

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

PLANNED PARENTHOOD OF
CENTRAL NORTH CAROLINA

Plaintiff,

v.

LANIER CANSLER, in his official
capacity as the Secretary of the North
Carolina Department of Health and Human
Services,

Defendant.

Civil Action No. 1:11 CV 531

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Plaintiff Planned Parenthood of Central North Carolina (“PPCNC”), by and through its attorneys, brings this Complaint against the above-named Defendant, his employees, agents, and successors in office, and in support thereof states the following:

INTRODUCTORY STATEMENT

1. This civil action is brought pursuant to 42 U.S.C. § 1983 and the United States Constitution to vindicate rights secured by the Supremacy, Due Process, Equal Protection, and Bill of Attainder Clauses of the United States Constitution, and the First Amendment. For nearly thirty years, PPCNC has played a crucial role in the delivery of healthcare to tens of thousands of North Carolina residents, especially low-income and uninsured women. In the past, PPCNC has received state and federal funds to provide

vital health services in the communities it serves, including pap smears and other cancer screenings, contraceptive counseling, pregnancy testing and related services, and screenings for HIV/AIDS and other sexually-transmitted infections (“STIs”).

2. PPCNC also provides abortion services; in providing these services, PPCNC has always scrupulously adhered to the restrictions imposed by federal and state law on the use of governmental funds to provide abortions.

3. On June 15, 2011, the North Carolina General Assembly enacted, over Governor Perdue’s veto, a budget for fiscal years 2011-2012 and 2012-2013 that prohibits the State’s “Department of Health and Human Services [from] provid[ing] State funds or other funds administered by the Department for contracts or grants to Planned Parenthood, Inc., and affiliated organizations.” N.C. Sess. Laws 2011-145 § 10.19 (“Section 10.19”). This measure singles out and categorically disqualifies any Planned Parenthood affiliate, including PPCNC, from continuing to receive state and federal funds that it is otherwise eligible and qualified to receive, and which, as noted, are used to provide vital health services to thousands of people in North Carolina.

4. PPCNC seeks declaratory and injunctive relief because Section 10.19 violates the Supremacy, Due Process, Equal Protection, and Bill of Attainder Clauses of the United States Constitution, and the First Amendment. It violates the Supremacy Clause because it imposes restrictions on eligibility for federal “Title X” funds that are in excess of and inconsistent with restrictions and requirements established by the federal government for receipt of these funds. Section 10.19 violates the First Amendment and

the Due Process, Equal Protection, and Bill of Attainder Clauses because it impermissibly singles out, vilifies, and punishes PPCNC and other Planned Parenthood affiliates as a particularly visible provider of abortion services and advocate of abortion rights—both of which are constitutionally-protected activities. Section 10.19 exacts an extreme punishment—total disqualification from various state and federal funding streams—even though the eliminated funds have nothing to do with abortion, but will only deprive low-income people of much-needed health and teen pregnancy prevention services.

5. Section 10.19 cannot be justified on the ground that it avoids government subsidization of abortion, for federal law and state law already prohibit governmental funds from being used for abortion services. *See, e.g.*, 42 U.S.C. § 300a-6 (prohibiting the use of Title X funds “in programs where abortion is a method of family planning”); N.C. Sess. Laws 2011-145 § 29.23(a) (prohibiting the use of state funds for abortions, except in limited circumstances). Nor, by the admission of its sponsors, does Section 10.19 have any budgetary impact: the Title X funds diverted from PPCNC are federal monies which have no impact on the state budget, and the state funds diverted from PPCNC are theoretically available to other organizations. However, no other existing organization in the region comes close to matching PPCNC’s high quality of care, accessibility, and expertise in the services it provides.

6. Section 10.19 took effect on July 1, 2011, the start of the 2012 fiscal year. If permitted to stand, Section 10.19 will cause significant and irreparable harm to PPCNC and PPCNC’s patients, who will have little to nowhere else to turn for vital health

services. Enforcement of Section 10.19 will force PPCNC to eliminate services, including life-saving cancer screenings and teen pregnancy prevention initiatives. These cuts will fall hardest on PPCNC's numerous low-income patients and those PPCNC employees whose jobs will likely be terminated.

JURISDICTION AND VENUE

7. Subject-matter jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331 & 1343.

8. PPCNC's claim for declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by the general legal and equitable powers of this Court.

9. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)(2) because PPCNC is headquartered in Chapel Hill, North Carolina, and experiences the denial of funding there. Furthermore, the PPCNC health clinic most impacted by Section 10.19 is located in Durham County, and but for Section 10.19, that clinic would receive funds, including Title X funds, administered by the North Carolina Department of Health and Human Services ("DHHS"). PPCNC also operates a clinic located in Chapel Hill. Therefore, a substantial part of the events or omissions giving rise to the claims alleged herein arise in this district.

THE PARTIES

A. Plaintiff

10. Plaintiff PPCNC is a not-for-profit corporation organized under the laws of North Carolina. It is an affiliate of Planned Parenthood Federation of America, Inc. PPCNC brings this action on behalf of itself and its patients.

11. PPCNC operates three health clinics in the State of North Carolina, which are located in Durham, Chapel Hill, and Fayetteville. Approximately seventy percent of the patients treated at these clinics in the fiscal year ending June 30, 2011 had no insurance to cover the care they received from PPCNC.

12. In the same fiscal year, PPCNC provided non-abortion family-planning and reproductive health exams to almost 7,000 women, services which included providing 1,221 pap smears and 1,206 breast exams. PPCNC also performs diabetes, anemia, and cholesterol tests.

13. In addition, in the last fiscal year, PPCNC provided approximately 8,289 tests for STIs, and provided treatment for patients who tested positive and requested treatment. PPCNC also provided other medical services, including 57 colposcopies (a diagnostic procedure to test for abnormalities in the tissue of the cervix, vagina, or vulva).

14. PPCNC administered these services with an exceptional level of skill and care. In a May 2011 Client Satisfaction Survey of 213 patient participants from all three PPCNC health-care centers, 99% reported that PPCNC care providers “really listened to”

them, roughly 94% indicated that they received “great” care, and 100% responded that they were treated with “care and respect.”

15. PPCNC’s health clinics contain a significant number of bilingual staff. On information and belief, the public health clinics that operate in the same regions as PPCNC’s clinics do not have a significant number of bilingual staff, and instead use translators in caring for Spanish-speaking patients.

16. PPCNC’s health clinics are able to offer reproductive health services to patients without substantial wait times, and in many instances are able to see patients the day that they seek an appointment. On information and belief, the public health clinics that operate in the same regions as PPCNC’s clinics impose wait times of up to six weeks on patients seeking reproductive health services.

17. PPCNC’s Durham Health Center (“Durham clinic”), in particular, offers same-day appointments, after-hours and weekend appointments, walk-in hours, and bilingual care not dependant on an interpreter, regardless of a patient’s insurance or other ability to pay. The only alternative family-planning provider for the Title X patients in the community currently served by PPCNC’s Durham facility has a 4 to 6 week waiting period for service, does not provide evening services, and is not open on Saturdays.

18. PPCNC has three grants or contracts administered by DHHS, which it can no longer receive as a result of Section 10.19.

19. First, PPCNC’s Durham clinic receives \$125,000 annually under the federal Title X program for its Latino Family Planning Project, which it uses to provide

breast and cervical cancer screenings, testing and treatment for STIs, and family-planning services to low-income women. These funds are administered by DHHS. Without Title X funds, PPCNC will likely be forced to close the clinic altogether.

20. Second, PPCNC receives \$75,000 in Teen Pregnancy Prevention Initiative funds, which are administered by DHHS and used by PPCNC to fund multiple pregnancy prevention education programs.

21. Third, PPCNC receives a \$12,000 Women's Health Grant, which is administered by DHHS and used by PPCNC to provide long-acting contraceptives to low-income women not eligible for coverage under Medicaid.

22. PPCNC has always adhered to federal and state laws and regulations that prohibit government funds, including the three grants or contracts at issue here, from being used to provide abortions.

B. Defendant

23. Defendant Lanier Cansler is the Secretary of the North Carolina Department of Health and Human Services, which is the agency responsible for administering state and federal programs that disburse funds to medical providers, and which would disburse the funds at issue to PPCNC in the absence of Section 10.19. Defendant Cansler is sued in his official capacity, as are his successors.

**TITLE X, TEEN PREGNANCY PREVENTION INITIATIVE,
AND WOMEN'S HEALTH GRANT**

A. Title X

24. The Title X Family Planning Program (“Title X”) is a federal program that subsidizes the provision of family planning services to low-income persons. 42 U.S.C. § 300, *et seq.* It was enacted in 1970 as part of the Public Health Service Act. It was designed to ensure that low-income and/or uninsured families and individuals, including those not eligible for Medicaid coverage, would have access to family planning services. Title X funds are granted by the United States Department of Health and Human Services to state agencies or private entities (“grantees”). Those grantees may provide services themselves or, as is the case in North Carolina, enter into agreements with other entities (“subgrantees”) to provide Title X services.

25. Planned Parenthood was referenced by name in North Carolina’s application to the federal government for Title X funds.

26. Title X does not prohibit entities that provide abortion services from receiving Title X grants. In fact, the Title X regulations state that “any entity” is eligible to apply for the funds, and make no mention of the ineligibility of entities that provide abortions to receive Title X funds or operate Title X projects. *See* 42 C.F.R. § 59.1, *et seq.* And the Title X statute shows that Congress contemplated that abortion providers would operate Title X projects, and required only that abortion services not be a part of the Title X project. 42 U.S.C. § 300a-6 (No Title X funds “shall be used in programs where abortion is a method of family planning.”). Thus, under federal law, an entity may

perform abortions with its own funds outside of the Title X project, and remain eligible for a Title X grant. Nor do the Title X regulations impose any additional service requirements on entities applying for Title X funds. Title X's rules and requirements apply not only to the Title X funds, but to all of the funds allocated to the project subsidized by the Title X funds.

B. Teen Pregnancy Prevention Initiative (“TPPI”)

27. The Teen Pregnancy Prevention Initiative (TPPI) is a program instituted with the goal of reducing rates of teenage pregnancy and addressing disparities in teen pregnancy and birth rates. TPPI grant recipients are tasked with providing medically accurate, age-appropriate, evidence-based information to teenagers in communities with high teenage pregnancy rates. TPPI funding comes from federal Temporary Assistance for Needy Families block-grant funds and state funds earmarked by the North Carolina General Assembly for the state's Adolescent Pregnancy Prevention Project. TPPI funds are awarded by DHHS to PPCNC through a competitive application process.

C. Women's Health Grant (“WHG”)

28. The Women's Health Grant is used by PPCNC's Durham and Chapel Hill clinics to provide long-acting contraceptives to low-income non-Medicaid eligible women of childbearing age who wish to prevent pregnancy. Increased availability of long-acting contraceptives is likely to result in a decrease in unintended pregnancies.

PPCNC'S TITLE X, TPPI, AND WHG PROGRAMS

29. PPCNC has been a Title X provider in North Carolina since 2001. PPCNC has been awarded four Title X competitive grants. PPCNC's most recent Title X contract ran from July 1, 2010 through June 30, 2011. But for Section 10.19, PPCNC's Durham Health Center would receive a Title X grant of \$125,000 for the 2011-2012 fiscal year.

30. Last fiscal year, PPCNC's Durham health clinic used its \$125,000 of Title X funding to provide 350 family-planning and reproductive health exams, which included 120 breast exams and 120 pap smears. In addition, PPCNC provided 295 STI tests and treatments, 1,074 packages of contraceptive pills, 23 intrauterine devices, 146 Depo Provera injections, 191 Nuva Rings, and 182 Ortho Evra patches to Title X patients at its Durham clinic in the last fiscal year. The Durham clinic has six employees.

31. During the many years in which PPCNC has received Title X funds, there have never been any allegations that PPCNC failed to provide the services required under its contracts. Nor has PPCNC ever misused Title X funds by allocating such funds for abortion services or otherwise.

32. PPCNC has received two consecutive, competitive TPPI grants administered by DHHS in order to develop a community-wide approach to teen pregnancy prevention. PPCNC's most recent TPPI contract ran from June 1, 2010 through May 31, 2011. But for Section 10.19, PPCNC would receive a TPPI grant of \$75,000 for the 2011-2012 fiscal year.

33. PPCNC uses its \$75,000 TPPI grant to operate Cumberland Connects, a comprehensive adolescent pregnancy prevention program serving residents of Cumberland County. Cumberland Connects consists of Teen Connections, a science-based, pregnancy prevention program for teenagers; a community service program for Teen Connections alumni; a training program that teaches parents how to discuss sexual responsibility with their children; and “Man Up!,” a male involvement program provided in partnership with the Cumberland County Health Department. This program, which is dependent on the TPPI grant, employs two educators.

34. During the many years in which PPCNC has received TPPI funds, there have never been any allegations that PPCNC failed to provide the services required under its contracts. Nor has PPCNC ever misused TPPI funds by allocating such funds for abortion services or otherwise.

35. PPCNC’s Durham and Chapel Hill clinics use the WHG funds to provide long-acting contraceptives to low-income non-Medicaid eligible women of childbearing age who wish to prevent pregnancy. PPCNC’s most recent WHG contract ran from July 1, 2010 through May 31, 2011. But for Section 10.19, PPCNC would receive a WHG grant of \$12,000 for the 2011-2012 fiscal year.

36. During the many years in which PPCNC has received WHG funds, there have never been any allegations that PPCNC failed to provide the services required under its contracts. Nor has PPCNC ever misused WHG funds by allocating such funds for abortion services or otherwise.

THE PASSAGE OF SECTION 10.19

A. Legislative and Political Environment

37. Over the past several months, state and federal governments have enacted or considered a variety of legislation aimed at curbing access to abortion and at employing governmental regulatory and spending power to harm abortion providers.

38. Planned Parenthood, which is a leading provider of reproductive health services and a prominent advocate for reproductive choice, has been targeted by name in several of these legislative initiatives.

39. On February 17, 2011, United States Representative Mike Pence proposed a rider to a federal appropriations bill that singled out Planned Parenthood and would have barred it and 102 organizations throughout the country identified as Planned Parenthood affiliates from receiving federal funds for any purpose. During extensive debate on the “Pence Amendment,” Representative Pence argued that the legislation was needed because Planned Parenthood “provide[s] and promote[s] abortion.” 157 Cong. Rec. H1156 (daily ed. Feb. 17, 2011) (statement of Rep. Pence). Representative Michelle Bachmann stressed Planned Parenthood’s political activities. 157 Cong. Rec. H1158 (daily ed. Feb. 17, 2011) (statement of Rep. Bachmann). Representative John Culberson asserted that, “Planned Parenthood could solve this public policy problem they’ve got by simply refusing to perform abortions. . . . All Planned Parenthood has to do is say they’re going to stop performing abortions.” 157 Cong. Rec. H1168 (daily ed. Feb. 17, 2011) (statement of Rep. Culberson). Representative Virginia Foxx—who represents North

Carolina's Fifth District—stated that she was “less concerned” that the rider was an unconstitutional bill of attainder than she was about the fact that Planned Parenthood provided abortions. 157 Cong. Rec. H1163 (daily ed. Feb. 17, 2011) (statement of Rep. Foxx). The Pence Amendment was adopted by the House of Representatives but was not enacted into law.

40. This proposed legislation was not necessary to prevent government funds from being used to provide abortions. Since 1976, federal law has prohibited federal funding of abortion except under very limited circumstances. Federal law (and the law of many states, including North Carolina) also impose requirements on abortion providers, such as Planned Parenthood, to ensure that government funds are not utilized for abortions.

41. Following the defeat of the Pence Amendment in Congress, various states took up the cause of prohibiting Planned Parenthood or abortion providers generally from receiving government funds unconnected to abortion services. To date, in addition to North Carolina, Indiana, Kansas, New Hampshire, Tennessee, Texas, and Wisconsin have taken action aimed at partially or fully de-funding Planned Parenthood. *See generally* Judy Keen, *State lawmakers work to defund Planned Parenthood*, USA TODAY, May 26, 2011, http://www.usatoday.com/news/nation/2011-05-25-Planned-Parenthood-funding-abortion-opponents_n.htm. In each instance, state lawmakers were focused on Planned Parenthood's advocacy of abortion rights and abortion services, even though federal and state law already prohibits government funding of abortions.

42. In addition to legislation aimed at preventing Planned Parenthood from receiving government funding, various states, including North Carolina, have enacted extensive new abortion restrictions in 2011. Since April 2011, seven states—Florida, Indiana, Virginia, Nebraska, Idaho, Oklahoma, and Kansas—have enacted laws banning insurance coverage of abortion in the health insurance exchanges created as part of federal health care reform, bringing the total to 14 states. Three states—Arizona, Florida, and Texas—joined three others in making ultrasounds mandatory for women seeking to terminate pregnancies. In addition, a number of states have or are considering legislation banning abortion after 20 weeks, including Alabama, Idaho, Indiana, Iowa, Kansas, and Nebraska. *See* Erik Eckholm, *Several States Forbid Abortion After 20 Weeks*, N.Y. TIMES, June 26, 2011, <http://www.nytimes.com/2011/06/27/us/27abortion.html>.

43. The North Carolina General Assembly passed a variety of anti-abortion measures in June 2011:

(a) In the budget enacted over Governor Perdue's veto, North Carolina prohibited the use of state funds for abortions or to support the administration of government-offered health plans and insurance covering abortion, except in the case of rape, incest, or danger to the mother's life; prohibited the State Health Plan for Teachers and State Employees from covering abortions, subject to the same exceptions; and repealed the State Abortion Fund, which provided a maximum of \$50,000 annually to terminate the pregnancies of eligible, poor women resulting from rape or incest or that endangered the life of the mother. *See* N.C. Sess. Law 2011-145 §§ 10.53 & 29.23.

(b) The General Assembly passed legislation requiring that, except in a medical emergency, a woman may not receive an abortion less than twenty-four hours after receiving state-scripted counseling. The legislation also requires that a woman receiving an abortion be given an ultrasound and a description of what is viewed on the ultrasound. *See* H.B. 854 § 1 (ratified June 16, 2011). This bill also provided that “[a]ny person upon whom an abortion has been performed [or attempted] and any father of an unborn child that was the subject of an abortion may maintain an action for damages against the person who performed the abortion in knowing or reckless violation of this Article.” *Id.* No exceptions were made for rape or incest. Governor Perdue vetoed this bill on June 27, 2011.

(c) The General Assembly passed legislation authorizing special vehicle license plates bearing the phrase “Choose Life.” *See* H.B. 289 (ratified June 18, 2011). Funds raised in association with these plates are to be distributed to non-governmental, not-for-profit agencies providing pregnancy services, but not to any organization “that provides, promotes, counsels, or refers for abortion....” *Id.* § b75.

B. Section 10.19

44. Against the backdrop of these other initiatives, North Carolina enacted Section 10.19 as a rider to the State’s budget. It took effect on July 1, 2011, at the start of the State’s fiscal year.

45. Section 10.19 prevents DHHS from providing state or federal funds administered by DHHS for grants or contracts to PPCNC.

46. Section 10.19 does not, however, interfere with PPCNC's ability to receive reimbursement for services under Medicaid.

47. Section 10.19 does not contain a statement of legislative purpose.

48. When asked to explain the purpose of Section 10.19, Rep. Paul Stam offered only that Planned Parenthood "has particularly unsavory origins in the eugenics movement" through its founder Margaret Sanger, and that the State should not be "rewarding the perpetrators of that program." House Appropriations Debate, Statement of Rep. Paul Stam (May 27, 2011).

49. Margaret Sanger died in 1966. PPCNC was founded in 1982.

50. Representative Stam has since asserted, "If you're providing these funds [to Planned Parenthood] for other things, you're essentially strengthening its infrastructure to do abortions." Bruce Mildwurf, *Planned Parenthood decries NC budget cut*, WRAL.COM (June 27, 2011), <http://www.wral.com/news/state/nccapitol/story/9787574/>.

51. In support of Section 10.19, Senator Daniel stated, "I'd just point out to this body that 97% of the pregnant women that go to a Planned Parenthood clinic consult an abortion. In recent years, statistics show 332,227 abortions were performed by Planned Parenthood. Only 977 adoption referrals. I think that's an appalling statistic and I'm not interested and the constituents in my district are not interested in funding an organization with these kind of numbers." Senate Floor Debate, Statement of Sen. Warren Daniel (June 1, 2011).

52. The Act does not purport to be a cost saving measure. In theory, all funds currently allocated to Planned Parenthood will still be spent as part of the programs in which Planned Parenthood has participated. Title X funds are federal funds that have no impact on the State budget.

THE IMPACT OF SECTION 10.19 ON PPCNC AND ITS PATIENTS

53. PPCNC's Durham clinic has annual revenues of approximately \$565,000. That clinic cannot survive the approximate 23% cut that would result from its losing all Title X funding and its portion of the Women's Health Grant.

54. If the enforcement of Section 10.19 and the resulting loss of Title X funding forces the Durham clinic to close, PPCNC estimates that it would perform approximately 2,040 fewer family-planning and reproductive health exams in fiscal year 2012, which would mean 540 fewer pap smears and 540 fewer breast exams. PPCNC would also perform 3,175 fewer tests for STIs and associated treatments. The clinic's six employees would also lose their jobs.

55. Section 10.19 will strip PPCNC of TPPI funding, which will likely force PPCNC to discontinue Cumberland Connects and lay off its two educators early this fall, effectively halting PPCNC's successful program aimed at preventing teen pregnancy and promoting parental involvement and community service.

56. PPCNC has operated at a significant loss last fiscal year. The loss of an additional \$212,000 in Title X, Women's Health Grant, and TPPI grant money would be devastating. PPCNC's Board of Directors has voted to absorb costs up to \$25,000 per

month until September 1, 2011 to temporarily maintain most services for its Title X patients in Durham, and to continue the Cumberland Connects program, despite the critical loss of Title X and TPPI funds. Nonetheless, this measure will not enable PPCNC to afford to subsidize the cost of long-acting contraceptives that had been funded through Title X and the WHG. Therefore, PPCNC must stop providing subsidization of long-acting contraceptives immediately. The increased price will deter some patients from using contraception, increasing likelihood of an unplanned pregnancy. Even this stopgap measure is not financially sustainable beyond September 2011.

57. Ultimately, the loss of funding caused by Section 10.19 will likely force PPCNC to close its Durham clinic, which received 7,335 visits from 2,880 unique patients this past fiscal year for non-abortion services. Consequently, hundreds of low-income and uninsured patients who depend on services from PPCNC would have to look elsewhere for medical care or to forego service altogether.

58. Plaintiff has no adequate remedy at law and will suffer irreparable harm if Section 10.19 is not enjoined.

CLAIMS FOR RELIEF

CLAIM I – SUPREMACY CLAUSE

59. Plaintiff hereby incorporates Paragraphs 1 through 58 above.

60. Section 10.19 violates the Supremacy Clause of the United States Constitution by placing impermissible eligibility restrictions on federal funds that are in excess of and inconsistent with those established by the federal government.

61. Therefore, pursuant to 42 U.S.C. § 1983, this Court should preliminarily and permanently enjoin enforcement of Section 10.19.

CLAIM II – FIRST AMENDMENT

62. Plaintiff hereby incorporates Paragraphs 1 through 61 above.

63. Section 10.19 violates the First Amendment by denying state and federal funds to PPCNC because of—and in retaliation for—PPCNC’s constitutionally-protected advocacy for abortion rights, affiliation with abortion rights advocacy, and association with other organizations that also advocate for abortion rights and/or provide abortion services.

64. Therefore, pursuant to 42 U.S.C. § 1983, this Court should preliminarily and permanently enjoin enforcement of Section 10.19.

CLAIM III – DUE PROCESS CLAUSE

65. Plaintiff hereby incorporates Paragraphs 1 through 64 above.

66. Section 10.19 violates the Due Process Clause of the Fourteenth Amendment by denying state and federal funds to PPCNC because of—and in retaliation for—PPCNC’s constitutionally-protected provision of abortion services, and thereby imposes an undue burden on its patients seeking abortion.

67. Therefore, pursuant to 42 U.S.C. § 1983, this Court should preliminarily and permanently enjoin enforcement of Section 10.19.

CLAIM IV – BILL OF ATTAINDER CLAUSE

68. Plaintiff hereby incorporates Paragraphs 1 through 67 above.

69. Section 10.19 constitutes an unconstitutional Bill of Attainder in that it punishes PPCNC based on alleged acts for which there has been no judicial trial.

70. Therefore, pursuant to 42 U.S.C. § 1983, this Court should preliminarily and permanently enjoin enforcement of Section 10.19.

CLAIM V – EQUAL PROTECTION CLAUSE

71. Plaintiff hereby incorporates Paragraphs 1 through 70 above.

72. Section 10.19 violates the Equal Protection Clause of the Fourteenth Amendment by irrationally singling out Planned Parenthood and its affiliates, including PPCNC, for unfavorable treatment.

73. Therefore, pursuant to 42 U.S.C. § 1983, this Court should preliminarily and permanently enjoin enforcement of Section 10.19.

RELIEF REQUESTED

WHEREFORE, Plaintiff requests that this Court:

74. Issue a declaratory judgment that Section 10.19 of North Carolina Session Law 2011-145 violates the Supremacy Clause of the United States Constitution and is therefore void and of no effect;

75. Issue a declaratory judgment that Section 10.19 of North Carolina Session Law 2011-145 violates the rights of Plaintiff protected by the First Amendment to the United States Constitution;

76. Issue a declaratory judgment that Section 10.19 of North Carolina Session Law 2011-145 violates the rights of Plaintiff and Plaintiff's patients protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution;

77. Issue a declaratory judgment that Section 10.19 of North Carolina Session Law 2011-145 violates the rights of Plaintiff and Plaintiff's patients protected by the Bill of Attainder Clause of the United States Constitution;

78. Issue a declaratory judgment that Section 10.19 of North Carolina Session Law 2011-145 violates the rights of Plaintiff protected by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution;

79. Issue preliminary and permanent injunctive relief, without bond, restraining the enforcement, operation, and execution of Section 10.19 of North Carolina Session Law 2011-145, by enjoining Defendant, his agents, employees, appointees, or successors from enforcing, threatening to enforce, or otherwise applying the provisions of Section 10.19 and directing Defendants to honor their contracts with and contractual offers to Plaintiff;

80. Grant Plaintiff attorneys' fees, costs and expenses pursuant to 42 U.S.C. § 1988; and

81. Grant such further relief as this Court deems just and proper.

Dated: July 7, 2011.

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