

CAUSE NO. 471-08943-2024

STATE OF TEXAS,
Plaintiff,

v.

MARGARET DALEY CARPENTER,
M.D. a/k/a MAGGIE CARPENTER,
M.D.,
Defendant.

§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

COLLIN COUNTY, TEXAS

___ JUDICIAL DISTRICT

**PETITION AND APPLICATION FOR
TEMPORARY AND PERMANENT INJUNCTIVE RELIEF**

Dr. Margaret Daley Carpenter (Carpenter) of New York violates Texas law by providing abortion-inducing drugs to Texans through telehealth. Carpenter is not a licensed Texas physician, nor is she authorized to practice telemedicine in the State of Texas. The Court should enjoin Carpenter from continuing to operate outside the bounds of the law and impose civil penalties for her violation of Texas law.

DISCOVERY CONTROL PLAN

1. Discovery is intended to be conducted under Level 2 of Texas Rules of Civil Procedure 190.3.
2. The State of Texas seeks injunctive relief. Therefore, this suit is not governed by the expedited actions process in Texas Rules of Civil Procedure 169.

JURISDICTION AND VENUE

3. Plaintiff seeks monetary relief of \$250,000 or less and non-monetary relief. The relief sought is within the jurisdiction of this court. Tex. Const. art. V, § 8; Tex. Gov't Code §§ 24.007, 24.008; and Tex. Civ. Prac. & Rem. Code § 65.021(a). As the nonresident defendant contracted by mail or otherwise with a resident of Collin County, Texas, with performance in whole or in part in Texas, this court has personal jurisdiction over the nonresident defendant. Tex. Civ. Prac. & Rem. Code § 17.042.

4. Venue is proper in Collin County, Texas under Texas Civil Practice & Remedies Code § 15.002(a)(1) because a substantial part of the events or omissions giving rise to this claim occurred in Collin County, Texas.

PARTIES

5. Plaintiff is the State of Texas.

6. Defendant Margaret Daley Carpenter, M.D. a/k/a Maggie Carpenter, M.D. a/k/a M. Carpenter, M.D. (“Carpenter”) is a physician licensed by the State of New York (license no. 236802). She is not licensed as a physician in the State of Texas. As Carpenter is a nonresident, the Texas Secretary of State is her agent for service of process. Tex. Civ. Prac. & Rem. Code § 17.044(b). Service of process or citation may be mailed by registered or certified mail in accordance with Tex. Civ. Prac. & Rem. Code § 17.045(a),(d) and Tex. R. Civ. P. 106, 108 to the Defendant at her residence [REDACTED] [REDACTED] or her business address 2578 Broadway, #580, New York, New York 10025-5642.

LEGAL BACKGROUND

7. The Texas Occupations Code defines “practicing medicine” as “the diagnosis, treatment, or offer to treat a mental or physical disease or disorder or a physical deformity or injury by any system or method, or the attempt to effect cures of those conditions, by a person who publicly professes to be a physician or directly or indirectly charges money or other compensation for those services.” Tex. Occ. Code § 151.002(a)(13)(A). A person who is physically located in another jurisdiction but who, through the use of any medium, including an electronic medium, performs an act that is part of a patient care service initiated in this state, including the taking of an x-ray examination or the preparation of pathological material for examination, and that would affect the diagnosis or treatment of the patient, is considered to be engaged in the practice of medicine in this state. Tex. Occ. Code § 151.056(a).

8. Texas law prohibits a person from practicing medicine in this state unless the person holds a license and complies with registration requirements. Tex. Occ. Code §155.001; Tex. Occ. Code § 165.159. *See also* Tex. Admin. Code §§ 174.8, 174.12(d).

9. An “abortion” is defined as “the act of using or prescribing an instrument, drug, a medicine, or any other substance, device, or means with the intent to cause the death of an unborn child of a woman known to be pregnant.” Tex. Health & Safety Code § 245.002(1).

10. An abortion in the State of Texas may only be performed by a physician licensed to practice medicine in the State of Texas. Tex. Health & Safety Code § 171.003. A physician performing or inducing an abortion, on the date the abortion is performed or induced must have active admitting privileges at a hospital that is located not further than 30 miles from the location at which the abortion is performed or induced. Tex. Health & Safety Code § 171.0031(a).

11. No physician shall treat or prescribe residents of the State of Texas with telehealth services, via communications technology, unless the individual possesses a full Texas medical license. 22 Tex. Admin. Code § 174.8. In addition, the validity of a prescription issued as a result of telemedicine medical service is determined by the same standards that would apply to the issuance of a prescription in an in-person setting. 22 Tex. Admin. Code § 174.5(a),(c). *See also* Tex. Occ. Code § 111.001(3),(4).

12. A physician or supplier may not provide to a patient any abortion-inducing drug by courier, delivery, or mail service. Tex. Health & Safety Code § 171.063(b-1).

13. Before a physician provides an abortion-inducing drug, the physician must examine the pregnant woman in person and such physician must ensure that the physician does not provide an abortion inducing drug for a pregnant woman whose pregnancy is more than 49 days of gestational age. Tex. Health & Safety Code § 171.063(c)(1),(6). A physician providing an abortion-inducing drug is required to schedule a follow-up visit to confirm that a woman’s pregnancy is completely terminated and to assess any continued blood loss. Tex. Health & Safety Code § 171.063(e).

14. The Texas Health and Safety Code generally prohibits a person from knowingly performing, inducing, or attempting an abortion. Tex. Health & Safety Code § 170A.002(a).

15. The attorney general is authorized to collect a civil penalty of not less than \$100,000 for each violation of Tex. Health & Safety Code § 170A.002 and may also recover costs and attorney's fees. Tex. Health & Safety Code § 170A.005. In addition, the attorney general may seek other civil remedies. Tex. Health & Safety Code § 170A.006.

FACTUAL BACKGROUND

16. Carpenter holds a medical license in the State of New York.

17. Carpenter is not licensed to practice medicine in Texas. *See* <https://profile.tmb.state.tx.us/SearchResults.aspx?8c92ec07-d491-40c0-840f-d289c57fcd58>. Carpenter has no hospital admitting privileges in the State of Texas.

18. Carpenter knowingly treats patients in Texas even though she is not a licensed Texas physician.

19. Carpenter is the Co-Medical Director and Founder of the Abortion Coalition for Telemedicine (“ACT”), a nationwide advocacy organization proactively working to advance telemedicine abortion. ACT references the “two-step process of mifepristone and misoprostol” as a method for terminating pregnancies up to 12 weeks.

20. Carpenter's ACT biography states “[s]he has provided medical and surgical abortions since 1999. She started working with Aid Access in 2020 and helped launch Hey Jane in December 2020 and continues to work with both organizations.” *See* <https://www.theactgroup.org/our-team>. Aid Access works to provide abortion pills to people in all 50 states. *See* <https://aidaccess.org/en/page/561/who-are-we>. Hey Jane advertises “no clinic visit needed” and that Hey Jane is a safe space for reproductive and sexual care like abortion pills, “from the comfort and convenience of your phone.” *See* <https://www.heyjane.com/>. The Privacy Policy of heyjane.com states the site collects and uses personal information by or on behalf of Possible Health Medical, P.C., and Jane Medical, PLLC. *See* <https://www.heyjane.com/legal/privacy-policy>.

21. Carpenter is the CEO of Possible Health Medical, P.C., a New York professional service corporation with her address as [REDACTED] and her principal executive office address as 2578 Broadway, #580, New

York, New York 10025. Carpenter is also an officer / manager of Jane Medical, PLLC, incorporated in the State of Illinois and lists her office address as 2578 Broadway, #580, New York, New York 10025.

22. About mid-May 2024, a 20-year-old female resident of Collin County, Texas became pregnant. The mother of the unborn child did not communicate her pregnancy to the biological father of the unborn child. The mother did not have any life-threatening physical condition aggravated by, caused by, or arising from the pregnancy that placed her at risk of death or any serious risk of substantial impairment. The mother proceeded to utilize telemedicine or telehealth services and received, through Carpenter, two abortion-inducing drugs or prescriptions. The first was a box for the drug mifepristone, 200 mg, followed by the “#1” and the directions to take 1 tablet by mouth and to “take this medication first.” The second was a pill bottle of misoprostol 200 mcg with directions to take 4 tablets (i.e., 800 mcg.) after the mifepristone.

23. “Mifepristone is a drug that blocks a hormone called progesterone that is needed for a pregnancy to continue. Mifepristone, when used together with another medicine called misoprostol, is used to end a pregnancy through ten weeks gestation (70 days or less since the first day of the last menstrual period). The approved mifepristone dosing regimen is: on day one, 200 mg of mifepristone taken by mouth; then 24 to 48 hours after taking mifepristone, 800 mcg of misoprostol taken buccally (in the cheek pouch), at a location appropriate for the patient; and about seven to fourteen days after taking mifepristone: follow-up with the health care provider.”¹

24. On July 16, 2024, the mother asked the biological father of her unborn child to be taken to the hospital because of hemorrhage or severe bleeding. After the mother was seen by health care professionals at a hospital in Collin County, Texas, the biological father

¹ *Questions and answers on Mifepristone for medical termination of pregnancy through ten weeks gestation*, US Food & Drug Admin., <https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/questions-and-answers-mifepristone-medical-termination-pregnancy-through-ten-weeks-gestation#:~:text=Mifepristone%20is%20a%20drug%20that,of%20the%20last%20menstrual%20period>) (last visited October 30, 2024).

of the unborn child was told that the mother of the unborn child was experiencing a hemorrhage or severe bleeding as she “had been” nine weeks pregnant before losing the child. The biological father of the unborn child, upon learning this information, concluded that the biological mother of the unborn child had intentionally withheld information from him regarding her pregnancy, and he further suspected that the biological mother had in fact done something to contribute to the miscarriage or abortion of the unborn child. The biological father, upon returning to the residence in Collin County, discovered the two above-referenced medications from Carpenter.

25. Carpenter provided abortion-inducing drugs to the pregnant Collin County woman, which caused an adverse event or abortion complication and resulted in a medical abortion. *See* Tex. Health & Safety Code § 171.061 (providing statutory definitions).

26. Carpenter’s conduct violates the Texas Health and Safety Code’s prohibition on prescribing abortion-inducing drugs via telemedicine.

27. Carpenter’s knowing and continuing violations of Texas law places women and unborn children in Texas at risk.

28. Carpenter sees Texas patients via telehealth and prescribes them abortion-inducing medication.

REQUESTS FOR RELIEF

A. Request for Temporary and Permanent Injunctive Relief

29. Pursuant to Texas Health & Safety Code Section 170A.006, Texas Civil Practice and Remedies Code Section 65.011 and Texas Rule of Civil Procedure 680 *et seq.*, to preserve the status quo pending a full trial on the merits, *see, Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002), the State of Texas requests a temporary injunction against Carpenter that enjoins her from illegally prescribing abortion-inducing drugs to Texas residents and illegally practicing medicine in the State of Texas.

30. To obtain a temporary injunction, the applicant must plead and prove three specific elements: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim. *Butnaru*,

84 S.W.3d at 204.

31. The State of Texas has a valid cause of action and probable right to relief because, for the reasons stated herein, Carpenter is violating our Texas statutes. *See, e.g.*, Tex. Health & Safety Code § 170A.002(a).

32. It is well-established that the State suffers an irreparable injury when it is precluded from enforcing its own laws. *See, e.g., Abbott v. Perez*, 585 U.S. 579, 602 n. 17, 138 S.Ct. 2305, 2324 n. 17, 201 L.Ed2d 714, 734 n. 17 (2018) (*citing Maryland v. King*, 567 U.S. 1301, 133 S.Ct. 1, 3, 183 L.Ed.2d 667, 670 (2012) (Roberts, C.J., in chambers)) (“[T]he inability to enforce its duly enacted plans clearly inflicts irreparable harm on the State.”).

33. Unless Carpenter is restrained by this Court, with relief that is enforceable by a contempt order, Carpenter will continue to defiantly violate Texas Law. Carpenter’s continued violation of our Texas statutes as stated herein is probable and imminent. The State is not required to establish that it will prevail at trial to obtain a temporary injunction as it only needs to plead a cause of action and show a probable right to the relief sought. *Butnaru*, 84 S.W.3d at 211.

34. Furthermore, there is no adequate remedy at law. For a legal remedy to be adequate, it must give the plaintiff complete, final, and equal relief. *Huynh v. Blanchard*, 694 S.W.3d 648, 685 (Tex. 2024) (quoting *Henderson v. KRTS, Inc.*, 822 S.W.2d 769, 773 (Tex. App.—Houston [1st Dist.] 1992, no writ)). If an otherwise complete and adequate remedy at law will lead to a multiplicity of suits, that very fact prevents it from being complete and adequate. *Id.* While the Legislature has provided civil penalties in Tex. Health & Safety Code § 170A.005, Carpenter’s knowing, and continued violations of Texas law demonstrate that the civil penalties do not provide complete and adequate final relief. Thus, the multiplicity of suits necessary to address each instance of Carpenter’s greater scheme to flout Texas law means that the State does not have an adequate remedy at law and is thus entitled to injunctive relief.

35. The State of Texas is not required to post a bond prior to issuance of injunctive relief. Tex. Civ. Prac. & Rem. Code § 6.001(a),(b)(1).

36. In addition to the temporary relief requested, the State of Texas also requests that this Court set the matter for trial and, upon final hearing, that this Court enter a permanent injunction against Carpenter on the grounds asserted herein.

B. Request for Civil Penalties

37. Carpenter is not licensed to practice medicine in Texas. By seeing patients via telehealth appointments, she is practicing medicine in Texas in violation of state law. 22 Tex. Admin. Code § 174.8.

38. Under Texas Health & Safety Code § 170A.002 it is illegal to prescribe abortion-inducing drugs without meeting specific conditions outlined in the code. “A person who violates Section 170A.002 is subject to a civil penalty of not less than \$100,000 for each violation.”

C. Request for Attorney’s Fees and Other Costs

39. Pursuant to Texas Health and Safety Code § 170A.005, the State of Texas, by and through the Attorney General, may recover attorney’s fees and costs incurred in bringing this action.

40. Additionally, in cases where the state is entitled to recover a penalty or damages, the attorney general is entitled, in addition to any other remedy available by law and on behalf of the state, to reasonable attorney's fees, court costs and filing fees. Tex. Gov't Code § 402.006(c),(e)

41. The State of Texas requests that, upon final trial, the Court order Carpenter to reimburse the State of Texas, by and through the Attorney General for all costs of investigation and litigation including attorney’s fees, reasonable investigative expenses, court costs, witness fees, deposition expenses, and civil administrative costs.

PRAYER

The State of Texas respectfully requests the following relief:

- a. A temporary and permanent injunction enjoining Margaret Daley Carpenter, M.D. a/k/a Maggie Carpenter, M.D. a/k/a M. Carpenter, from

further violating Texas Health & Safety Code § 170A.002 and Texas Occupations Code § 165.159.

- b. Civil penalties payable by Margaret Daley Carpenter, M.D. in the amount of not less than \$100,000 for any and every violation under Section 170A.005 of the Texas Health and Safety Code.
- c. Award the State of Texas all litigation and investigative costs, including, court costs, witness fees, deposition expenses, civil administrative costs, and reasonable attorney's fees in prosecuting this case through trial and, if necessary, through appeal, and that upon final trial, enter judgment against Carpenter.
- d. All other relief as the Court deems equitable and just.

Date: November 19, 2024

Respectfully submitted,

KEN PAXTON

Attorney General of Texas

BRENT WEBSTER

First Assistant Attorney General

RALPH MOLINA

Deputy First Assistant Attorney General

JAMES LLOYD

Deputy Attorney General for Civil Litigation

ERNEST C. GARCIA

Chief, Administrative Law Division

/s/ Ernest C. Garcia

ERNEST C. GARCIA

State Bar No. 07632400

CANON PARKER HILL

State Bar No. 24140247

Assistant Attorney General

Office of the Attorney General of Texas

Administrative Law Division

P.O. Box 12548, Capitol Station

Austin, Texas 78711-2548

Telephone: (512) 936-0804

Facsimile: (512) 320-0167

ernest.garcia@oag.texas.gov


canon.hill@oag.texas.gov

Attorneys for Plaintiff

Declaration

My name is Alexandre Louis Dubeau, and I am an employee / investigator of the following governmental agency: Office of the Texas Attorney General, Administrative Law Division, located at 300 W. 15th Street, Austin, Texas 78701. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing factual statements in the *Petition and Application for Temporary and Permanent Injunctive Relief*, are true and correct.

Executed in Texas County, Texas, on the 15th day of October, 2024.



Alexandre Louis Dubeau

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Catherine Hughes on behalf of Ernest Garcia

Bar No. 7632400

catherine.hughes@oag.texas.gov

Envelope ID: 95232968

Filing Code Description: Plaintiff's Original Petition (OCA)

Filing Description: Petition and Application for Temporary and Permanent Injunctive Relief

Status as of 12/12/2024 10:33 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Ernest Garcia		ernest.garcia@oag.texas.gov	12/12/2024 9:18:20 AM	SENT
Catherine Hughes		catherine.hughes@oag.texas.gov	12/12/2024 9:18:20 AM	SENT
Canon ParkerHill		canon.hill@oag.texas.gov	12/12/2024 9:18:20 AM	SENT
Paul Pruneda		paul.pruneda@oag.texas.gov	12/12/2024 9:18:20 AM	SENT