THE SUPREME COURT OF IOWA

Supreme Court No. 17-1579
Polk County District Court No. EQCE081503

PLANNED PARENTHOOD OF THE HEARTLAND and JILL MEADOWS, M.D.,
Petitioners-Appellants

v.

TERRY BRANSTAD EX REL. STATE OF IOWA AND IOWA BOARD OF MEDICINE,
Respondents-Appellees.

APPEAL FROM THE IOWA DISTRICT COURT FOR POLK COUNTY
Decision of the Honorable Jeffrey D. Farrell

NATIONAL ABORTION FEDERATION'S AMICUS CURIAE BRIEF, in support of Petitioners-Appellants*

*conditionally filed in final form

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STATEMENT OF INTEREST OF *AMICUS CURIAE*

The National Abortion Federation (NAF) is the professional association of abortion providers. Its mission is to ensure safe, legal, and accessible abortion care, which promotes health and justice for women. NAF's members include approximately 400 private and non-profit clinics, Planned Parenthood affiliates, women's health centers, physicians' offices, and hospitals. Together, NAF members care for approximately half of all women who choose abortion in the United States and Canada each year.

NAF is the leading organization offering accredited continuing medical education to health care professionals in all aspects of abortion care. All NAF members must maintain full compliance with NAF's Policies and Procedures to be considered members in good standing. NAF member facilities adhere to NAF's evidence-based *Clinical Policy Guidelines* (CPGs),[1] which set the

[1] NAF's CPG's include standards for patient education, counseling, and informed consent. *See* NATIONAL ABORTION FEDERATION, *CLINICAL POLICY GUIDELINES* (2017), *available at* https://prochoice.org/education-and-advocacy/cpg/. The CPG's do not require a mandatory waiting period. Rather, "[t]he practitioner must ensure that appropriate personnel have a discussion with the patient in which accurate information is provided about the procedure and its alternatives, and the potential risk and benefits. The patient must have the opportunity to have any questions answered to her satisfaction prior to intervention" and "[d]documentation must show that the patient affirms that she understands the procedure and its alternatives, the potential risks and benefits, and that her decision is voluntary." *See id.*

standards for quality abortion care, as well as NAF's *Ethical Principles for Abortion Care.* NAF's Quality Assurance and Improvement (QAI) program conducts site evaluations, provides education for medical professionals, and identifies best practices for abortion care. Through this process, NAF is able to certify that its members are in compliance with evidence-based standards, which allows them to provide the highest quality care.

Through its supporting organization, the NAF Hotline Fund (the Hotline), NAF also operates a toll-free hotline, which was established in 1979 to help women access unbiased information and referrals to NAF member providers offering safe, high-quality abortion care. The Hotline receives thousands of calls each week from women, their partners, families, and friends. It offers factual information about pregnancy and abortion; confidential, nonjudgmental support; referrals to quality abortion providers in the caller's area; limited financial assistance for abortion care; help in understanding state abortion restrictions; and case management for women with special or unique needs.

NAF and its members share a direct and deep-seated interest in this litigation—and in women's access to safe, legal abortion care in Iowa. Given its extensive experience with abortion patients, NAF can assist this Court in addressing the issues presented in this case by providing Iowa women's

experiences with obtaining abortion care. Through the lived experiences of these women, whose stories were collected in July 2017, NAF will demonstrate how the challenged law infringes on the protected right to access abortion care.

No party's counsel authored this brief in whole or in part nor contributed money to fund the preparation or submission of this brief. No person other than the *Amicus Curiae* and Counsel have contributed anything to fund the preparation or submission of this brief.

SUMMARY OF ARGUMENT

NAF has spoken with many Iowa women who would have been directly burdened by Section 1 of Senate File 471 (to be codified at Iowa Code § 146A.1) (hereinafter the "Act"). Their personal stories, some of which are recounted below, illustrate that existing barriers to abortion care burden Iowa women financially, physically, and psychologically. Their firsthand accounts of the burdens they experienced and of the additional barriers a 72-hour waiting period and two-visit requirement would impose clearly demonstrate that the Act, if permitted to go into effect, would exacerbate existing barriers and severely infringe on Iowa women's access to abortion.

ARGUMENT

IOWA WOMEN'S LIVED EXPERIENCES SHOW THAT THE ACT WOULD VIOLATE THE IOWA CONSTITUTION BY INFRINGING ON IOWA WOMEN'S RIGHT TO DECIDE WHETHER TO TERMINATE A PREGNANCY.

The Act requires that abortion providers "obtain written certification from the pregnant woman" – at least 72 hours prior to her abortion procedure – that she has had an ultrasound and received the state-mandated information about alternatives to abortion. The Act, in effect, requires a woman seeking abortion care to delay her procedure by *at least* 72 hours and to make an additional medically unnecessary trip to her healthcare provider.

The purpose of this brief is to illustrate some of the ways in which Iowa women would be affected by the Act if it was permitted to go into effect. Through its relationships with Iowa clinics and the Hotline, NAF collected stories from patients who experienced obstacles accessing abortion care. Their stories show that additional burdens – which would be experienced if the challenged law were to go into effect – would not be an inconvenience that could be easily overcome, particularly for women who are low-income or live in rural communities. Rather, it would be a substantial obstacle that could cause many women to effectively lose access to safe, affordable, and timely abortion care.

I. The Act Impedes Access to Abortion Care by Creating Financial and Travel Obstacles for Women.

Iowa women already face significant barriers to obtaining safe and legal abortion care. Many women tell NAF about the financial impact accessing abortion care has on them.[2] That impact is compounded by the fact that the majority of women who seek abortion care are low-income. In 2014, 75% of abortion patients were low-income.[3]

Because of the limited access to abortion care in Iowa,[4] Iowa women not only have to pay for their abortion care, but many also have to find enough money to travel to a facility. Frequently women must miss additional days of work for that travel, which many can neither arrange nor afford. Women who

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[2] The NAF Hotline heard from over 200 Iowa women seeking abortion care in 2016; all of those women were experiencing financial hardships and/or difficulty gathering enough funds for their care.

[3] Jenna Jerman et al., Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008, GUTTMACHER INSTITUTE 1, 7 (May 2016), https://www.guttmacher.org/sites/default/ files/report_pdf/characteristics-usabortion-patients-2014.pdf [hereinafter "Guttmacher Study"]. Forty-nine percent of abortion patients were living at less than the federal poverty level, and 26% were living at 100-199% of the poverty level. *Id.* at 7 ("a family of two with an income of $15,730 or less was considered poor in 2014; a family of four meets this threshold with an income of $29,820" under federal poverty guidelines). The majority of patients paid for their abortion care out of pocket. *Id.* at 1, 9-10.

[4] Abortion care is currently available in only a few Iowa cities: medication abortion is available in Des Moines, Iowa City, Ames, Bettendorf, (Quad Cities), Cedar Falls, and Council Bluffs; surgical abortion is available only in Des Moines and Iowa City.

live far away from a facility may additionally have to pay for overnight accommodations. Even without a mandatory 72-hour delay in effect, raising the money necessary for travel, in addition to health care costs, already delays many women from accessing care in a timely manner.

Further compounding the delays and financial obstacles are the increased costs and limited availability of the procedure as gestation advances. Delays can increase cost because later abortion procedures are lengthier and sometimes require additional personnel.[5] Thus, the damage is two-fold: in addition to making abortion care harder to obtain and pushing women into later procedures – some into their second trimester – the Act would also increase the cost for many women – which would further delay women as they organize the additional money. Likewise, although abortion care is extremely safe, the risk of complication increases as access is delayed and the pregnancy advances. If put into effect, the Act would not only exacerbate existing financial obstacles for patients seeking abortion care by requiring women to raise at least twice as much money for extra clinic visits and potentially later, more expensive procedures, it would be more difficult for many women to get

[5] Because later abortions are more complex procedures, often occurring over 2 or more days, they are also more costly. *See* Ushma D. Upadhyay *et al.*, *Denial of Abortion Because of Provider Gestational Age Limits in the United States,* Am. J. Pub. Health (Sept. 2014).

abortion care as early as they would like. As a result, fewer women could access early medical abortion and others may not be able to access surgical abortion before Iowa's gestational limit. Currently, many women tell the Hotline and NAF member clinics that they opt for surgical abortion care because they cannot come in for a medical abortion follow-up visit; many women cannot obtain time off, secure child care, or gather the funds to pay for travel and lodging for an additional clinic visit.

Because the Act mandates that a woman attend a second clinic visit to obtain abortion care, it needlessly imposes the same barriers for surgical abortion as already exist for medical abortion. The Act would add an additional visit for either medical or surgical abortion, exacerbating the burden of accessing abortion care and likely putting medical abortion and surgical abortion out of reach for many women.

* * * * *

The following stories demonstrate some of the existing financial and travel-related barriers that Iowa women face when trying to access abortion care.

"Jenna"[6]

Jenna is 17 years old and a rising college freshman. When she missed her period for the first time in her life, she had a bad feeling. A visit to her doctor confirmed the results of an at-home test: she was pregnant. Jenna did not decide on a course of action right away, but took a few days to consider her options.

Jenna is estranged from her family and lives on her own. She supports herself by working at a fast food restaurant, but had begun to get sick at work due to her pregnancy. She does not have the funds to raise a child, and was worried about losing her job and only source of income if she remained pregnant. She learned that as a minor who does not have a relationship with her parents, she would have to clear a lot of hurdles in order to receive a judicial bypass to obtain an abortion without a parent's consent. While she was scared to go to court for the judicial bypass proceedings, she ultimately decided that an abortion was her best option.

After researching abortion providers in her area and reading about the judicial bypass process, Jenna went to the county courthouse on her own. She was prepared to answer questions that might be asked of her, and

[6] Patient names placed in quotation marks have been changed to protect their privacy.

demonstrated to the court that she had put together a plan to access the care she needed. Jenna was relieved when the judge granted her bypass; she called the Emma Goldman Clinic immediately after she left the court to make her appointment. Jenna's scheduling options were limited because her car could not handle the 30-mile trip to the clinic, and she had to rely on her friend for a ride. Fortunately, she was able to coordinate her appointment with her friend's day off from work, and obtain her abortion care. Because of her limited resources and lack of familial support, Jenna commented that "it would [have been] hard to come back [to the clinic] multiple times."

Emily

Emily, a full-time student in Iowa City, works between 50 and 60 hours a week in order to put herself through school. Teaching is her passion, and she has recently been accepted to an exclusive graduate program in education. Emily was on birth control and so busy managing her hectic work and school schedule that she did not immediately recognize the symptoms she had been experiencing in recent weeks as pregnancy. However, when she did decide to take an at-home pregnancy test, that test – and then another – confirmed that she was in fact pregnant. Emily discussed the situation with her boyfriend and scheduled a consult appointment at the Emma Goldman Clinic to learn about her options.

After her consult at Emma Goldman, Emily took the time she needed to consider her options. While she felt that having a baby would be "the best thing in the world if [she] had the resources," she knew that this was not the right time for her to become a parent. Abortion care was an option, but the cost was problematic; she already had to work over fifty hours a week just to afford her tuition, rent, and expenses, and had begun to miss work and lose wages due to her worsening pregnancy symptoms. She considered adoption, but knew that it was not feasible for her; she had no family or support system in her college town, and did not have the financial, physical, or emotional means to continue her pregnancy for nine months while working and pursuing her education.

While considering her options, Emily decided to obtain an ultrasound, and in order to save money, she went to another local clinic—a crisis pregnancy center, or CPC—that advertised free ultrasound services on a billboard downtown. After learning that she was considering abortion, the CPC employed a number of tactics to delay and dissuade Emily from accessing abortion care: she was made to attend multiple appointments, during which staff provided gruesome, medically-inaccurate descriptions of abortion procedures, pressured her to give birth and place the child for adoption, questioned her about her religious beliefs and prayed for her, and made her

feel “very shut off, guilty, and less than.” Emily cried for hours each time she left the CPC, but continued to consider all of her options, including abortion care.

Ultimately, Emily decided that having an abortion was her best and only choice. She took on debt to afford the procedure, having been unable to work her usual hours because she was feeling too sick and tired due to her pregnancy. Resolved in her decision and confident that it was the best one that she could make for herself, Emily returned to the Emma Goldman Clinic to obtain her abortion care nearly a month after her initial consult.

Marquise

Marquise is in college in Iowa City studying to become a nurse. When she found out that she was pregnant she wasn’t sure what she wanted to do; she lives paycheck to paycheck on her own, is not in a relationship, and knew that she would not be able to care for a child. She took some time to reflect on her options, and by the next day she “knew [she] had to” have an abortion. While she was saddened at the decision because she identifies as a religious person and felt that having an abortion was in conflict with her religious beliefs, Marquise was confident that “it wouldn’t be right to bring a child into this world knowing [she] couldn’t provide for them the way [she wants] to.”

Even though Marquise is fortunate to live in Iowa City, near one of the few Iowa abortion providers, she still had to wait two weeks between making her decision to terminate her pregnancy and ultimately receiving her care. During that two weeks, she had passed the 10-week gestational limit for medical abortion care and would now need a more expensive procedure.

Despite experiencing a shorter wait time than many other Iowa women because she lived in a major metropolitan area, Marquise acknowledged the stress that the two-week delay caused her; she felt she "already had waited a long time, and the longer [she] waited the harder it was to handle" the situation emotionally.

"Jessie"

Jessie is 18 and was living at home for the summer and preparing to start college in the fall at the time she accessed her abortion care. She had learned that she was pregnant a few weeks before her appointment at the Emma Goldman Clinic, when she had decided to take a pregnancy test because her period was late. Jessie did not feel that she was ready to become a parent and was focused on starting her freshman year. She knew right away that she wanted to have an abortion, but before she could schedule an appointment she had to come up with the money to pay for her care, which

was especially difficult because she needed to keep both her pregnancy and her decision to access abortion care a secret from her parents.

Jessie was raised in an extremely strict and religious household, and she knew that if her parents found out about her situation they would be profoundly disappointed, and would likely act to prevent her from obtaining the abortion; it was paramount that she "figure out a way to do this without having to tell them." Jessie's parents afforded her very little personal privacy at home and kept a close watch on her spending, whereabouts, and even her menstrual cycle. She had to fake having her period in order to keep them from discovering her pregnancy, and could not ask them for money to put towards her procedure without raising suspicion.

After working for weeks to raise funds on her own and being forced to reschedule her appointment several times because she did not yet have the money she needed, Jessie used her entire savings and the assistance of multiple abortion funds to pay for her care. On the day of her procedure, she told her mother that she was driving to Iowa City—about an hour away from her hometown—to shop with friends. Having to make a second visit to the clinic would have been prohibitive for Jessie; she could not have justified a second trip to Iowa City in the same week to her family, nor could she have come up with the gas money to pay for additional travel. Jessie recounted that

"A 72-hour wait would make things a lot harder, but it wouldn't change [her] mind."

"Jaclyn"

Francine Thompson, the Director of Health Services at the Emma Goldman Clinic, recounts a patient who called the clinic numerous times on the morning of her appointment in July, frantic that she might be delayed while traveling to the clinic from her rural community, and would not be able to obtain the care she desperately needed. The patient, Jaclyn, rarely drives, is not comfortable driving long distances, and does not own a car capable of making an hours-long trip on the highway. She was forced to rent a car—an extra expense that proved to be a considerable hardship for her—and find someone to drive her to the clinic. Anxious about making such a long trip, Jaclyn called Emma Goldman no fewer than ten times on the morning of her appointment, expressing her distress over the travel barriers she faced and her worry that she might get lost or stuck in traffic on her way to Iowa City, be late for her appointment, and be unable to access her procedure. Fortunately, despite the logistical and financial hurdles she faced, Jaclyn successfully rented a car and traveled to the clinic with her companion for her appointment. However, "had [Jaclyn] had to make two visits, she would have been dealing

with significant barriers and likely would have been unable to actually come to her appointment."

"Catherine"

Francine Thompson recalls another patient who was delayed from accessing her care for over two weeks due to the deceptive tactics of a nearby Crisis Pregnancy Center (CPC). On the day of her appointment at Emma Goldman, Catherine was stopped outside of the clinic by an anti-choice protester, who falsely informed her that she could obtain both her ultrasound and abortion care for free at Informed Choices, the local CPC. Since the cost of her abortion care was a burdensome expense for Catherine this was an attractive offer, and instead of entering the Emma Goldman Clinic she opted to drive to Informed Choices for the free abortion care she had been promised. There, the anti-abortion staff purposely kept her waiting for hours so she would miss that day's appointment times at Emma Goldman, where staff had assumed that she was a no-show — "until she showed up irate" at having been deceived and delayed. Unfortunately, she had missed the last appointment of the day, and was forced to reschedule her care. The next available appointment was the following week, and the delay meant that Catherine would require a more costly procedure. Unable to afford the new cost of her care, Catherine was forced to delay her appointment by yet another week while she worked

to raise the additional funds to cover the difference. Fortunately, despite extensive unnecessary delays and associated burdens caused by the dishonesty and deception of the CPC, Catherine was ultimately able to access the care she needed.

* * * * *

These accounts illustrate the financial and travel burdens that already exist for Iowa women who seek abortion care. Further difficulties that would be created by the Act go far beyond obstacles that women face ordinarily when seeking medical care; rather these burdens are additional and needless hurdles imposed with no corresponding benefit to women.

II. The Act Impedes Access to Abortion Care by Creating Difficulties for Women Who Already Have Children.

Many women who seek abortion care already have children.[7] In 2014, 59% of abortion patients had at least one previous birth.[8] As "Julie's" story shows, Iowa women who already have children experience the same financial and travel barriers as other women, but also face the increased cost, practical difficulty, and stress, as a result of being away from their children and arranging childcare.

[7] Guttmacher Study at 1, 7.
[8] *See* Jerman.

"Julie"

Julie, a single mother, recognized the symptoms she had been having from her previous pregnancy and took two at home tests that confirmed the news. The decision to have an abortion "was obvious for [her] at this point" in her life: she is "a single mom with a 12 year old child, [had] no desire to start over again, [was] not in a relationship," and concluded that "this was not good timing" for a new baby. Julie confided in a friend who suggested that she contact the Emma Goldman Clinic, where she was able to get an appointment.

Finding out that she was pregnant had been stressful, and Julie "felt better once [she] had a plan in place" to access her abortion care. However, coming up with the money to pay for her care proved to be very difficult, and she was forced to postpone her appointment for a week due to uncertainty over funding. Julie had only recently started her job and could not afford to miss any work. She lives 45 minutes away from Iowa City, so traveling to the clinic meant taking an entire morning of unpaid time off between driving time and her actual appointment, and she also needed to arrange and pay for additional childcare for her son. Fortunately, a friend loaned Julie the money she needed for her procedure, and she was able to access her abortion care

without further delay. Unable to afford any additional time off, Julie returned to work directly after her procedure.

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The obstacles for women like "Julie" would be intensified if the Act was permitted to go into effect. The Act would result in women with children spending more of their money and time – that would have normally been reserved for their children – on additional costs, including additional childcare, as a result of a medically unnecessary state-imposed requirement. It is clear that these women and their children would experience additional hardships if the Act was permitted to go into effect.

III. The Act Would Impose Psychological and Physical Harms on Women Who Seek Abortion Care.

Many women experience distress while trying to save enough money to travel long distances, find childcare, get hotel accommodations, and coordinate other logistics that are only necessary because of limited access to abortion care. Likewise, given those travel and financial hardships resulting from restricted access, many women seeking abortion care experience delay in obtaining care, both because there are an insufficient number of facilities to provide care, but also because patients may need more time to raise the necessary funds. That delay can push women later in pregnancy, which can

increase both costs and medical risks.[9] The following stories of Iowa women – as told to NAF by the women themselves, their family members, and an Iowa abortion provider – demonstrate some of the ways that barriers to access cause psychological and physical harms.

Madison

Madison found out she was pregnant upon her release from the hospital, where she had been briefly committed to the psychiatric ward because she had stopped taking all of her medications—including her birth control. Stabilized after her hospital stay, she realized that her period was late and decided to take a pregnancy test. When she saw the positive result, Madison knew right away that she was going to have an abortion; she "had made that decision with [herself] long ago," knew with certainty that she was "not ready in any sense of the word" to become a parent, and felt that, given her current circumstances and mental health status, accessing abortion care quickly was a matter of

[9] "Evidence . . . indicates that patient mortality rates for abortions increase as the length of pregnancy increases. Studies also 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. Moreover, evidence . . . indicates that the waiting period increases a woman's financial and psychological burdens, since many women must travel long distances and be absent from work to obtain an abortion." *Planned Parenthood of Middle Tennessee v. Sundquist*, 38 S.W.3d 1, 23-24 (Tenn. 2000).

necessity. She immediately called the Emma Goldman Clinic to schedule her abortion appointment for the following day.

Madison felt as though her life had stalled from the moment she found out about her pregnancy. She was gripped with debilitating depression, anxiety, and fear of remaining pregnant, and was unable to think about anything else. Madison had heard about the recently enacted 72-hour waiting period requirement but was unsure of the status of the law, and the mere possibility of a delay in accessing her care was a source of overwhelming stress for her. She had struggled to function since learning that she was pregnant, and felt that prolonging her pregnancy for "any extra time would be torture."

Madison's health insurance did not cover her abortion care, and securing the funding to pay for her procedure was extremely difficult. She is a student on a limited budget and makes just enough at her job to pay her rent each month. She had to miss work in order to attend her appointment, resulting in lost wages, and could not afford to take any additional time off without pay for further appointments. Madison and her boyfriend pooled their resources, and with NAF's assistance, they were able to avert a delay in care that would have been detrimental to her mental health and financial stability. She was

"confident in her decision and ready" when she obtained the abortion care she needed.

"Karla"

Karla was at an OB/GYN appointment for a diagnosis of Polycystic Ovarian Syndrome (PCOS) when her doctor informed her that she was also pregnant—the result of a rape that had occurred weeks earlier. She knew right away that she wanted to have an abortion in order to protect her health, safety, and wellbeing. In addition to PCOS, Karla suffers from a thyroid condition that requires regular blood testing and a medication regimen that is contraindicated during pregnancy; upon learning that Karla was pregnant, her primary care physician's office canceled all of her scheduled testing, appointments, and medications. Karla's health was at risk as long as she remained pregnant and unable to receive the treatment she needed for her medical conditions. Further, Karla feared that if her rapist found out about her pregnancy, she would be in severe danger. It was essential that Karla access her abortion care without delay, resume her medical treatment, and be able to focus on healing from the trauma of her sexual assault.[10]

[10] Unfortunately, Karla's situation is not unique. A significant number of women seeking abortion care have been sexually assaulted and/or are currently experiencing domestic violence. The Emma Goldman Clinic told NAF that of the 196 patients that received abortion care from June 1, 2017 through the end of August 2017, 20 women (10.2%) reported that they were

Karla lives over an hour and a half from the Emma Goldman Clinic, her nearest abortion provider—a trip "far enough that you wouldn't want to do it twice." She and her mother struggled to come up with the funds required to travel to the clinic and pay for the procedure, adding another layer of stress and frustration to the situation. Fortunately, Karla was able to schedule her procedure for the following week, but "just having to wait [until the appointment] was nerve wracking and scary… coming back for a second visit would [have] drawn this out more, [made] it more difficult emotionally."

"Jodi" and "Candace"

Jodi and Candace accompanied their sister to her procedure appointment at the Emma Goldman Clinic to provide support during a very difficult time. Although their sister had been told decades earlier that she would never be able to have children, she had recently become pregnant with a very much wanted baby, only to learn that her advanced age and medical conditions so complicated the pregnancy that to continue it would put both her life and that of the fetus at high risk. Devastated but cognizant of the severity of her situation, she made her appointment at the Emma Goldman Clinic right away; both physically and emotionally, she needed to have her

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experiencing domestic violence, and 15 women (7.65%) reported that they had recently experienced sexual assault.

abortion procedure done as quickly as possible so she could begin to move past it.

Jodi and Candace each drove to Iowa City to support their sister and her husband, who had both taken the day off of work with some difficulty in order to make the hour and a half trip to the clinic. Their hearts ached for their sister, but they were both "thankful [abortion] was an option for her so [they] didn't have to roll the dice and see what happens to her and the baby, and end up losing them both." After years of wanting and not being able to have a child, their sister's situation was "a tragedy. It would have been cruel to drag it out."

Dr. Abbey Hardy-Fairbanks

Dr. Abbey Hardy-Fairbanks, Medical Director of the Emma Goldman Clinic, treats many patients whose health and safety would be endangered by any medically unnecessary delay in their care, such as that imposed by a 72-hour waiting period. Among these are "patients who need treatment for cancer and must have an abortion so they can have their chemotherapy, patients who have a blood clot or pulmonary embolism and need to be on a blood thinner, and people with cardiac conditions like pulmonary hypertension." She recalls a patient who was heartbroken to receive a lethal fetal diagnosis at her 20-week ultrasound: Potter syndrome or renal agenesis, a condition that is

incompatible with life, in which there is no amniotic fluid. After a second opinion confirmed the diagnosis and severity of the condition, the patient made the decision to have an abortion. She was just days shy of the limit imposed by Iowa's gestational ban; had she been forced to comply with a 72-hour waiting period requirement, "she would have been pushed past the limit… and would have to travel out of state or carry a doomed pregnancy that is risky for her health."

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The Act would have exacerbated physical and psychological harms that the women whose stories are recounted here already had to experience, without furthering any legitimate interest in women's health.

IV. The Act Perpetuates Gender Bias by Undermining Women's Decision-Making Abilities.

Mandatory waiting periods reflect paternalistic and unfounded beliefs about pregnant women's decision-making abilities.[11] Through the Act, which would sanction a medically unnecessary waiting period—unique among medical procedures in Iowa, as only women who seek abortion care would be

[11] *See Planned Parenthood of Middle Tenn.*, 38 S.W.3d at 23 ("[t]o mandate that [a pregnant woman] wait even longer" after "hav[ing] seriously contemplated [her] decision" to choose abortion "insults the intelligence and decision-making capabilities of a woman").

subject to a mandatory delay—the State would codify gender bias and make it plain to Iowa women that their decisions are not to be trusted.

Despite any argument to the contrary, the evidence shows that the overwhelming majority of women who choose abortion care do not regret their decision.[12] In a recent study of 667 women seeking abortion care at 30 facilities across the United States, 95% reported that abortion was the right decision for them immediately after the procedure and at all points in time during the study's three year period.[13] Similarly, a study of women who were forced to undergo Utah's 72-hour waiting period and two-visit requirement found that the waiting period "did not prevent women who presented for information visits . . . from having abortions, but did burden women with financial costs, logistical hassles and extended periods of dwelling on decisions they had already made."[14]

NAF frequently speaks with patients that express their certainty in their decision to obtain abortion care. The Iowa women that NAF spoke to

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[12] Corinne H. Rocca et al., *Decision Rightness and Emotional Responses to Abortion in the United States: A Longitudinal Study*, PLOS ONE (Jul. 8, 2015), http://journals.plos.org/plosone/article/asset?id=10.1371%2Fjournal.pone.0128832.PDF

[13] *Id.* at 7.

[14] Sarah C.M. Roberts et al., *Utah's 72-Hour Waiting Period for Abortion: Experiences Among a Clinic-Based Sample of Women*, 48 PERSPECTIVES ON SEXUAL & REPROD. HEALTH 4 (2016).

regarding their decision for this brief in July 2017 were likewise resolute in their decisions; Jordan's story is highlighted below.

Jordan

Jordan had never been pregnant before, but "had always known that if [she] did get pregnant at this time in [her] life, [she] would choose abortion." When her normally very regular menstrual cycle was off by a few days, she suspected that she might be pregnant. A few weeks later her period still had not arrived and she had begun to experience uncomfortable symptoms, so she made an appointment at the Emma Goldman Clinic near her home, where her pregnancy was officially confirmed. Jordan knew that she was not ready for a child and felt "resolved and peaceful" in her decision to have an abortion. She scheduled another appointment to have her procedure at the clinic right away, despite her concern over being able to afford the full cost of her abortion care.

By the day of her procedure, Jordan was feeling very uncomfortable physically and was eager for relief from her acute pregnancy symptoms. She had never dreamed of asking for financial assistance with her procedure, but on the morning of her appointment, faced with "having to pay in full or reschedule and be pregnant for another week when you don't want to be," she reached out to loved ones for financial support. Jordan had heard about the 72-hour waiting period law, and had considered how the requirements might

have interfered with her timeline and ability to access her care were the law in effect. Fortunately, she was able to obtain her care without further unnecessary delay, and felt lucky that she was able to access this option; she found it "scary to think this right could be hindered, burdened, or modified in any way that would take away [her] freedom" to obtain the care she needed, when she needed it.

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NAF spoke with several women for this brief that experienced hardships seeking abortion care in Iowa; had they been subject to the additional unnecessary delay of a 72 hour waiting period, the increased costs and other barriers that they experienced would have been exacerbated.

CONCLUSION

The personal accounts set forth in this brief show that the Act would create substantial obstacles for Iowa women to access abortion care. Given the Act is medically unnecessary and does nothing to further women's health, the Act would create an unconstitutional burden on Iowa women's access to abortion care. Therefore, this Court should grant the Petitioners' Motion for a Temporary Injunction to enjoin enforcement of the Act.

CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENTS AND TYPE-VOLUME LIMITATION

I, Heather Shumaker, hereby certify that:

This brief complies with the typeface requirements and type-volume limitation of Iowa R. App. P. 6.903(1)(*d*) and 6.903(1)(*g*)(1) because:

this brief has been prepared in a proportionately spaced typeface using Times New Roman in 14 point and contains 6,573 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(*g*)(1).

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