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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

ANNA ALMERICO, CHELSEA
GAONA-LINCOLN, MICAELA
AKASHA DE LOYOLA-CARKIN, and
HANNAH SHARP,

Plaintiffs,

v.

LAWRENCE DENNEY, as Idaho
Secretary of State in his official capacity,
LAWRENCE WASDEN, as Idaho
Attorney General in his official capacity,
and DAVE JEPPESEN, as Director of the
Idaho Department of Health and Welfare in
his official capacity,

Defendants.

Case No. 1:18-cv-00239-BLW

**SECOND AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

I. INTRODUCTION

1. Plaintiffs bring this action to challenge the constitutionality of an Idaho statute that denies Idaho women the right to prospectively dictate the health care they receive in the event they become incapacitated and invalidates their otherwise lawful and enforceable health care directives (often referred to as an “advance directive” or “living will”) if they have been diagnosed as pregnant. That law improperly infringes on the fundamental right to medical decision-making; deprives pregnant people of procedural due process; and subjects all women of childbearing age to unequal and demeaning treatment, in violation of their rights to equal protection. First, the law on its face, and as applied to the Plaintiffs, provides inferior protections for the health care decisions of all women of childbearing age immediately upon execution of their advance directives, without adequate justification. Second, the law deprives Plaintiffs – and indeed all pregnant people with advance directives – of their fundamental right to medical decision-making, including the right to decide whether to request or decline life-sustaining measures. Terminally-ill, incapacitated patients, by definition, lack capacity to make contemporaneous decisions for themselves. The ability to execute a valid, advance health care directive, therefore, is essential to effectuating the fundamental right to medical decision-making. Third, by prospectively voiding the advance directives of all pregnant people and precluding them from challenging that denial until after they have become incapacitated, Idaho law violates their rights to procedural due process. Fourth, the law renders ineffective, without any justification, the rights of any person who has been diagnosed as pregnant to designate a health care agent. Fifth, the law calls into question the effectiveness of the health care directives of all women of childbearing age in Idaho until each woman’s pregnancy status is determined. Sixth, the law unconstitutionally compels Plaintiffs and all Idaho women of childbearing age to speak a message with which they do not agree, by deeming invalid their advance directives that lack the pregnancy exclusion. Additionally, Defendants have exceeded the statute’s mandate by publicly stating that not only are the health care directives of all pregnant women void, but if a pregnant woman becomes incapacitated, the State will force her to undergo whatever life-sustaining

treatment it deems appropriate for the duration of her pregnancy. The state's own confusion over what the statute actually authorizes the state to do illustrates that the law is so vague as to be constitutionally deficient. Defendants' actions violate the United States Constitution's guarantees of substantive and procedural due process, freedom of speech, and equal protection of the laws.

II. PARTIES

2. Plaintiff Anna Almerico is a woman of childbearing age who resides in Boise, Idaho.

3. Plaintiff Chelsea Gaona-Lincoln is a woman of childbearing age who resides in Caldwell, Idaho.

4. Plaintiff Micaela Akasha de Loyola-Carkin is a woman of childbearing age who resides in Boise, Idaho.

5. Plaintiff Hannah Sharp is a woman of childbearing age who resides in Boise, Idaho.

6. Defendant Lawrence Denney is the Idaho Secretary of State. As the Idaho Secretary of State, he files health care directives in the Idaho Health Care Directive Registry.

7. Defendant Lawrence Wasden is the Idaho Attorney General. As the Idaho Attorney General, he enforces the laws of the State of Idaho, including the Act.

8. Defendant Dave Jeppesen is the Director of the Idaho Department of Health and Welfare (the "Department"), which is the agency charged with enforcement of the Act. *See* I.C. § 39-4514(11)(a). He supervises the activities of the Department, including enforcement of the Act and related Department rules, and developing the Department's policies and interpretations of such laws.

III. JURISDICTION AND VENUE

9. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise under the Constitution and laws of the United States. This Court has personal jurisdiction over Plaintiffs and Defendants.

10. This Court has authority to enter a declaratory judgment under Rule 57 of the

Federal Rules of Civil Procedure and 28 U.S.C. §§ 2201 and 2202.

11. This Court has the authority to grant injunctive relief under 42 U.S.C. § 1983.

12. Venue is proper in this Court under 28 U.S.C. § 1391 because the Defendants reside and work in the District of Idaho.

IV. FACTS AND BACKGROUND

13. The Medical Consent and Natural Death Act, I.C. §§ 39-4501 to 39-4515 (the “Act”), codifies “Idaho law concerning consent for the furnishing of hospital, medical, dental, surgical and other health care, treatment or procedures, and concerning what constitutes an informed consent for such health care, treatment or procedures.” I.C. § 39-4501(1)(a). The Act recognizes the “fundamental right of competent persons to control the decisions relating to the rendering of their medical care, including the decision to have life-sustaining procedures withheld or withdrawn.” I.C. § 39-4509(1).

14. One purpose of the Act is to “provide certainty and clarity in the law of medical consent in the furtherance of high standards of health care and its ready availability in proper cases.” I.C. § 39-4501(1)(b). The Act creates a procedure whereby individuals may execute a “Living Will and Durable Power of Attorney for Health Care” (“health care directive”), which specifies their wishes regarding whether and under what circumstances life-sustaining procedures should be used and under what circumstances they shall be withheld or withdrawn in the event that the individual cannot contemporaneously communicate his or her wishes and has a terminal injury, disease, illness, or condition. Executing a health care directive also allows individuals to designate a “health care agent” to make health care decisions on their behalf and serves as a significant piece of evidence of the individual’s wishes, if they become incapacitated.

15. Section 39-4510 of the Act provides that “[a]ny competent person” may execute a health care directive, which “shall be in substantially the following form, or in another form that contains the elements set forth in this chapter.” The model form provided in the Act includes the following language: “If I have been diagnosed as pregnant, this Directive shall have no force during the course of my pregnancy.” *Id.* (“Pregnancy Exclusion”).

16. The Pregnancy Exclusion contained in Section 39-4510 violates due process, equal protection, and freedom of speech rights guaranteed to Plaintiffs under the United States Constitution by singling out women of childbearing age for unequal and demeaning treatment, providing lesser protection and certainty for women who choose to execute an advance directive, presumptively invalidating their right to determine their medical treatment without justification, and compelling them to speak a government message with which they do not agree. To protect these rights, Plaintiffs sue under 42 U.S.C. § 1983 for relief declaring the Pregnancy Exclusion in I.C. § 39-4510 unconstitutional and enjoining Defendants from invalidating otherwise valid health care directives based on pregnancy.

17. Plaintiffs are women of childbearing age who have executed health care directives under the Act. All of them have children; at the time of filing the original complaint in this action one was pregnant with her first child, and one was pregnant with her second child. All want their respective health care decisions followed if they become incapacitated and terminally ill, and all have executed health care directives. These directives include specific instructions about how much or how little medical intervention they want, and whom they have designated to carry out those wishes as their health care agents. Some of their health care directives include provisions regarding pregnancy and some do not, reflecting their different expectations about their medical care if they become terminally ill while pregnant. None of their health care directives conform to Section 39-4510's model form because none specify that the directives will have no force or effect if Plaintiffs have been diagnosed as pregnant.

18. Ms. Almerico lives in Boise, Idaho, is divorced, and has three children. Ms. Almerico executed a health care directive in which she specified that life-sustaining medical procedures should be withheld or withdrawn if she becomes terminally ill and is incapacitated. Her advance directive is not given the same deference the law affords to men who complete advance directives, because of the Pregnancy Exclusion and representations made by the State, and therefore she does not benefit from the same level of certainty that the advance directive otherwise provides. She struck the sentence on the form that contains the Pregnancy Exclusion

language and instead specified that if she becomes terminally ill and incapacitated while pregnant, she only wants to receive life sustaining treatment if her physician determines that the fetus is at or beyond the point of viability and could survive outside her body without intrusive neonatal life support. Her health care directive specifies that, if so, her agent should direct her health care provider to maintain all life sustaining procedures to continue the pregnancy.

19. Ms. Gaona-Lincoln lives in Caldwell, Idaho. She is married and was pregnant with her first child when the Complaint in this case was originally filed. Ms. Gaona-Lincoln executed a health care directive in which she specified that life-sustaining medical procedures should be withheld or withdrawn if she becomes terminally ill and is incapacitated. Her advance directive is not given the same deference the law affords to men who complete advance directives, because of the Pregnancy Exclusion and representations made by the State, and therefore she does not benefit from the same level of certainty that the advance directive otherwise provides. If she becomes terminally ill and incapacitated while pregnant, she does not want her health care directive to be nullified; her health care directive does not contain the Pregnancy Exclusion language.

20. Ms. de Loyola-Carkin is married and has one child. Ms. de Loyola-Carkin executed a health care directive in which she specified that life-sustaining medical procedures should be withheld or withdrawn if she becomes terminally ill and is incapacitated. Her advance directive is not given the same deference the law affords to men who complete advance directives, because of the Pregnancy Exclusion and representations made by the State, and therefore she does not benefit from the same level of certainty that the advance directive otherwise provides. If she becomes terminally ill and incapacitated while pregnant, she does not want her health care directive to be nullified; her health care directive does not contain the Pregnancy Exclusion language.

21. Ms. Sharp is married, has two children, and was pregnant with her second child when the original complaint in the case was filed. Ms. Sharp executed a health care directive in which she specified that life-sustaining medical procedures should be withheld or withdrawn if

she becomes terminally ill and is incapacitated. Her advance directive is not given the same deference the law affords to men who complete advance directives, because of the Pregnancy Exclusion and representations made by the State, and therefore she does not benefit from the same level of certainty that the advance directive otherwise provides. If she becomes terminally ill and incapacitated while pregnant, she only wants to receive life sustaining treatment if the fetus is at or beyond the point of viability. Her health care directive specifies that, if so, her agent should direct her health care provider to maintain life sustaining treatment until the pregnancy ends.

22. Plaintiffs have sought to register their health care directives with the Idaho Health Care Directive Registry maintained by the Idaho Secretary of State.

23. Plaintiffs suffer a daily loss of dignity, infringement of their rights to liberty and equality, and invasion of their privacy insofar as Idaho law conditions the validity of their advance directives – often the only means by which to meaningfully exercise one’s fundamental right to medical decision-making – on whether or not they are pregnant.

24. Despite having executed health care directives, the law deprives Plaintiffs of the same certainty that it affords to others that their medical decisions will be respected– a deprivation of their right to liberty that is based on their gender.

25. Plaintiffs Gaona-Lincoln and Sharp suffered a daily loss of dignity, infringement on their rights to liberty and equality, and invasion of their privacy because the Pregnancy Exclusion, without adequate justification, rendered their health care directives invalid while they were pregnant.

26. All Plaintiffs suffer a loss of dignity, infringement of their rights to liberty and equality, and invasion of privacy by Defendants’ representation that, regardless of the decisions Plaintiffs have made regarding their medical care, Defendants will impose upon Plaintiffs the Defendants’ choices about Plaintiffs’ health care, without regard to Plaintiffs’ health care directives, the recommendations of their health care providers, the degree of the intrusion and what kind of pain and suffering it would cause, or any other constraint.

27. All Plaintiffs suffer a loss of dignity, infringement of their rights to liberty and equality, and invasion of privacy because, were they to become incapacitated, their advance directives, unlike men's advance directives which are honored upon execution until death or until a judicial determination states otherwise, are automatically invalidated if pregnant, and a third party would have to invoke judicial intervention to give effect to the enumerated wishes found in their advance directives. This would be particularly challenging if Plaintiffs' health care agents as designated in their presumptively invalid advance directives do not correspond to the default health care decision maker defined by statute.

28. Defendants give effect to the Pregnancy Exclusion by instructing those with health care directives that if they are pregnant and become terminally ill, they will receive life-sustaining treatment until the conclusion of their pregnancies, regardless of the wishes expressed in their health care directives, their physicians' instructions or recommendations, or any other circumstances.

29. Defendants require that Plaintiffs execute an advance directive that substantially conforms to the model form which contains the Pregnancy Exclusion. Defendants' required speech is contrary to the beliefs, decisions, and wishes of the Plaintiffs.

30. For example, the Idaho Secretary of State's health care directive registry webpage provides a copy of the I.C. § 39-4510 model health care directive form and instructs those who already have a health care directive that they should "[c]ompare them to the form provided on this page to be sure that they substantially contain the information required." Idaho Secretary of State, Health Care Directive Registry, <https://sos.idaho.gov/hcdr/index.html> (last visited July 16, 2019). The webpage further states that "[l]ife-sustaining measures *will continue* regardless of any directive to the contrary until the pregnancy is complete." Idaho Secretary of State, Health Care Directive Registry – Frequently Asked Questions, <https://sos.idaho.gov/hcdr/faq.html> (last visited July 16, 2019) (emphasis added).

31. Similarly, the State of Idaho Office of the Attorney General's webpage provided a copy of the I.C. § 39-4510 model form and stated that if a woman has a health care directive and

becomes incapacitated while pregnant, “[l]ife sustaining measures *will continue* regardless of any directive to the contrary until the pregnancy is complete.” Office of the Attorney General of the State of Idaho, Living Will FAQs http://www.ag.idaho.gov/livingWills/livingWills_faqs.html (last visited May 30, 2018) (emphasis added) Link inactive, but see “Advance Directives Information, From the Office of the Attorney General” <https://healthandwelfare.idaho.gov/Portals/0/Users/169/17/2217/AdvanceDirectivesInformation.pdf> (last visited July 16, 2019).

32. The Department of Health and Welfare’s website also provided information on health care directives, including the I.C. § 39-4510 model form, which included a cover page explaining that if a woman is pregnant when she becomes incapacitated, “[l]ife-sustaining measures *will continue* regardless of any directive to the contrary until the pregnancy is complete.” Idaho Department of Health and Welfare, Consumer Information on Certified Family Homes, <http://healthandwelfare.idaho.gov/Medical/LicensingCertification/StateOnlyPrograms/CertifiedFamilyHomes/tabid/274/Default.aspx> (last visited May 30, 2018) (emphasis added) Link inactive, but see “Advance Directives Information, From the Office of the Attorney General” <https://healthandwelfare.idaho.gov/Portals/0/Users/169/17/2217/AdvanceDirectivesInformation.pdf> (last visited July 16, 2019).

33. Both the model form and Defendants’ proclamations require health care providers to treat women of childbearing age differently than other patients by requiring providers to first make a threshold determination about pregnancy and then to disregard the woman’s health care directive if she is pregnant. The Defendants’ proclamations are also *ultra vires* because, unlike the Act itself, they mandate what treatment a pregnant woman will receive, regardless of her express decisions, the treatment recommendations of her health care providers, or any other circumstances.

34. The Pregnancy Exclusion denies Plaintiffs and all other women in Idaho of childbearing age who have executed health care directives their constitutional rights to due

process, liberty, equal protection and free speech under the law. Unlike men in Idaho, they face uncertainty about whether their explicit wishes about their own medical care will be honored because, if they are or become pregnant, their health care directives will be rendered void and unenforceable.

V. FIRST CAUSE OF ACTION

The Pregnancy Exclusion in Idaho Code Section 39-4510 Deprives Plaintiffs of Their Rights to Due Process Under the United States Constitution

35. Plaintiffs incorporate by reference and reallege Paragraphs 1 through 34 as though set forth herein.

36. Plaintiffs state this cause of action against Defendants in their official capacities to seek declaratory and injunctive relief.

37. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution forbids the government from depriving an individual of life, liberty, or property, without due process of law. U.S. Const. amend. XIV, § 1.

38. Idaho Code 39-4510 is unconstitutionally vague in that it purports to require women of childbearing age to include the Pregnancy Exclusion in their advance directive regardless of their wishes. The Defendants' contradictory representations of the law, in which they appear to assert that the law authorizes the state to dictate the specific care Plaintiffs and others similarly situated would receive should they become incapacitated, further underscore the problem with the vagueness of the law. The uncertainty that this vagueness creates deprives Plaintiffs and others similarly situated of their fundamental right to control the decisions relating to their medical care, including the right to request or decline life-sustaining procedures, in violation of fundamental right to liberty guaranteed to them by the Due Process Clause of the U.S. Constitution. The deprivation of these constitutional rights under the color of state law violates 42 U.S.C. § 1983.

VI. SECOND CAUSE OF ACTION

The Pregnancy Exclusion in Idaho Code Section 39-4510 Deprives Plaintiffs of Their Rights to Substantive Due Process Under the United States Constitution

39. Plaintiffs incorporate by reference and reallege Paragraphs 1 through 34 as though set forth herein.

40. Plaintiffs state this cause of action against Defendants in their official capacities to seek declaratory and injunctive relief.

41. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution forbids the government from depriving an individual of life, liberty, or property, without due process of law. U.S. Const. amend. XIV, § 1.

42. Idaho Code 39-4510 deprives Plaintiffs and others similarly situated of their fundamental right to prospectively dictate decisions relating to their medical care in the event they becomes incapacitated, including the right to request or decline life-sustaining procedures, in violation of fundamental right to liberty guaranteed to them by the Due Process Clause of the U.S. Constitution. Such deprivation occurs at the time of execution of the advance directive. The deprivation of these constitutional rights under color of state law violates 42 U.S.C. § 1983.

VII. THIRD CAUSE OF ACTION:

The Pregnancy Exclusion in Idaho Code Section 39-4510 Deprives Plaintiffs of Their Fundamental Rights to Medical Decision-Making Under the Fourteenth Amendment to the United States Constitution

43. Plaintiffs incorporate by reference and reallege Paragraphs 1 through 34 as though set forth herein.

44. Plaintiffs state this cause of action against Defendants in their official capacities to seek declaratory and injunctive relief.

45. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution forbids the government from depriving an individual of life, liberty, or property, without due process of law. U.S. Const. amend. XIV, § 1.

46. Idaho Code 39-4510 deprives Plaintiffs and others similarly situated of their fundamental right to control the decisions relating to their medical care, including the right to

request or decline life-sustaining procedures, in violation of fundamental privacy rights guaranteed to them by the Due Process Clause of the U.S. Constitution. Such deprivation occurs at the time when the Plaintiffs', and others similarly situated, advance directives are invalidated because they are diagnosed as pregnant. The deprivation of these constitutional rights under the color of state law violates 42 U.S.C. § 1983.

VIII. FOURTH CAUSE OF ACTION

The Pregnancy Exclusion in Idaho Code Section 39-4510 Deprives Plaintiffs of Their Rights to Procedural Due Process Under the United States Constitution

47. Plaintiffs incorporate by reference and reallege Paragraphs 1 through 34 as though set forth herein.

48. Plaintiffs state this cause of action against Defendants in their official capacities to seek declaratory and injunctive relief.

49. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution forbids the government from depriving an individual of life, liberty, or property, without due process of law. U.S. Const. amend. XIV, § 1. Idaho Code 39-4510 affords no opportunity for any due process before summarily invalidating the health care directives of all pregnant people.

50. The ability to enter into a health care directive is essential to effectuating the right to medical decision-making as terminally-ill patients who are incapacitated, by definition, lack the capacity to make contemporaneous medical decisions for themselves. By summarily invalidating the health care directives of all pregnant people, therefore, Idaho Code 39-4510 effectively deprives Plaintiffs and all pregnant people of the right to medical decision-making without any procedural due process. The deprivation of these constitutional rights under the color of state law violates 42 U.S.C. § 1983.

IX. FIFTH CAUSE OF ACTION

The Pregnancy Exclusion in Idaho Code Section 39-4510 Deprives Plaintiffs of their Rights to Procedural Due Process under the United States Constitution

51. Plaintiffs incorporate by reference and reallege Paragraphs 1 through 34 as though set forth herein.

52. Plaintiffs state this cause of action against Defendants in their official capacities to seek declaratory and injunctive relief.

53. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution forbids the government from depriving an individual of life, liberty, or property, without due process of law. U.S. Const. amend. XIV, § 1.

54. Idaho Code 39-4510 intentionally and expressly offered the people of Idaho an option besides judicial proceedings that would otherwise be instituted when a person becomes incapacitated and their wishes are unknown. By removing pregnant women from these protections, and through the State Defendants' stated insistence that incapacitated pregnant women, regardless of their individual circumstances, will be forced to receive life-sustaining treatment until their pregnancy ends, Defendants deprive Plaintiffs and other Idahoan women of their right to procedural due process. This thwarts – only for them – both the advance directive protection and the requirement that, excepting emergencies, health care providers must receive either consent from a patient, the patient's lawful surrogate decision-maker, or a court, before treating a patient. This deprivation of the certainty that they will have the same rights as other patients to have their individual circumstances considered in a court of law just as other incapacitated people would is a violation of rights guaranteed to them by the Due Process Clause of the U.S. Constitution. The deprivation of these constitutional rights under the color of state law violates 42 U.S.C. § 1983.

X. SIXTH CAUSE OF ACTION

The Pregnancy Exclusion in Idaho Code Section 39-4510 Deprives Plaintiffs of Their Rights to Equal Protection Under the United States Constitution

55. Plaintiffs incorporate by reference and reallege Paragraphs 1 through 34 as though set forth herein.

56. Plaintiffs state this cause of action against Defendants in their official capacities to seek declaratory and injunctive relief.

57. Plaintiffs have a right to equal protection under the Equal Protection Clause of the

U.S. Constitution. U.S. Const. amend. XIV, § 1.

58. Idaho Code § 39-4510 discriminates based on gender, violating the equal protection guarantees of the U.S. Constitution by immediately and continually restricting Plaintiffs' rights to direct their own medical care and to receive the same certainty as male Idahoans that their decisions will be respected in the event that they are incapacitated.

59. Idaho Code § 39-4510 also subjects Plaintiffs, and all other Idahoan women of reproductive age – but not Idahoan men - to a violation of their fundamental rights to medical decision-making and bodily autonomy.

60. The deprivation of these constitutional rights under the color of state law violates 42 U.S.C. § 1983.

XI. SEVENTH CAUSE OF ACTION:

The Pregnancy Exclusion in Idaho Code Section 39-4510 Deprives Plaintiffs of Their Rights to Equal Protection Under the United States Constitution Without Justification.

61. Plaintiffs incorporate by reference and reallege Paragraphs 1 through 34 as though set forth herein.

62. Plaintiffs state this cause of action against Defendants in their official capacities to seek declaratory and injunctive relief.

63. Plaintiffs have a right to equal protection under the Equal Protection Clause of the U.S. Constitution. U.S. Const. amend. XIV, § 1.

64. Idaho Code § 39-4510 invalidates the advance directives of all pregnant people, depriving them of their fundamental right to liberty, while honoring the health care directives of others – including those upon whose bodies a third party, including a child, may depend. This deprives Plaintiffs and all pregnant Idahoans of their right to equal protection of the laws without any rational basis, much less a compelling one.

65. The deprivation of these constitutional rights under the color of state law violates 42 U.S.C. § 1983.

XII. EIGHTH CAUSE OF ACTION:

The Pregnancy Exclusion in Idaho Code Section 39-4510 Compels Plaintiffs to Speak a Government Message in Violation of the First Amendment.

66. Plaintiffs incorporate by reference and reallege Paragraphs 1 through 34 as though set forth herein.

67. Plaintiffs state this cause of action against Defendants in their official capacities to seek declaratory and injunctive relief.

68. Plaintiffs have a right to freedom of speech under the Free Speech Clause of the U.S. Constitution. U.S. Const. amend. I, § 3.

69. Idaho Code § 39-4510 requires that the Pregnancy Exclusion be included in all advance directives. Even though Plaintiffs' wishes do not comport with the Pregnancy Exclusion, Idaho law requires them to include it. Such speech is content-based, overly burdensome, and not justified by a state rationale.

70. The deprivation of these constitutional rights under the color of state law violates 42 U.S.C. § 1983.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment:

A. Declaring the Pregnancy Exclusion in Idaho's Medical Consent and Natural Death Act void for violating Plaintiffs' substantive and procedural due process rights guaranteed by the Fourteenth Amendment to the U.S. Constitution.

B. Declaring the Pregnancy Exclusion in Idaho's Medical Consent and Natural Death Act void for violating the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.

C. Declaring the Pregnancy Exclusion in Idaho's Medical Consent and Natural Death Act void for violating the Free Speech Clause of the First Amendment to the U.S. Constitution.

D. Enjoining Defendants from nullifying or disregarding otherwise valid health care directives solely based on pregnancy.

E. Enjoining Defendants and any other State of Idaho agency from posting the current I.C. § 39-4510 model health directive form on their websites and from instructing the public that pregnant women will be forced to receive treatment regardless of what their health care directives provide.

F. Awarding attorneys' fees and costs to Plaintiffs including 42 U.S.C. § 1988.

G. Granting any other relief the Court deems just and proper.

DATED: July 17, 2019.

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