



September 11, 2017

Via E-Mail and U.S. Mail: OCRCComplaint@hhs.gov

Centralized Case Management Operations
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, DC 20201

Re: Complaint of Discrimination in Violation of Federal Statutes

Dear Sir or Madam:

Alliance Defending Freedom represents Anthony Caruso, MD and A Bella Baby OBGYN, Inc. (incorporated as Best Care for Women, Inc.), who have been subjected to unlawful discrimination by the Illinois Department of Financial & Professional Regulation, a state agency subject to the Church Amendments (42 U.S.C. § 300a-7), the Public Health Service (PHS) Act (§ 245 (42 U.S.C. § 238n)), and/or the Weldon Amendment (Continuing Appropriations Resolution, Pub. L. No. 113-164, Sec. 101(a) (Sept. 19, 2015)) by virtue of its status as a recipient of federal funding.

Dr. Caruso practices medicine in conformance with his religious convictions that prohibit him from performing, assisting in, referring for, or participating in any way with abortion or abortion-causing drugs. He does so at his private Ob/Gyn practice, A Bella Baby OBGYN, and also as a medical director for pro-life pregnancy centers. The rights of Dr. Caruso, A Bella Baby OBGYN and said pro-life pregnancy centers to offer medical assistance to women in need without compromising their religious convictions relating to abortion or abortion-causing drugs are protected by the First Amendment to the United States Constitution, the Constitution of the State of Illinois and the Illinois Healthcare Right of Conscience Act, 745 ILCS 70/1 *et seq.*, in addition to the federal conscience clauses named above.

Pursuant to Illinois Senate Bill 1564, signed into law by Governor Bruce Rauner on July 29, 2016, “healthcare entities” such as A Bella Baby and others similarly situated are required to “adopt written access to care and information protocols that are designed to ensure that conscience-based objections will be addressed in a timely manner to facilitate patient health care services.” SB 1564, § 6.1. The safeguards of the state’s Healthcare Right of Conscience Act, 745 ILCS 70/1, only apply if conscience-based refusals are asserted in accordance with these protocols. *Id.* The mandated protocols

must, at a minimum, require health care facilities, physicians, and health care personnel to inform a patient of “legal treatment options” in a timely manner, § 6.1(1), and if such treatment is contrary to their conscientious beliefs, arrange for others in the entity to provide the service or refer or transfer the patient to other health care providers whom they know will do so. § 6.1(3).

Because SB 1564 violates their right to practice medicine according to their conscience and religious beliefs, Dr. Caruso, A Bella Baby and others brought suit in the Seventeenth Judicial Circuit in Winnebago County, Illinois. The attached First Amended Complaint, *The Pregnancy Care Center of Rockford, et al., v. Rauner*, Case No. 2016-MR-741, filed Aug. 17, 2016 (attached as Exhibit A), contains the factual and legal descriptions of this violation of our clients’ rights. On December 20, 2016, the court enjoined the application of SB 1564 to Dr. Caruso, A Bella Baby and the other plaintiffs in the lawsuit, holding the plaintiffs had raised a “fair question” whether their constitutional right to free speech had been infringed. *See* attached Order Granting Motion for Preliminary Injunction at 14 (attached as Exhibit B).

Please promptly inform us of the actions your office plans to take regarding this violation. Thank you for your attention to this matter.

Sincerely yours,

/s/ Elissa Graves
Elissa Graves, Esq.

cc: Kevin Theriot, Esq., Senior Counsel, Alliance Defending Freedom
Clients