't of Health, *STD Statistics—2018: Summary*, <https://www.health.state.mn.us/diseases/stds/stats/2018/index.html> (last updated Apr. 30, 2019).

²⁶ See Minn. Dep't of Health, *Sexually Transmitted Disease (STD) Surveillance Report, 2017* 11, <https://www.health.state.mn.us/diseases/stds/stats/2017/stdreport.pdf>; see also Minn. Dep't of Health, *STD Statistics—2018: Summary*, *supra*.

²⁷ J. Farris, J. Austin & C. Brown, Univ. of Minn. Healthy Youth Dev. Prevention Research Ctr., *2018 Minnesota Adolescent Sexual Health Report* 5 (2018), https://www.pediatrics.umn.edu/sites/pediatrics.umn.edu/files/2018_ashr_report_final_0.pdf.

²⁸ Minn. Dep't of Health, *Revised Syphilis Screening Recommendations for Pregnant Women* (Feb. 15, 2019), <https://www.health.state.mn.us/diseases/syphilis/hcp/syphpreg2019.pdf>.

52. Moreover, gonorrhea “has developed resistance to nearly all of the antibiotics used for its treatment.”²⁹ The Centers for Disease Control and Prevention describe antibiotic-resistant gonorrhea as “an urgent public health threat.”³⁰

ANSWER: The report cited speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegation.

C. Minnesota Demographics

53. Approximately 5.6 million people live in Minnesota,³¹ including over one million women of reproductive age.³²

ANSWER: Defendants refer to the State Demographic Center report cited, which speaks for itself, and deny the allegations to the extent they are inconsistent with that report. The CDC report speaks for itself. Defendants are otherwise without knowledge or information sufficient to confirm or deny the results of this study, and therefore deny the allegation.

54. Eighty percent of Minnesota residents are White; 20% are people of color.³³

ANSWER: Defendants refer to the report cited, which speaks for itself, and deny the allegations to the extent they are inconsistent.

²⁹ Ctrs. for Disease Control & Prevention, *Antibiotic-Resistant Gonorrhea Basic Information*, <https://www.cdc.gov/std/gonorrhea/arg/basic.htm> (last visited May 27, 2019).

³⁰ *Id.*

³¹ Minn. State Demographic Ctr., *Our Estimates* (Aug. 2018), <https://mn.gov/admin/demography/data-by-topic/population-data/our-estimates/>.

³² Ctrs. for Disease Control & Prevention, Nat’l Ctr. for Chronic Disease Prevention & Health Promotion, Div. of Reproductive Health, *Women’s Health Statistics: Minnesota 1*, https://www.cdc.gov/reproductivehealth/data_stats/pdfs/minnesota.pdf (last visited May 27, 2019).

³³ Minn. State Demographic Ctr., *Age, Race & Ethnicity*, <https://mn.gov/admin/demography/data-by-topic/age-race-ethnicity/> (last visited May 27, 2019).

55. Approximately 8% of Minnesota residents are immigrants.³⁴ The largest immigrant communities in Minnesota are from Mexico, Somalia, India, Southeast Asia, China, and Ethiopia.³⁵

ANSWER: Defendants refer to the report cited, which speaks for itself, and deny the allegations to the extent they are inconsistent.

56. In 2017, Minnesota's median household income was \$65,699.³⁶

ANSWER: Defendants refer to the report cited, which speaks for itself, and deny the allegations to the extent they are inconsistent.

57. The State's overall poverty rate that year was 10.5%.³⁷ Poverty rates were higher among people of color. Thirty-two percent of Black people were living in poverty; 31% of American Indians were living in poverty; and 21% of Hispanics were living in poverty.³⁸

ANSWER: Defendants refer to the report cited, which speaks for itself, and deny the allegations to the extent they are inconsistent.

58. Nearly 300,000 Minnesota residents lacked health insurance in 2017.³⁹

ANSWER: Defendants refer to the report cited, which speaks for itself, and deny the allegations to the extent they are inconsistent.

³⁴ Minn. State Demographic Ctr., *Immigration & Language*, <https://mn.gov/admin/demography/data-by-topic/immigration-language/> (last visited May 27, 2019).

³⁵ *Id.*

³⁶ Minn. State Demographic Ctr., *Income & Poverty*, <https://mn.gov/admin/demography/data-by-topic/income-poverty/> (last visited May 27, 2019).

³⁷ *Id.*

³⁸ *Id.*

³⁹ Minn. State Demographic Ctr., *Health & Disability*, <https://mn.gov/admin/demography/data-by-topic/health-disability/> (last visited May 27, 2019).

II. CHALLENGED LAWS

A. Targeted Regulation of Abortion Provider (“TRAP”) Laws

59. Targeted regulation of abortion provider (“TRAP”) laws single out abortion providers for regulatory requirements that are different and more burdensome than those governing other healthcare providers.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

60. The requirements imposed by these laws are not based on differences between abortion and other medical procedures that are reasonably related to patient health.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

61. TRAP laws reduce the availability and affordability of abortion care—and often diminish the quality of care that patients receive—without providing significant medical benefits.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

62. Many of Minnesota’s TRAP laws embody outdated medical standards.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

63. All people seeking abortion care in Minnesota are harmed by TRAP laws. The harm is felt most acutely by low-income people, people of color, immigrants, people who lack

health insurance, and others who are marginalized.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

i. **Physician-Only Law**

64. Plaintiffs challenge the “physician-only law” codified at Minn. Stat. § 145.412, subd. 1(1).

ANSWER: This allegation is Plaintiffs’ characterization of their own action to which no response is required.

65. The physician-only law provides that an abortion may only be performed “by a physician licensed to practice medicine [under Minnesota law], or a physician in training under the supervision of a licensed physician.” Minn. Stat. § 145.412, subd. 1(1).

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

66. It prohibits qualified, advance-practice clinicians (“APCs”), such as physician assistants, nurse practitioners, and nurse midwives, from providing abortions.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

67. Failure to comply with the physician-only law is a felony. Minn. Stat. § 145.412, subd. 4. In addition, it subjects licensed clinicians to professional discipline by the Medical Board, *see* Minn. Stat. § 147.091, subd. 1(f), and the Nursing Board, *see* Minn. Stat. § 148.261, subd. 1(18), (26).

ANSWER: Defendants refer to the statutes, which speak for themselves, and deny

the allegations to the extent they are inconsistent with the law.

68. The physician-only law was enacted in 1974 and has become out-of-date. While older abortion methods may have warranted a physician-only requirement, contemporary abortion methods do not.

ANSWER: Deny

69. Extensive medical evidence shows that APCs can provide medication and aspiration abortion as safely and effectively as physicians.

ANSWER: The allegation is vague and Defendants have not retained an expert yet, so Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

70. Numerous medical societies and professional organizations endorse APCs providing abortion care. These include the American College of Obstetricians and Gynecologists; the American Public Health Association; the American College of Nurse Midwives; the American Association of Physician Assistants; the World Health Organization; and the National Abortion Federation.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

71. Medical evidence led the Montana Supreme Court to strike down a Montana physician-only requirement in 1999. *See Armstrong v. State*, 989 P.2d 364, 382 (Mont. 1999) (“There is simply no evidence in the record of this case that laws requiring pre-viability abortions be performed only by a physician to the exclusion of a trained, experienced and medically competent physician assistant . . ., working under the supervision of a licensed physician, are necessary to protect the life, health or safety of women in this State. Indeed, there

is overwhelming evidence to the contrary”).

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

72. In the absence of the physician-only law, Minnesota’s generally-applicable laws concerning APCs’ scope-of-practice would govern APCs’ ability to provide abortion care. *See, e.g.*, Minn. Stat. §§ 147A.09 (defining the scope-of-practice for physician assistants); 148.171, subd. 10 (defining the scope-of-practice for nurse midwives); 148.171, subd. 11 (defining the scope of practice for nurse practitioners).

ANSWER: Defendants refer to the statutes, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

73. Minnesota law currently permits APCs to provide medical care that entails greater risk than medication or aspiration abortion.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

74. But for the physician-only law, some APCs would be willing and able to provide abortion care in Minnesota.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

75. The physician-only law limits the pool of qualified clinicians who may lawfully provide abortions in Minnesota and thereby decreases the availability and affordability of abortion care in the State.

ANSWER: The allegation is vague such that Defendants are without knowledge

or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

76. The physician-only law infringes on the fundamental right to abortion access.

ANSWER: This allegation is a legal conclusion to which no response is required.

To the extent a response is required, Defendants deny the allegation.

77. The physician-only law is not necessary to serve Minnesota's interest in patient health or any compelling state interest.

ANSWER: This allegation is a legal conclusion to which no response is required.

To the extent a response is required, Defendants deny the allegation.

ii. Hospitalization Requirements

78. Plaintiffs challenge the "hospitalization requirements" codified at Minn. Stat. § 145.412, subs. 1(2), 3(1), as applied to pre-viability abortion.

ANSWER: This allegation is Plaintiffs' characterization of their own action to which no response is required.

79. Minn. Stat. § 145.412, subd. 1(2), provides that an abortion must be performed "in a hospital or abortion facility if the abortion is performed after the first trimester."

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

80. Minnesota law defines "abortion facility" as "those places properly recognized and licensed by the state commissioner of health under lawful rules promulgated by the commissioner for the performance of abortions." Minn. Stat. § 145.411, subd. 4. But the rules promulgated by the Health Commissioner concerning abortion facility licensure were declared

unconstitutional,⁴⁰ and the Health Commissioner does not administer any program through which abortion clinics may become licensed. Accordingly, there is no way for a healthcare provider to meet the definition of “abortion facility” under Minnesota law.

ANSWER: Defendants admit that the Health Commissioner does not currently administer any program through which abortion clinics may become licensed. As for the remaining allegations, Defendants refer to the cited statute and case, which speak for themselves, and deny the allegation to the extent it is inconsistent with the law.

81. The only way to satisfy Minn. Stat. § 145.412, subd. 1(2), is to provide all abortions in a hospital after the first-trimester. It therefore imposes a hospitalization requirement on all pre-viability abortions performed during the second-trimester of pregnancy.

ANSWER: The allegation is a legal conclusion to which no response is required. Defendants incorporate their answer to paragraph 80 and affirmatively state that the Health Commissioner may still conduct rule-making activities in connection with a license for “abortion facilities.”

82. The Minnesota Department of Health places the start of the second-trimester at sixteen weeks lmp.⁴¹

ANSWER: Defendants refer to the cited handbook, which speaks for itself, and deny the allegation to the extent it is inconsistent with the text.

83. Pursuant to Minn. Stat. § 145.412, subd. 3(1), an abortion must be performed “in a hospital” after twenty weeks lmp.

⁴⁰ Licensing regulations adopted by the Health Commissioner in 1974 were declared unconstitutional, in relevant part, by a three-judge panel of the U.S. District Court for the District of Minnesota. *See Hodgson v. Lawson*, No. 4-74-155, slip op. at 7 (D. Minn. Mar. 4, 1977) (on remand from the Eighth Circuit).

⁴¹ *See* Minn. Dep’t of Health, *If You Are Pregnant: Information on Fetal Development, Abortion and Alternatives* 9 (2009), https://www.health.state.mn.us/docs/people/wrtk/handbook_eng.pdf.

ANSWER: Defendants refer to the cited statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

84. Failure to comply with the hospitalization requirements is a felony. Minn. Stat. § 145.412, subd. 4. In addition, failure to comply with the requirements subjects licensed clinicians to professional discipline by the Medical Board, *see* Minn. Stat. § 147.091, subd. (1)(f), and the Nursing Board, *see* Minn. Stat. § 148.261, subd. 1(18), (26).

ANSWER: Defendants refer to the cited statutes, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

85. Minnesota’s hospitalization requirements are a relic from an earlier era. In 1973, it was medically appropriate for second-trimester abortions to be performed in a hospital. *See City of Akron v. Akron Ctr. for Reprod. Health, Inc.*, 462 U.S. 416, 435 (1983), *overruled in part on other grounds by Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833 (1992).

ANSWER: Defendants deny the first sentence. As for the remaining allegations, Defendants refer to the cited cases, which speak for themselves, and deny the allegation to the extent it is inconsistent with them.

86. “Since then, however, the safety of second-trimester abortions has increased dramatically.” *Id.* at 435-36.

ANSWER: Defendants refer to the cited cases, which speak for themselves, and deny the allegation to the extent it is inconsistent with them.

87. This increase in safety is generally attributed to the development of the D&E method of abortion. D&E is the most common method of second-trimester abortion, and “experience indicates that D&E may be performed safely on an outpatient basis in appropriate nonhospital facilities.” *Id.* at 436.

ANSWER: Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

88. Medical evidence led the U.S. Supreme Court to strike down a pair of similar hospitalization requirements more than 35 years ago. *See id.* at 438 (“By preventing the performance of D&E abortions in an appropriate nonhospital setting, Akron has imposed a heavy, and unnecessary, burden on women’s access to a relatively inexpensive, otherwise accessible, and safe abortion procedure.”); *Planned Parenthood Assoc. of Kan. City, Mo., Inc. v. Ashcroft*, 462 U.S. 476, 481-82 (1983).

ANSWER: Defendants refer to the cited cases, which speak for themselves, and deny the allegation to the extent it is inconsistent with them.

89. Further medical advancements have made D&E abortion even safer today than in 1983.

ANSWER: Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

90. Current medical evidence demonstrates that D&E may be safely performed in outpatient settings throughout the second-trimester of pregnancy.

ANSWER: Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

91. Minnesota law permits medical care that entails greater risk than D&E abortion to be provided in outpatient settings.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

92. The hospitalization requirements infringe on the fundamental right to abortion access.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

93. The hospitalization requirements are not necessary to serve Minnesota's interest in patient health or any compelling state interest.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

94. Recognizing that the hospitalization requirements are unconstitutional, some Minnesota abortion providers perform pre-viability, second-trimester abortions in outpatient settings. These providers do not hide this practice from State officials. To the contrary, they report the gestational age of each abortion they perform to the Health Commissioner as required by Minn. Stat. § 145.4131, subd. 1(b)(3), and Minn. R. 4615.3600, subp. 2(A)(11), and the Health Commissioner incorporates this information into an annual public report, as required by Minn. Stat. § 145.4134.

ANSWER: Defendants admit that some Minnesota abortion providers perform pre-viability, second-trimester abortions in outpatient settings, but they are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and therefore deny the same.

95. On information and belief, Defendants have never taken enforcement action

against an abortion provider for violating the hospitalization requirements.

ANSWER: The Health Department admits that they have not taken enforcement action since at least 1991. The Health Department is otherwise without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore denies the same. On information and belief, the Board of Medical Practice admits the allegation. The remaining Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same. Defendants affirmatively state that county and city attorneys have primary responsibility to enforce criminal statutes.

96. Nevertheless, the fact that they remain on the books and can be enforced through felony criminal penalties has a chilling effect of the provision of second-trimester abortions. Qualified healthcare providers would be more likely to provide second-trimester abortions in outpatient settings if the Court were to declare the hospitalization requirements unconstitutional and/or unenforceable.

ANSWER: The first sentence is a legal conclusion to which no response is required. Defendants are also without knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore deny the same.

iii. Reporting Requirements

97. Plaintiffs challenge the “reporting requirements” codified at Minn. Stat. §§ 145.413, 145.4131, subd. 1(b)(1)-(12), 145.4132, 145.4134, 145.4246, subd. 3, and Minn. R. 4615.3600.

ANSWER: This allegation is Plaintiffs’ characterization of their own action to which no response is required.

98. Minn. Stat. § 145.4131, subd. 1(b)(1)-(12), requires a “physician or facility

performing an abortion” to report detailed information about the abortion patient, procedure, and provider to the Health Commissioner. The required information includes the patient’s “specific reason for the abortion”; the number of prior abortions and miscarriages the patient had; and the patient’s method of payment for the abortion. Minn. Stat. § 145.4131, subd. 1(b)(1)-(12).

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

99. Facilities providing abortion care must also report each patient’s race; city, county, and state of residency; census tract if the patient resides in Minneapolis or St. Paul; age; marital status; and number of children, among other information. Minn. R. 4615.3600, subp. 2(A).

ANSWER: Defendants refer to the rule, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

100. In addition, Minn. Stat. § 145.4132 requires that “[a] physician licensed and practicing in the state who knowingly encounters an illness or injury that, in the physician’s medical judgment, is related to an induced abortion or the facility where the illness or injury is encountered shall complete and submit an abortion complication reporting form to the commissioner.”

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

101. Further, Minn. Stat. § 145.4246 requires physicians who provide abortion care to report additional information about patients to whom mandatory disclosures are made pursuant to Minn. Stat. § 145.4242.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

102. Altogether, the “data collection instruments” created by the Health Commissioner to gather this information comprise nine pages.⁴²

ANSWER: Defendants refer to the report, which speaks for itself, and deny the allegation to the extent it is inconsistent with report.

103. Moreover, Minn. Stat. § 145.413, subd. 2 (the “mortality reporting requirement”) provides that: “If any woman who has had an abortion dies from any cause within 30 days of the abortion or from any cause potentially related to the abortion within 90 days of the abortion, that fact shall be reported to the state commissioner of health.” A physician who performs an abortion and fails to “transmit the required information to the state commissioner of health within 30 days after the abortion is guilty of a misdemeanor.” Minn. Stat. § 145.413, subd. 3.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

104. This requirement is duplicative of Minn. R. 4615.0800, which provides in relevant part that: “Any death associated with pregnancy, including abortion . . . , whether or not it is the actual cause of death, shall be reported by mail within three days after death to the Minnesota Department of Health . . . by the attending physician and by the hospital where the death occurred.” The regulation is not associated with any criminal penalties.

ANSWER: Defendants refer to the rule, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

105. The mortality reporting requirement singles out physicians who provide abortions for harsher penalties than other physicians in connection with failure to report patient deaths.

ANSWER: The allegation is vague such that Defendants are without knowledge

⁴² Health Dep’t 2017 Report, *supra*, at 62-71.

or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

106. Abortion has a much lower mortality rate than carrying a pregnancy to term.

ANSWER: Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

107. Laws that subject abortion providers to disparate criminal liability discourage qualified healthcare providers from providing abortion care.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

108. Violation of the reporting requirements gives rise to administrative penalties imposed by the Health Commissioner, *see* Minn. Stat. §§ 145.4135(a), 145.4246, subd. 5; professional discipline by the Medical Board, *see* Minn. Stat. § 147.091, subd. 1(f); and in some cases, criminal liability, *see* Minn. Stat. § 145.412, subsd. 2, 4 (making it a felony to violate “lawful rules promulgated by the state commissioner of health” in connection with the performance of an abortion), 145.4135(c) (subjecting physicians to criminal liability for knowingly or recklessly submitting a false report); and civil liability, *see* Minn. Stat. § 145.4247, subd. 1.

ANSWER: Defendants refer to the statutes, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

109. The Health Commissioner must, on an annual basis, issue a public report summarizing the information collected as a result of the reporting requirements. *See* Minn. Stat. § 145.4134.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

110. The Health Commissioner estimates that the most recent report “cost approximately \$4,000 to prepare, including staff time, printing and mailing expenses.”⁴³

ANSWER: Defendants refer to the report, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law. Defendants deny that the 2017 report is the most recent report.

111. The reporting requirements intrude on the privacy of abortion patients and impose heavy administrative burdens on abortion providers.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

112. The data collected as a result of the reporting requirements are not necessary to facilitate public health research concerning abortion care.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

113. Public health researchers regularly collect data concerning the provision of abortion care using reliable, non-coercive research methods.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

114. The reporting requirements subject abortion patients and providers to burdens that

⁴³ Health Dep’t 2017 Report, *supra*, at inside cover.

are not imposed on other patients and healthcare providers.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

115. The reporting requirements infringe on the fundamental right to abortion access.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

116. The reporting requirements are not necessary to serve Minnesota's interest in public health or any compelling state interest.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

iv. **Felony Penalties for Regulatory Infractions**

117. Plaintiffs challenge the imposition of "felony penalties for regulatory infractions" codified at Minn. Stat. § 145.412, subs. 1(3), 4.

ANSWER: This allegation is Plaintiffs' characterization of their own action to which no response is required.

118. The statute provides that "[i]t shall be unlawful to willfully perform an abortion unless the abortion is performed" "in a manner consistent with the lawful rules promulgated by the state commissioner of health." Minn. § 145.412, subd. 1(3). "A person who performs an abortion in violation of this section is guilty of a felony." Minn. Stat. § 145.412, subd. 4.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

119. The statute's *mens rea* requirement applies to performance of the abortion, not violation of the rules. It therefore appears that even inadvertent regulatory infractions may

subject an abortion provider to felony criminal liability.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

120. Minn. R. 4615.3500 requires a “pregnancy termination facility” to “keep a signed consent form of each patient undergoing a pregnancy termination procedure.” Under Minn. Stat. § 145.412, subds. 1(3), 4, loss of a patient’s form may subject the facility and its employees to felony criminal liability.

ANSWER: Defendants refer to the statute and rule, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

121. Minn. R. 4615.3600 requires an “ambulatory facility” specializing in abortion care to report 13 categories of information about each patient to the Health Commissioner. Under Minn. Stat. § 145.412, subds. 1(3), 4, omission of a single detail such as a patient’s race or marital status may subject the facility and its employees to felony criminal liability.

ANSWER: Defendants refer to the statute and rule, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

122. If the felony penalties imposed by Minn. Stat. § 145.412, subds. 1(3), 4, were eliminated, abortion providers would still be subject to administrative penalties and professional discipline for violating lawful regulations.

ANSWER: Defendants refer to the statutes, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

123. Other healthcare providers are not subject to felony penalties for minor regulatory infractions.

ANSWER: The allegation is vague such that Defendants are without knowledge

or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

124. Laws that subject abortion providers to disparate criminal liability discourage qualified healthcare providers from providing abortion care.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

125. The felony penalties for regulatory infractions infringe on the fundamental right to abortion access.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

126. The felony penalties for regulatory infractions are not necessary to serve Minnesota's interest in patient health or any compelling state interest.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

B. Mandatory Disclosure and Delay Laws

127. Minnesota's mandatory disclosure and delay laws turn the traditional informed consent process for medical treatment on its head. Although legal and ethical principles generally require healthcare providers to give their patients accurate, unbiased information about the risks of and alternatives to a medical treatment, the mandatory disclosure and delay laws require abortion providers to give their patients misleading and ideologically charged information in an effort to discourage them from obtaining abortion care.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

128. These laws also require patients to delay their abortions for at least twenty-four hours after consenting to the procedure no matter how certain they are of their decision or how long it took them to reach an abortion provider in the first place.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

129. The mandatory disclosure and delay laws are motivated by a paternalism that embodies an outdated view of women’s decision-making ability and role in society, and they employ false pretenses to deter people from ending unwanted pregnancies.

ANSWER: Deny.

130. The Minnesota Supreme Court has long recognized, however, “that the right of privacy under our constitution protects not simply the right to an abortion, but rather it protects the woman’s *decision* to abort; any legislation infringing on the decision-making process, then, violates this fundamental right.” *Gomez*, 542 N.W. 2d at 31.

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

i. Mandatory Disclosure Requirements

131. Plaintiffs challenge the “mandatory disclosure requirements” codified at Minn. Stat. § 145.4242.

ANSWER: This allegation is Plaintiffs’ characterization of their own action to which no response is required.

132. The statute requires abortion providers to make three different sets of disclosures to their patients.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

133. First, “the physician who is to perform the abortion or . . . a referring physician” must tell the patient: “(i) the particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, breast cancer, danger to subsequent pregnancies, and infertility”; “(ii) the probable gestational age of the unborn child at the time the abortion is to be performed”; “(iii) the medical risks associated with carrying her child to term”; and “(iv) for abortions after 20 weeks gestational, whether or not an anesthetic or analgesic would eliminate or alleviate organic pain to the unborn child caused by the particular method of abortion to be employed and the particular medical benefits and risks associated with the particular anesthetic or analgesic.” Minn. Stat. § 145.4242(a)(1).

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

134. Second, “the physician who is to perform the abortion, . . . a referring physician, or . . . an agent of either physician” must inform the patient: “(i) that medical assistance benefits may be available for prenatal care, childbirth, and neonatal care”; “(ii) that the father is liable to assist in the support of her child, even in instances when the father has offered to pay for the abortion”; and “(iii) that she has the right to review . . . printed materials [published by the Health Commissioner], that these materials are available on a state-sponsored website, and what the website is.” Minn. Stat. § 145.4242(a)(2). In addition, the “physician or the physician’s agent” must “orally inform the female that the materials have been provided by the state of Minnesota and that they describe the unborn child, list agencies that offer alternatives to

abortion, and contain information on fetal pain.” Minn. Stat. § 145.4242(a)(2)(iii).

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

135. Third, an unspecified person must inform a patient whose fetus has been “diagnosed with fetal anomaly incompatible with life . . . of available perinatal hospice services and offer[] this care as an alternative to abortion.” Minn. Stat. § 145.4242(c).

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

136. The patient must certify in writing that the required disclosures have been made as a condition of obtaining an abortion. *See* Minn. Stat. § 145.4242(a)(3).

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

137. The statute equates failure to provide the mandated disclosures with failure to obtain informed consent from an abortion patient. *See* Minn. Stat. § 145.4242(a).

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

138. The mandatory disclosure requirement is partially excused “in the case of a medical emergency or if the fetus has an anomaly incompatible with life, and the female has declined perinatal hospice care.” Minn. Stat. § 145.4242(a). In the case of a medical emergency, “the physician shall inform the female, prior to the abortion if possible, of the medical indications supporting the physician’s judgment that an abortion is necessary to avert her death or that a 24-hour delay will create serious risk of substantial and irreversible impairment of a major bodily function.” Minn. Stat. § 145.4245. In the case of a “fetal anomaly incompatible

with life,” partial compliance with the mandatory disclosure requirements is required. *See* Minn. Stat. § 145.4242(c).

ANSWER: Defendants refer to the statutes, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

139. Failure to comply with the mandatory disclosure requirements gives rise to civil liability. Minn. Stat. § 145.4247, subd. 1. It also subjects licensed clinicians to professional discipline by the Medical Board, *see* Minn. Stat. §§ 147.091, subd. 1(f), 147A.13, subd. 1(6), and Nursing Board, Minn. Stat. § 148.261, subd. 1(18).

ANSWER: Defendants refer to the statutes, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

140. Some of the information that the mandatory disclosure requirements compel abortion providers to tell their patients is irrelevant, misleading, and/or ideologically charged.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

141. Some of the information in the printed materials published by the Health Commissioner is irrelevant, misleading, and/or ideologically charged.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

142. The printed materials published by the Health Commissioner exaggerate the risks of abortion and understate the risks of carrying a pregnancy to term. For example, the printed materials devote three paragraphs to the potential for “negative feelings” after an abortion, but

they fail to identify “baby blues” or post-partum depression as medical risks of childbirth, even though the latter conditions are common.⁴⁴

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

143. No credible scientific evidence supports the claim that having an abortion increases a person’s risk of breast cancer. Leading medical associations, including the American Cancer Society, have debunked this false claim.⁴⁵

ANSWER: The article cited speaks for itself. To the extent a response is required, the Health Department admits the first sentence. The other Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

144. No credible scientific evidence supports the claim that a previability fetus can feel pain. Leading medical associations, including the American College of Obstetricians & Gynecologists, have debunked this false claim.⁴⁶

ANSWER: The article cited speaks for itself. To the extent a response is required, the Health Department admits the first sentence. The other Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

⁴⁴ See Mayo Clinic, *Postpartum depression*, <https://www.mayoclinic.org/diseases-conditions/postpartum-depression/symptoms-causes/syc-20376617> (last updated Sept. 1, 2018).

⁴⁵ See Am. Cancer Soc’y, *Abortion and Breast Cancer Risk*, <https://www.cancer.org/cancer/cancer-causes/medical-treatments/abortion-and-breast-cancer-risk.html> (last updated June 19, 2014).

⁴⁶ See Am. Coll. of Obstetricians & Gynecologists, *Facts Are Important: Fetal Pain* (July 2013), <https://www.acog.org/-/media/Departments/Government-Relations-and-Outreach/FactAreImportFetalPain.pdf>.

145. Absent the mandatory disclosure requirements, abortion providers would have an affirmative obligation to obtain informed consent from their patients prior to providing abortion care pursuant to generally-applicable Minnesota law. *See Cornfeldt v. Tongen*, 262 N.W.2d 684, 699 (Minn. 1977).

ANSWER: Defendants refer to the statute and case, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

146. In connection with the informed consent process, Minnesota clinicians are generally required to disclose: the “nature and character” of a proposed treatment; any “risk that would have been disclosed under accepted medical practice”; and any “significant risk of treatment or of an alternative treatment.” *Id.* at 699, 702. In determining whether a risk is “significant,” a clinician must take into account both what “a skilled practitioner of good standing in the community would reveal,” and whether “a patient attaches a particular significance to risks not generally considered serious enough to require discussion.” *K.A.C. v. Benson*, 527 N.W. 2d 553, 561 (Minn. 1995).

ANSWER: Defendants refer to the cases, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

147. The U.S. Supreme Court has struck down laws similar to the mandatory disclosure requirements under strict scrutiny. In *City of Akron*, for example, the Court struck down a municipal ordinance specifying “a litany of information that the physician must recite to each woman regardless of whether in his judgment the information is relevant to her personal decision.” 462 U.S. at 445, *overruled in part by Casey*, 505 U.S. at 881-82. Similarly, in *Thornburgh v. American College of Obstetricians & Gynecologists*, 476 U.S. 747, 763 (1986), *overruled in part by Casey*, 505 U.S. at 881-82, the Court struck down a Pennsylvania statute

that “is, or comes close to being, state medicine imposed upon the woman, not the professional medical guidance she seeks.”

ANSWER: Defendants refer to the cases, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

148. The mandatory disclosure requirements treat abortion patients and providers differently than other patients and healthcare providers.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

149. The mandatory disclosure requirements compel healthcare providers to say things to their patients that are incompatible with accepted medical standards and bioethical principles.

ANSWER: Deny.

150. The mandatory disclosure requirements infringe on the fundamental right to abortion access.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

151. The mandatory disclosure requirements are not necessary to serve any compelling state interest.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

ii. **Physician Disclosure Requirement**

152. Plaintiffs challenge the “physician disclosure requirement” codified at Minn. Stat. § 145.4242(a)(1).

ANSWER: This allegation is Plaintiffs’ characterization of their own action to

which no response is required.

153. The physician disclosure requirement provides that certain mandatory disclosures may only be provided by a licensed physician—either “the physician who is to perform the abortion” or “a referring physician.” Minn. Stat. § 145.4242(a)(1). It prohibits those physicians from delegating the disclosures to other qualified personnel.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

154. Failure to comply with the physician disclosure requirement gives rise to civil liability. Minn. Stat. § 145.4247, subd. 1. It also subjects physicians to professional discipline by the Medical Board. *See* Minn. Stat. § 147.091, subd. 1(f).

ANSWER: Defendants refer to the statutes, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

155. The physician disclosure requirement requires physicians to personally provide information that others could competently provide under the physician’s supervision.

ANSWER: Defendants admit that other people can perform the ministerial act of transmitting information, but deny the allegations to the extent Plaintiffs are suggesting something more than that.

156. The physician disclosure requirement delays some patient’s access to abortion care and drives up the cost of abortion care.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

157. Both the U.S. Supreme Court and the Tennessee Supreme Court have struck down laws similar to the physician disclosure requirement.

ANSWER: Defendants refer to the cases, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

158. The U.S. Supreme Court held that: “We are not convinced . . . that there is [a] vital . . . state need for insisting that the physician performing the abortion, or for that matter any physician, personally counsel the patient in the absence of a request. The State’s interest is in ensuring that the woman’s consent is informed and unpressured; the critical factor is whether she obtains the necessary information and counseling from a qualified person, not the identity of the person from whom she obtains it.” *City of Akron*, 462 U.S. at 448, *overruled in part by Casey*, 505 U.S. at 884-85.

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegations to the extent they are inconsistent with the law.

159. The Tennessee Supreme Court held that: “Because it is not necessary that the physician personally impart the required information to the woman in order for informed consent to occur, the physician-only counseling requirement is not narrowly tailored to further a compelling state interest and will not be upheld.” *Planned Parenthood of Middle Tenn. v. Sundquist*, 38 S.W.3d 1, 22 (Tenn. 2000).

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegations to the extent they are inconsistent with the law.

160. The physician disclosure requirement treats abortion patients and providers differently than other patients and healthcare providers.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

161. The physician disclosure requirement infringes on the fundamental right to abortion access.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

162. The physician disclosure requirement is not necessary to serve any compelling state interest.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

iii. **Mandatory Delay Requirement**

163. Plaintiffs challenge the “mandatory delay requirement” codified at Minn. Stat. § 145.4242(a)(1)-(2).

ANSWER: This allegation is Plaintiffs’ characterization of their own action to which no response is required.

164. Pursuant to the mandatory delay requirement, an abortion provider must delay the provision of abortion care to a patient for at least twenty-four hours after the mandatory disclosures are made to the patient. *See* Minn. Stat. § 145.4242(a)(1)-(2).

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

165. Failure to comply with the mandatory delay requirement gives rise to civil liability. Minn. Stat. § 145.4247, subd. 1. It also subjects licensed clinicians to professional discipline by the Medical Board, *see* Minn. Stat. §§ 147.091, subd. 1(f), 147A.13, subd. 1(6), and Nursing Board, Minn. Stat. § 148.261, subd. 1(18).

ANSWER: Defendants refer to the statutes, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

166. In Minnesota, many abortion providers are not available to provide abortion care every day of the week.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

167. For some abortion patients, it is difficult to arrange a confidential telephone call with an abortion provider to discuss medical issues in addition to arranging an appointment for abortion care. The difficulty is especially acute for employees who get paid by the hour and/or do not control their work schedules; teenagers who are in school; individuals who want to keep an abusive partner or relative from finding out about their pregnancy; and those who are not proficient in English.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

168. For the foregoing reasons, the mandatory delay requirement sometimes causes delays in abortion access that are longer than twenty-four hours.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

169. Patients who seek other medical care of equal or greater risk, including other reproductive healthcare, are not subject to a mandatory delay.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

170. Studies show that most people who decide to have an abortion have a high degree of decisional certainty, and that mandatory delay laws do not increase the decisional certainty of

people who have abortions.

ANSWER: The studies cited speak for themselves. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

171. Studies show that few people who have abortions come to regret their decision later. No credible evidence supports the claim that mandatory delay laws result in fewer people having abortions that they later come to regret.

ANSWER: The studies cited speak for themselves. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

172. The mandatory delay law embodies outdated views about women's decision-making capacity.

ANSWER: Deny.

173. Women are just as capable as men of making decisions about their healthcare, and they are entitled to the same degree of autonomy that men have when making healthcare decisions.

ANSWER: Admit.

174. The mandatory delay law sends a message that women cannot be trusted to make decisions about their pregnancies and must be protected from their impulsiveness.

ANSWER: Deny.

175. The Iowa Supreme Court recently struck down an Iowa mandatory delay statute. *See Planned Parenthood of the Heartland v. Reynolds ex rel. State*, 915 N.W.2d 206, 212 (Iowa 2018). The court found that: “[T]he evidence conclusively demonstrates that the Act will not

result in a measurable number of women choosing to continue a pregnancy they would have terminated without a mandatory 72-hour waiting period. Moreover, the burdens imposed on women by the waiting period are substantial, especially for women without financial means.” *Id.* at 242. The court also concluded that the Iowa law discriminated against women based on outdated stereotypes. *See id.* at 244-45 (“For much of our state’s, and nation’s, history, biological differences have been used to justify women’s subordinate position in society. . . . Yet, as time has progressed, so too have our understandings of freedom and equality.”).

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegations to the extent they are inconsistent with the law.

176. The U.S. Supreme Court and Tennessee Supreme Court have also struck down mandatory delay laws directed toward abortion patients.

ANSWER: Defendants refer to the cases, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

177. The U.S. Supreme Court held that: “We find that Akron has failed to demonstrate that any legitimate state interest is furthered by an arbitrary and inflexible waiting period. . . . In accordance with the ethical standards of the profession, a physician will advise the patient to defer the abortion when he thinks this will be beneficial to her. But if a woman, after appropriate counseling, is prepared to give her written informed consent and proceed with the abortion, a State may not demand that she delay the effectuation of that decision.” *City of Akron*, 462 U.S. at 450-51 (footnotes omitted), *overruled in part by Casey*, 505 U.S. at 885-86.

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegations to the extent they are inconsistent with the law.

178. The Tennessee Supreme Court held that: “Studies . . . suggest that a large majority

of women who have endured waiting periods prior to obtaining an abortion have suffered increased stress, nausea and physical discomfort, but very few have reported any benefit from having to wait.” *Planned Parenthood of Middle Tenn.*, 38 S.W.3d at 23-24.

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegations to the extent they are inconsistent with the law.

179. Minnesota’s mandatory delay requirement treats abortion patients and providers differently than other patients and healthcare providers.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

180. The mandatory delay requirement infringes on the fundamental right to abortion access.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

181. The mandatory delay requirement is not necessary to serve any compelling state interest.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

iv. **Felony Penalties for Failure to Obtain Informed Consent**

182. Plaintiffs challenge the imposition of “felony penalties for failure to obtain informed consent” codified at Minn. Stat. § 145.412, subds. 1(4), 4.

ANSWER: This allegation is Plaintiffs’ characterization of their own action to which no response is required.

183. The statute provides that “[i]t shall be unlawful to willfully perform an abortion

unless the abortion is performed” “with the consent of the woman submitting to the abortion after a full explanation of the procedure and effect of the abortion.” Minn. § 145.412, subd. 1(4). “A person who performs an abortion in violation of this section is guilty of a felony.” Minn. Stat. § 145.412, subd. 4.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

184. As discussed above, Minnesota law independently requires all healthcare providers—including abortion providers—to obtain the informed consent of a patient prior to providing a medical intervention. *See Cornfeldt*, 262 N.W.2d at 699. A healthcare provider who fails to obtain informed consent from a patient prior to providing a medical intervention is subject to civil liability for battery and/or medical negligence. *See id.* Plaintiffs do not challenge this requirement.

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegations to the extent they are inconsistent with the law.

185. Minn. Stat. § 145.412, subd. 1(4), does not impose any substantive requirements on abortion providers beyond those imposed by generally-applicable Minnesota law. Instead, it targets abortion providers for unique and onerous criminal penalties.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

186. Other healthcare providers are not subject to criminal liability for failing to obtain informed consent from a patient.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore

deny the same.

187. Laws that subject abortion providers to disparate criminal liability discourage qualified healthcare providers from providing abortion care.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

188. The felony penalties for failure to obtain informed consent infringe on the fundamental right to abortion access.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

189. The felony penalties for failure to obtain informed consent are not necessary to serve any compelling state interest.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

C. Fetal Tissue Disposition Requirement

190. Plaintiffs challenge the “fetal tissue disposition requirement” codified at Minn. Stat. §§ 145.1621-145.1622; Minn. R. 4675.2205.

ANSWER: This allegation is Plaintiffs’ characterization of their own action to which no response is required.

191. The statute requires that “[r]emains of a human fetus resulting from an abortion or miscarriage, induced or occurring accidentally or spontaneously at a hospital, clinic, or medical facility” be disposed of “by cremation, interment by burial, or in a manner directed by the commissioner of health.” Minn. Stat. § 145.1621, subds. 3-4.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

192. On information and belief, the Health Commissioner has not “directed” the disposition of fetal tissue in a manner not specified in the statute.

ANSWER: On information and belief, the Health Department admits the allegation. The other Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

193. Failure to comply with the fetal tissue disposition requirement gives rise to civil and criminal liability. Minn. Stat. § 145.1621, subd. 5. It also subjects licensed clinicians to professional discipline by the Medical Board, *see* Minn. Stat. §§ 147.091, subd. 1(f), 147A.13, subd. 1(6), and Nursing Board, Minn. Stat. § 148.261, subd. 1(18).

ANSWER: Defendants refer to the statutes, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

194. In medicine, the standard method for disposition of human tissue is incineration followed by deposition in a sanitary landfill.

ANSWER: Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of these allegations, and therefore deny the same.

195. Cremation and burial are methods used for disposition of human remains after a person has died.

ANSWER: Admit.

196. By requiring fetal tissue to be disposed of by methods used for the remains of a person who has died—to the exclusion of standard medical methods—the fetal tissue disposition requirement equates fetal tissue with the remains of a person who has died.

ANSWER: The allegation is vague such that Defendants are without knowledge

or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

197. Minnesota residents have differing beliefs about the status of a fetus based on diverse religious and cultural traditions.

ANSWER: Admit.

198. Some Minnesota residents believe that a fetus is a person, while others do not.

ANSWER: Admit.

199. Many people's beliefs about the point at which a developing human organism becomes a person, or otherwise acquires special status, are complex and nuanced.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

200. The fetal tissue disposition requirement privileges the religious beliefs of some Minnesota residents over others.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

201. Absent the fetal tissue disposition requirement, fetal tissue would be governed by the Infectious Waste Control Act, Minn. Stat. §§ 116.75-116.835, and implementing regulations, Minn. R. 7035.9100-7035.9150. This statute would not prevent a patient from electing to cremate or bury fetal tissue if the patient preferred one of those disposition methods.

ANSWER: Defendants refer to the statutes and rules, which speak for themselves, and deny the allegations to the extent they are inconsistent with the law.

202. The fetal tissue disposition requirement causes some individuals who have

abortions or miscarriages to experience shame or stigma by sending a message that they are responsible for the death of a person.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

203. Some individuals who experience pregnancy loss are comforted by the belief that they lost potential life rather than a fully realized person.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

204. The fetal tissue disposition requirement imposes logistical burdens on healthcare providers who must segregate fetal tissue from other medical tissue and arrange for special disposition. This drives up the cost of healthcare.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

205. The fetal tissue disposition requirement treats people who must dispose of fetal tissue differently from people who must dispose of other medical tissue.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

206. From a public health standpoint, there is no reason to treat fetal tissue differently than other forms of human tissue for disposition purposes. It poses no greater risk of infection or environmental contamination.

ANSWER: Defendants have not retained an expert yet, so they are without knowledge or information sufficient to form a belief as to the truth of these allegations, and

therefore deny the same.

207. The fetal tissue disposition requirement infringes on the fundamental right to abortion access.

ANSWER: This allegation is a legal conclusion to which no response is required.

To the extent a response is required, Defendants deny the allegation.

208. The fetal tissue disposition requirement burdens the exercise of religious beliefs by miscarriage and abortion patients.

ANSWER: This allegation is a legal conclusion to which no response is required.

To the extent a response is required, Defendants deny the allegation.

209. The fetal tissue disposition requirement serves no secular purpose.

ANSWER: Deny.

210. The fetal tissue disposition requirement is not necessary to serve Minnesota's interest in public health or any compelling state interest.

ANSWER: This allegation is a legal conclusion to which no response is required.

To the extent a response is required, Defendants deny the allegation.

211. Minnesota's fetal tissue disposition requirement was previously challenged in federal court. *See Planned Parenthood of Minn. v. State*, 910 F.2d 479, 481 (8th Cir. 1990).⁴⁷ In that case, the State took the position that incineration is a permissible method of disposition under the fetal tissue disposal requirement because it is a form of cremation. *See id.* at 483 n.4. The Eighth Circuit rejected that position, *id.*, but its construction of the statute is not binding on

⁴⁷ The Eighth Circuit upheld the statute based in part on a concession by the plaintiffs that "the state has a legitimate interest in protecting public sensibilities." *Planned Parenthood of Minn.*, 910 F.2d at 488. Plaintiffs here make no such concession. To the contrary, Plaintiffs maintain that the fetal tissue disposition requirement does not serve any valid state interest, much less any compelling state interest.

Minnesota courts.

ANSWER: Defendants refer to the case and pleadings, which speaks for itself, and deny the allegations to the extent they are inconsistent with the law.

212. The State's prior interpretation of the fetal tissue disposition requirement to permit incineration is plausible and would mitigate the requirement's constitutional infirmities.

ANSWER: Defendants refer to the statute and the Minnesota Constitution, which speak for themselves, and deny the allegation to the extent it is inconsistent with the law.

D. Two-Parent Notification Requirement

213. Plaintiffs challenge the "two-parent notification requirement" codified at Minn. Stat. § 144.343, subds. 2-6.

ANSWER: This allegation is Plaintiffs' characterization of their own action to which no response is required.

214. Under Minnesota law, a minor is someone under the age of 18. Minn. Stat. § 645.451, subd. 2.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

215. Minnesota law generally authorizes minors to consent to medical treatment related to pregnancy, STIs, and substance abuse without parental involvement. *See* Minn. Stat. § 144.343, subd. 1.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

216. A pregnant minor may not consent to an abortion, however, unless the abortion provider first notifies both of the minors' parents and observes a forty-eight-hour waiting period. *See* Minn. Stat. § 144.343, subds. 2-3. Alternatively, a pregnant minor may obtain a court order

authorizing the abortion to proceed without parental notification. *See* Minn. Stat. § 144.343, subd. 6.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

217. The following individuals are exempt from the two-parent notification requirement: “any minor who is living separate and apart from parents or legal guardian . . . and who is managing personal financial affairs,” Minn. Stat. § 144.341; “[any] minor who has been married or has borne a child,” Minn. Stat. § 144.342; and any minor who is “[e]mancipated,” Minn. Stat. § 144.343, subd. 2.

ANSWER: Defendants refer to the statutes, which speak for themselves, and deny the allegation to the extent it is inconsistent with the law.

218. In addition, the two-parent notification requirement is excused when “the abortion is necessary to prevent the woman’s death and there is insufficient time to provide the required notice”; both parents provide written consent; or “[t]he pregnant minor woman declares that she is a victim of sexual abuse, neglect, or physical abuse” and “[n]otice of that declaration” is given to “the proper authorities.” Minn. Stat. § 144.343, subd. 4.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

219. An abortion provider who fails to comply with the two-parent notification requirement is subject to civil and criminal liability. *See* Minn. Stat. § 144.343, subd. 5. Licensed clinicians are also subject to professional discipline by the Medical Board, *see* Minn. Stat. §§ 147.091, subd. 1(f), 147A.13, subd. 1(6), and Nursing Board, Minn. Stat. § 148.261, subd. 1(18).

ANSWER: Defendants refer to the statutes, which speak for themselves, and deny the allegation to the extent it is inconsistent with the law.

220. Two-hundred-forty-eight minors had abortions in Minnesota in 2017.⁴⁸ Ninety-five percent of them were between fifteen and seventeen years old.

ANSWER: Defendants refer to the report, which speaks for itself, and deny the allegation to the extent it is inconsistent with the report.

221. Most teenagers voluntarily involve their parents in decisions about pregnancy and abortion.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

222. Those who do not generally have prudent reasons, such as credible fear of violence or abandonment.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

223. Not all teenagers live in two-parent households. Some teenagers do not have a meaningful relationship with their non-custodial parent.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

224. Some teenagers have better relationships with other trusted adults—such as grandparents, aunts and uncles, siblings and mentors—than they do with their parents.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

⁴⁸ Health Dep't 2017 Report, *supra*, at 5.

225. The two-parent notification requirement delays some pregnant teenagers' access to abortion.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

226. The two-parent notification requirement prevents some pregnant teenagers from obtaining an abortion.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

227. The two-parent notification requirement significantly increases the anxiety and stress experienced by some teenagers with unintended pregnancies.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

228. A pregnant teenager who is unable to obtain an abortion must give birth to a child. Once a minor "has borne a child," the minor "may give effective consent" to all "personal medical, mental, dental and other health services" without parental involvement. Minn. Stat. § 144.342.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

229. Seeking a court order authorizing an abortion is a daunting prospect for a pregnant teenager who lacks parental support. Navigating the legal system is intimidating, costly, and time-consuming. Having to prepare for a court appearance and then appear in court increases the time that pregnant teenagers must be away from home or school in connection with an abortion, making it harder for them to keep their pregnancies confidential.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

230. Several state supreme courts have held statutes requiring parental notification or consent for abortion to be unconstitutional, including those in Alaska, California, Florida, Massachusetts, and New Jersey. *See Planned Parenthood of the Great Nw. v. State*, 375 P.3d 1122 (Alaska 2016); *Am. Acad. of Pediatrics v. Lungren*, 940 P.2d 797 (Cal. 1997); *N. Fla. Women's Health & Counseling Servs., Inc. v. State*, 866 So.2d 612 (Fla. 2003); *Planned Parenthood League of Mass., Inc. v. Attorney General*, 677 N.E.2d 101 (Mass. 1997); *Planned Parenthood of Cent. N.J. v. Farmer*, 762 A.2d 620 (N.J. 2000).

ANSWER: Defendants refer to the cases, which speak for themselves, and deny the allegation to the extent it is inconsistent with the law.

231. The Alaska Supreme Court explained: “We must conclude that the State’s asserted interests do not justify a distinction between pregnant minors seeking to terminate and those seeking to carry to term.” *Planned Parenthood of the Great Nw.*, 375 P.3d at 1143.

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

232. The California Supreme Court explained: “The testimony . . . revealed that the overwhelming majority of minors who become pregnant have the requisite maturity and capacity to give informed consent to an abortion, and that the interests of those relatively few pregnant minors who do not have the capacity to provide informed consent remain fully protected . . . because a physician may not perform any medical procedure, including an abortion, unless he or she determines that the patient is capable of giving (and has given) informed consent.” *Am. Acad. of Pediatrics*, 940 P.2d at 828.

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

233. The Florida Supreme Court explained that: “[F]ew decisions are more private and properly protected from government intrusion than a woman’s decision whether to continue her pregnancy, and yet the Act’s notification requirement prohibits a pregnant minor from keeping this matter private.” *N. Fla. Women’s Health & Counseling Servs.*, 866 So.2d at 632 (footnote omitted).

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

234. The Massachusetts Supreme Court explained that: “The requirement that, with certain exceptions, a pregnant unmarried minor must obtain the consent of both parents to her having an abortion, or else must seek judicial approval, lacks sufficient justification to overcome the burden that the two-parent consent requirement places on the minor’s constitutional right to choose.” *Planned Parenthood League of Mass.*, 677 N.E.2d at 107.

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

235. The New Jersey Supreme Court explained that: “The reality is that the Act applies to many young women who are justified in not notifying a parent about their abortion decisions.” *Planned Parenthood of Cent. N.J.*, 762 A.2d at 637.

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

236. Minnesota’s two-parent notification requirement treats pregnant minors seeking abortion care differently from pregnant minors seeking other reproductive healthcare.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

237. The two-parent notification requirement infringes on the fundamental right to abortion access.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

238. The two-parent notification requirement is not necessary to serve any compelling state interest.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

E. Ban on Advertising STI Treatments

239. Plaintiffs challenge the “ban on advertising STI treatments” codified at Minn. Stat. § 617.28.

ANSWER: This allegation is Plaintiffs’ characterization of their own action to which no response is required.

240. The statute provides in relevant part: “Any person who shall advertise . . . the treatment or curing of venereal diseases, . . . or who shall advertise in any manner any medicine, drug compound, appliance or any means whatever whereby it is claimed that sexual diseases of men and women may be cured or relieved, or miscarriage or abortion produced, shall be guilty of a gross misdemeanor” Minn. Stat. § 617.28, subd. 1.

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

241. The statute was held unconstitutional as applied to abortion-related

advertisements more than 35 years ago. *See Meadowbrook Women's Clinic, P.A. v. State*, 557 F. Supp. 1172, 1178 (D. Minn. 1983) (“[T]he Court finds that Minn. Stat. § 617.28 as it applies to the advertisement and publication of information concerning the inducement of miscarriages or abortions violates the first and fourteenth amendments of the U.S. Constitution.”).

ANSWER: Defendants refer to the case, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

242. Some of the Plaintiffs provide healthcare services for people with STIs. They seek the ability to advertise those services without risk of criminal prosecution.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

243. Independent of the ban on advertising STI treatments, Minnesota law prohibits practicing medicine without a license, including “advertis[ing], hold[ing] out to the public, or represent[ing] in any manner that the person is authorized to practice medicine in this state.” Minn. Stat. § 147.081, subd. 3(1).

ANSWER: Defendants refer to the statute, which speaks for itself, and deny the allegation to the extent it is inconsistent with the law.

244. Independent of the ban on advertising STI treatments, Minnesota law prohibits false advertising by licensed clinicians. *See* Minn. Stat. §§ 147.091, subd. 1(e) (physicians), 147A.13, subd. 1(5) (physician assistants), 148.261, subd. 1(23) (nurses).

ANSWER: Defendants refer to the statutes, which speak for themselves, and deny the allegation to the extent it is inconsistent with the law.

245. The ban on advertising STI treatments treats healthcare providers who provide STI treatments differently from healthcare providers who provide other kinds of medical care.

ANSWER: The allegation is vague such that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny the same.

246. The ban on advertising STI treatments is not necessary to serve any compelling state interest.

ANSWER: This allegation is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegation.

CLAIMS

Count I (Right to Privacy)

247. The allegations of paragraphs 1 through 246 are incorporated as though fully set forth herein.

ANSWER: Defendants refer to their answers above.

248. The following laws violate the right to privacy guaranteed by Minnesota Constitution art. I, §§ 2, 7, 10:

- a. Physician-only law codified at Minn. Stat. § 145.412, subd. 1(1);
- b. Hospitalization requirements codified at Minn. Stat. § 145.412, subs. 1(2), 3(1);
- c. Reporting requirements codified at Minn. Stat. §§ 145.413, 145.4131, subd. 1(b)(1)-(12), 145.4132, 145.4134, 145.4246, subd. 3; Minn. R. 4615.3600;
- d. Felony penalties for regulatory infractions codified at Minn. Stat. § 145.412, subs. 1(3), 4;
- e. Mandatory disclosure requirements codified at Minn. Stat. § 145.4242;
- f. Physician disclosure requirement codified at Minn. Stat. § 145.4242(a)(1);
- g. Mandatory delay requirement codified at Minn. Stat. § 145.4242(a)(1)-(2);

- h. Felony penalties for failure to obtain informed consent codified at Minn. Stat. § 145.412, subs. 1(4), 4;
- i. Fetal tissue disposition requirement codified at Minn. Stat. §§ 145.1621-145.1622; Minn. R. 4675.2205; and
- j. Two-parent notification requirement codified at Minn. Stat. § 144.343, subs. 2-6.

ANSWER: These allegations are legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

249. Dr. Doe and Ms. Moe challenge these laws on behalf of their patients seeking access to abortion. First Unitarian Society challenges these laws on behalf of its congregants seeking access to abortion. Our Justice challenges these laws on behalf of its clients seeking access to abortion.

ANSWER: These allegations are Plaintiffs' characterization of their own action and beliefs to which no response is required.

Count II (Equal Protection)

250. The allegations of paragraphs 1 through 246 are incorporated as though fully set forth herein.

ANSWER: Defendants refer to their answers above.

251. The following laws violate the guarantee of equal protection of the laws embodied in Minnesota Constitution art. I, § 2:

- a. Physician-only law codified at Minn. Stat. § 145.412, subd. 1(1);
- b. Hospitalization requirements codified at Minn. Stat. § 145.412, subs. 1(2), 3(1);
- c. Reporting requirements codified at Minn. Stat. §§ 145.413, 145.4131, subd. 1(b)(1)-(12), 145.4132, 145.4134, 145.4246, subd. 3; Minn. R. 4615.3600;

- d. Felony penalties for regulatory infractions codified at Minn. Stat. § 145.412, subds. 1(3), 4;
- e. Mandatory disclosure requirements codified at Minn. Stat. § 145.4242;
- f. Physician disclosure requirement codified at Minn. Stat. § 145.4242(a)(1);
- g. Mandatory delay requirement codified at Minn. Stat. § 145.4242(a)(1)-(2);
- h. Felony penalties for failure to obtain informed consent codified at Minn. Stat. § 145.412, subds. 1(4), 4;
- i. Fetal tissue disposition requirement codified at Minn. Stat. §§ 145.1621-145.1622; Minn. R. 4675.2205;
- j. Two-parent notification requirement codified at Minn. Stat. § 144.343, subds. 2-6;
and
- k. Ban on advertising STI treatments codified at Minn. Stat. § 617.28.

ANSWER: These allegations are legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

252. Dr. Doe and Ms. Moe challenge these laws on behalf of themselves and their patients seeking access to abortion. First Unitarian Society challenges these laws on behalf of its congregants seeking access to abortion. Our Justice challenges these laws on behalf of its clients seeking access to abortion.

ANSWER: These allegations are Plaintiffs' characterization of their own action and beliefs to which no response is required.

Count III (Special Legislation)

253. The allegations of paragraphs 1 through 246 are incorporated as though fully set forth herein.

ANSWER: Defendants refer to their answers above.

254. The following laws violate the prohibition on special legislation set forth in Minnesota Constitution art. XII, § 1:

- a. Physician-only law codified at Minn. Stat. § 145.412, subd. 1(1);
- b. Hospitalization requirements codified at Minn. Stat. § 145.412, subs. 1(2), 3(1);
- c. Reporting requirements codified at Minn. Stat. §§ 145.413, 145.4131, subd. 1(b)(1)-(12), 145.4132, 145.4134, 145.4246, subd. 3; Minn. R. 4615.3600;
- d. Felony penalties for regulatory infractions codified at Minn. Stat. § 145.412, subs. 1(3), 4;
- e. Mandatory disclosure requirements codified at Minn. Stat. § 145.4242;
- f. Physician disclosure requirement codified at Minn. Stat. § 145.4242(a)(1);
- g. Mandatory delay requirement codified at Minn. Stat. § 145.4242(a)(1)-(2);
- h. Felony penalties for failure to obtain informed consent codified at Minn. Stat. § 145.412, subs. 1(4), 4;
- i. Fetal tissue disposition requirement codified at Minn. Stat. §§ 145.1621-145.1622; Minn. R. 4675.2205;
- j. Two-parent notification requirement codified at Minn. Stat. § 144.343, subs. 2-6;
and
- k. Ban on advertising STI treatments codified at Minn. Stat. § 617.28.

ANSWER: These allegations are legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

255. Dr. Doe and Ms. Moe challenge these laws on behalf of themselves and their patients seeking access to abortion. First Unitarian Society challenges these laws on behalf of its

congregants seeking access to abortion. Our Justice challenges these laws on behalf of its clients seeking access to abortion.

ANSWER: These allegations are Plaintiffs' characterization of their own action and beliefs to which no response is required.

**Count IV
(Free Speech)**

256. The allegations of paragraphs 1 through 246 are incorporated as though fully set forth herein.

ANSWER: Defendants refer to their answers above.

257. The following laws violate the right to free speech guaranteed by Minnesota Constitution art. I, § 3:

- a. Mandatory disclosure requirements codified at Minn. Stat. § 145.4242; and
- b. Ban on advertising STI treatments codified at Minn. Stat. § 617.28.

ANSWER: These allegations are legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

258. Dr. Doe and Ms. Moe challenge these laws on behalf of themselves.

ANSWER: These allegations are Plaintiffs' characterization of their own action and beliefs to which no response is required.

**Count V
(Vagueness)**

259. The allegations of paragraphs 1 through 246 are incorporated as though fully set forth herein.

ANSWER: Defendants refer to their answers above.

260. The hospitalization requirements codified at Minn. Stat. § 145.412, subds. 1(2), 3(1), violate the prohibition on vague laws embodied in Minnesota Constitution art. I, § 7.

ANSWER: The Court dismissed this Count.

261. Dr. Doe and Ms. Moe challenge these laws on behalf of themselves and their patients seeking access to abortion. First Unitarian Society challenges these laws on behalf of its congregants seeking access to abortion. Our Justice challenges these laws on behalf of its clients seeking access to abortion.

ANSWER: The Court dismissed this Count.

**Count VI
(Religious Freedom and Neutrality)**

262. The allegations of paragraphs 1 through 246 are incorporated as though fully set forth herein.

ANSWER: Defendants refer to their answers above.

263. The fetal tissue disposition requirement codified at Minn. Stat. §§ 145.1621-145.1622; Minn. R. 4675.2205, violates the right to religious freedom and prohibition on religious preference set forth in Minnesota Constitution art. I, § 16.

ANSWER: These allegations are legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

264. First Unitarian Society challenges these laws on behalf of itself and its congregants seeking access to abortion or treatment for miscarriage.

ANSWER: These allegations are Plaintiffs' characterization of their own action and beliefs to which no response is required.

**Count VII
(Declaratory Judgment)**

265. The allegations of paragraphs 1 through 246 are incorporated as though fully set forth herein.

ANSWER: Defendants refer to their answers above.

266. All of the challenged laws are unconstitutional or otherwise unenforceable.

ANSWER: These allegations are legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

267. Alternatively, the fetal tissue disposition requirement codified at Minn. Stat. §§ 145.1621-145.1622; Minn. R. 4675.2205, is subject to a limiting construction that preserves its constitutionality.

ANSWER: These allegations are legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

268. Dr. Doe and Ms. Moe challenge these laws on behalf of themselves and their patients seeking access to abortion. First Unitarian Society challenges the fetal tissue disposition requirement on behalf of itself and its congregants seeking access to abortion or treatment for miscarriage, and it challenges the remaining laws on behalf of its congregants seeking access to abortion. Our Justice challenges these laws on behalf of its clients seeking access to abortion.

ANSWER: These allegations are Plaintiffs' characterization of their own action and beliefs to which no response is required.

AFFIRMATIVE DEFENSES

1. Plaintiffs' Amended Complaint fails to state a claim upon which relief can be granted.
2. Plaintiffs lack standing.
3. Defendants are not the proper defendants.
4. Plaintiffs' claims may be barred by the doctrine of laches.
5. Some of Plaintiffs' claims may be moot.
6. Defendants reserve the right to assert any other affirmative defenses or objections

as may arise or become available under the Rules of Civil Procedure.

WHEREFORE, Defendants respectfully request that this Court enter judgment in their favor, dismiss Plaintiffs' Amended Complaint in its entirety, award Defendants their costs, including reasonable attorney and witness fees, and any other relief this Court deems just and equitable.

Dated: July 15, 2020

KEITH ELLISON
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/s/ Liz Kramer

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MINN. STAT. § 549.211 ACKNOWLEDGMENT

The party on whose behalf the attached document is served acknowledge through their undersigned counsel that sanctions may be imposed.

/s/ Liz Kramer

LIZ KRAMER

Solicitor General

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