

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

Planned Parenthood of the Great Northwest and the Hawaiian Islands,  
Plaintiff,  
v.  
State of Alaska,  
Defendant.

COPY  
Original Received  
JAN 13 2017  
Clerk of the Trial Courts

Case No. 3AN-16-10362 CI

ANSWER

The Defendant, State of Alaska, by and through the Office of the Attorney General, answers the complaint in this action as follows:

INTRODUCTION

1. Upon information and belief, Defendant admits that Planned Parenthood brings this action and that Planned Parenthood provides first trimester surgical and medical abortions at outpatient facilities in Anchorage, Fairbanks, Soldotna, and Juneau.

The remainder of paragraph 1 is denied.

2. Denied.

JURISDICTION AND VENUE

3. Admitted.

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**PARTIES**

- 4. Upon information and belief, the allegations of paragraph 4 are admitted.
- 5. Admitted.

**GENERAL ALLEGATIONS**

6. Upon information and belief, Defendants admit that, in general, in the United States the incidence of complications arising from abortion is low. Defendants also admit that the risks of abortion are related to the patient's overall health and increase with gestational age. Defendant lacks sufficient information to admit or deny the remaining allegations of paragraph 6 at this time and therefore denies them.

7. Upon information and belief, paragraph 7 is admitted.

8. Defendant lacks sufficient information to admit or deny the allegations of paragraph 8 at this time, and therefore denies them.

9. On information and belief, Defendant admits that in Alaska, Planned Parenthood provides abortion services through 13.6 weeks lmp, at its health centers in Anchorage, Juneau, Soldotna, and Fairbanks. Defendant lacks sufficient information to admit or deny the number of abortions Planned Parenthood performed in 2015. The remainder of paragraph 9 is denied.

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10. Defendant lacks sufficient information to admit or deny the allegations of paragraph 10 at this time and therefore denies them.

11. On information and belief, Defendant admits that some medical procedures which do not involve incision are legally performed in outpatient clinics in Alaska; other comparably low risk procedures are performed in ambulatory surgical centers which are regulated under 7 AAC 12.350, and can be performed at outpatient clinics. To the extent that this paragraph compares the risk of second trimester abortion and other medical procedures that do not implicate competing fundamental personal, and compelling state, interests it is argument to which no response is required.

12. To the extent that paragraph 12 sets out what is contained in AS 18.16.010, the statute speaks for itself. Defendant admits that this law was enacted in 1970.

13. Paragraph 13 describes Attorney General Opinions which speak for themselves; no further answer is necessary.

14. Defendant admits that AS 08.64.105 was enacted in 1970 as part of the CSSB 527 (HWE). The statute speaks for itself. Defendant admits that the State Medical Board adopted regulations in compliance with the statute.

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15. To the extent that paragraph 15 quotes a regulation, the regulation speaks for itself and no further answer is necessary. Defendant admits that twelve weeks gestation is equivalent to fourteen weeks imp.

16. Defendant lacks sufficient information to admit or deny what the plaintiff is or is not aware of.

17. Defendant admits that a mandatory consultation may not be necessary to protect the health of the woman in every second trimester abortion, but deny that is the only interest of the state. On information and belief, Defendant admits that Planned Parenthood's physicians in Alaska are licensed by the State Medical Board. Defendant further admits that that licensure indicates that Planned Parenthood's physicians are qualified to determine the care a patient needs. Defendant lacks sufficient information to admit or deny the remaining allegations of paragraph 17 and therefore denies them.

18. Defendant admits that the consultation regulation was adopted in 1970 and is not required by the World Health Organization's technical and policy guidelines for abortions. Defendant denies that the consultation requirement need create significant delays. The final sentence is a statement of law to which no response is required.

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19. To the extent paragraph 19 describes the substance of the consultation regulation, the regulation speaks for itself; the remainder of paragraph 19 is denied.

20. To the extent that paragraph 20 quotes a regulation, the regulation speaks for itself and no further answer is necessary. Defendant admits that AS 18.20.060 has been repealed. The remainder of paragraph 20 is denied.

21. Defendant denies that the “blood products regulation” is unnecessary for the provision of safe second and third trimester abortion care; Defendant admits that when a complication requiring blood products occurs, the standard of care is transfer to a hospital and further admits that this is consistent with the regulation.

22. Defendant lacks sufficient information to admit or deny the policies of the Alaska Blood Bank or to comment on whether those policies “make sense.” The remaining allegations of paragraph 22 are denied.

23. Defendant lacks sufficient information to admit or deny paragraph 23 at this time.

24. Defendant lacks sufficient information to admit or deny the allegations of the first sentence of paragraph 24; but Defendant denies that this is what the regulation requires. The last sentence is a statement of law to which no response is required.

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25. Defendant lacks sufficient information to admit or deny paragraph 25 at this time.

26. Defendant lacks sufficient information to admit or deny the allegations of paragraph 26 at this time, and therefore denies them.

27. Defendant denies that the "operating room regulation" does not advance the safety of abortion care. Defendant lacks sufficient information to admit or deny the remaining allegations of paragraph 27 at this time, and therefore denies them.

28. Defendant lacks sufficient information to admit or deny paragraph 28 at this time.

29. To the extent paragraph 29 describes the substance of the regulations, the regulations speak for themselves and no further response is required; the other allegations of paragraph 29 are argument to which no response is required.

30. The first sentence of paragraph 30 is argument to which no response is required. Defendant admits that the blood products and operating room requirement in the regulations can be read to require that blood products and an operating room be available at a nearby hospital and, upon information and belief, admit that this is what

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the regulation requires. Defendant lacks sufficient information to admit or deny the allegations of the last sentence of paragraph 30.

31. Defendant lacks sufficient information to admit or deny the allegations of paragraph 31 at this time, and therefore denies them.

32. Defendant lacks sufficient information to admit or deny that the regulations result in delays in women obtaining abortions, and therefore denies the allegation. Defendant admits that the risks of abortion increase with advancing gestational age. Defendant denies the remaining allegations of paragraph 32.

33. Defendant lacks sufficient information to admit or deny the allegations of paragraph 33 at this time, and therefore denies them.

34. Defendant lacks sufficient information to admit or deny the allegations of paragraph 34 at this time, and therefore denies them.

35. Denied.

36. Defendant admits that the plaintiff sent a letter to Commissioner Davidson in June 2015; the letter speaks for itself. The remaining allegations of paragraph 36 are denied.

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37. Defendant admits that there are no DHSS regulations or guidance governing approval of facilities to perform abortions and that DHSS suggested Planned Parenthood consult the State Medical Board's regulations governing the provision of abortion.

38. Defendant lacks sufficient information to confirm or deny whether Planned Parenthood sent a letter to the State Medical Board on September 13, 2016, but Defendant denies that the State Medical Board received such a letter. Defendant admits that because the Board did not receive the letter, it did not respond to the letter. The letter Planned Parenthood claims to have sent to the Medical Board speaks for itself.

39. Denied.

**COUNTS/CLAIMS FOR RELIEF**

*COUNT I: RIGHT TO PRIVACY*

40. Defendant hereby incorporates its responses provided in paragraphs 1-39 above.

41. Denied.



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*COUNT II: EQUAL PROTECTION*

42. Defendant hereby incorporates its responses provided in paragraphs 1–41 above.

43. Denied.

*COUNT III: DUE PROCESS*

44. Defendant hereby incorporates its responses provided in paragraphs 1–43 above.

45. Denied.

46. Denied.

47. Denied.

*COUNT IV: REQUEST FOR INJUNCTIVE RELIEF*

48. Defendant hereby incorporates its responses provided in paragraphs 1–47 above.

49. Defendant denies that Planned Parenthood is entitled to an injunction.

50. Denied.

**AFFIRMATIVE DEFENSES**

1. The plaintiff lacks standing to bring some or all of its claims.

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2. The plaintiff has failed to state a cause of action upon which relief may be granted.

3. There is no controversy such that the court should issue a declaratory judgment.

4. The plaintiff is not entitled to the issuance of a mandatory injunction.

5. The State reserves the right to assert additional defenses and other matters as the case proceeds.

6. All other applicable defenses in law and in equity.

The State of Alaska seeks the following relief:

1. That the complaint be dismissed in its entirety with prejudice.

2. That the plaintiffs' prayer for relief be denied.

3. That the State be awarded its costs and fees in the action.

4. That the Court award the State such other relief as may be just and equitable under the circumstances.

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DATED January 13, 2017.

JAHNA LINDEMUTH  
ATTORNEY GENERAL

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**CERTIFICATE OF SERVICE**

I certify that on this date, true and correct copies of the Answer and this

**Certificate of Service** were served via USPS First Class mail on the following:

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