

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

COMPREHENSIVE HEALTH OF PLANNED)
PARENTHOOD OF KANSAS AND)
MID-MISSOURI, INC., and)
ORRIN MOORE, MD,)

Plaintiffs,)

v.)

Case No. 13-CV-2302-KHV-KGG

KIMBERLY J. TEMPLETON, MD;)
EUSTAQUIO O. ABAY, II, MD;)
MICHAEL J. BEEZLEY, MD; RAY N.)
CONLEY, DC; GARY L. COUNSELMAN,)
DC; ROBIN D. DURETT, DO; ANNE)
HODGDON; JOEL HUTCHINS, MD; DAVID)
LAHA, DPM; M. MYRON LEINWETTER,)
DO; RICHARD MACIAS, JD; GAROLD O.)
MINNS, MD; JOHN F. SETTICH, PHD;)
CAROLINA M. SORIA, DO; and TERRY L.)
WEBB, DC, Members of the Kansas Board)
of Healing Arts,)
ROBERT MOSER, MD, Secretary of the Kansas)
Department of Health and Environment,)
DEREK SCHMIDT, Attorney General of the)
State of Kansas, and)
STEPHEN M. HOWE, District Attorney for)
Johnson County, Kansas, in their official)
Capacities,)

Defendants.)

DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT

Defendants move the Court for Summary Judgment with respect to plaintiffs' sole remaining claim. K.S.A. § 65-6709(l)'s website link and disclosure requirements are reasonable efforts to further the State's substantial interest in ensuring that plaintiffs' patients and potential patients are well-informed when making a decision about abortion. The law in no way restricts or limits plaintiffs' speech; it merely does what

governments frequently do in the context of commercial regulation – it requires abortion providers to disclose truthful information that may be of value to patients or potential patients making an important decision. As such, K.S.A. § 65-6709(l)'s website link and disclosure requirements are permissible regulations of the medical profession and valid disclosure requirements in the commercial-speech context under the First Amendment. See *Planned Parenthood of Southeastern Penn. v. Casey*, 505 U.S. 833, 884 (1992); *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626, 650-651 (1985); *Milavetz, Gallop & Milavetz, P.A. v. U.S.*, 559 U.S. 229, 249-50 (2010).

Thus, as is set forth more fully in Defendants' Response to Plaintiffs' Motion for Summary Judgment and Defendants' Memorandum in Support of Their Cross-Motion for Summary Judgment, defendants are entitled to the summary judgment as a matter of law. Fed. R. Civ. Proc. 56; Local Rule 56.1. Defendants request oral argument on this Motion pursuant to Local Rule 7.2.

Respectfully submitted,

THOMPSON RAMSDELL & QUALSETH, P.A.

s/Shon D. Qualseth

Stephen R. McAllister #15845

Shon D. Qualseth #18369

Sarah E. Warner #22788

333 W. 9th Street

P.O. Box 1264

Lawrence, KS 66044

Phone: (785) 841-4554

Fax: (785) 841-4499

stevermac@fastmail.fm

shon.qualseth@trqlaw.com

sarah.warner@trqlaw.com

Jeffrey A. Chanay #12056
Deputy Attorney General
Civil Litigation Division
Memorial Building, 2nd Floor
120 SW 10th Avenue
Topeka, KS 66612-1597
Phone: (785) 368-8435
Fax: (785) 291-3767
jeff.chanay@ksag.org

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of October, 2013, I electronically filed the foregoing with the clerk of the court using the CM/ECF system, which will send a notice of the electronic filing to the following parties: Arthur A. Benson, II, Jamie Kathryn Lansford, Arthur Benson & Associates, 4006 Central Avenue, P. O. Box 119007, Kansas City, MO 64171-9007; Planned Parenthood Federation of America, Roger K. Evans, Diana O. Salgado, 434 West 33rd Street, New York, New York 10001.

s/Shon D. Qualseth

Shon D. Qualseth