

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

WOMEN'S HEALTH CENTER OF WEST
VIRGINIA,

Plaintiff,

v.

PATRICK MORRISEY, *et al.*,

Defendants.

Civil Action No.

Hon.

**EMERGENCY MOTION FOR A TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Plaintiff Women's Center of West Virginia, on behalf of itself, its staff, its physicians, and its patients, hereby respectfully moves this Court for a temporary restraining order ("TRO") pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, to block enforcement of the Governor of West Virginia's Executive Order 16-20 (the "Order") as applied to prohibit Plaintiff from providing abortion care when, in the physician's good-faith medical judgment and based on the panoply of relevant factors, delaying the abortion would prevent the patient from obtaining an abortion in West Virginia or would otherwise compromise the patient's long-term health. In support of this Motion, Plaintiff concurrently submits a memorandum and declarations, which are hereby incorporated within this Motion by reference.

Plaintiff also seeks a preliminary injunction pursuant to Rule 65(a) of the Federal Rules of Civil Procedure, blocking enforcement of the Order as applied in the way described above, in order to protect current and future patients from imminent and irreparable harm to their health, safety, and constitutional right to decide whether and when to bear a child.

As detailed more fully in the accompanying Memorandum of Law, Plaintiff satisfies the requirements for a TRO and subsequent preliminary injunctive relief. Because enforcement of the Order as applied in the way described above contravenes binding Supreme Court precedent, and also fails to serve—and indeed frustrates—the stated purposes of the Order, Plaintiff has established a substantial likelihood of success on the merits of its claim that this enforcement of the Order violates Plaintiff’s patients’ right to privacy under the Fourteenth Amendment to the U.S. Constitution. Further, Plaintiff has established that this enforcement of the Order will inflict irreparable constitutional, medical, emotional, psychological, and other harms on Plaintiff’s patients for which there is no adequate remedy at law, as well as irreparably interfere with Plaintiff’s and its physicians’ ability to provide appropriate medical care. The balance of equities likewise weighs firmly in Plaintiff’s favor and the relief Plaintiff requests will further the public interest. Finally, Plaintiff respectfully requests this Court exercise its discretion to waive the Federal Rule of Civil Procedure 65(c) security requirement. *See Pashby v. Delia*, 709 F.3d 307, 332 (4th Cir. 2013).

Accordingly, and for the reasons set forth in the accompanying Memorandum of Law, Plaintiff respectfully requests this Court:

- 1) Issue a TRO enjoining Defendants, their employees, agents, and successors in office, and all those acting in concert with them from enforcing the Order as applied to prohibit Plaintiff from providing abortion care when, in the physician’s good-faith medical judgment and based on the panoply of relevant factors, delaying the abortion would prevent the patient from obtaining an abortion in West Virginia or would otherwise compromise the patient’s long-term health;

- 2) Issue a preliminary injunction prior to the expiration of the TRO enjoining Defendants, their employees, agents, and successors in office, and all those acting in concert with them from enforcing the Order as applied to prohibit Plaintiff from providing abortion care when, in the physician's good-faith medical judgment and based on the panoply of relevant factors, delaying the abortion would prevent the patient from obtaining an abortion in West Virginia or would otherwise compromise the patient's long-term health.

If the Court wishes to schedule a hearing prior to issuing a TRO, Plaintiff respectfully requests that the Court schedule the hearing as soon as possible. Plaintiff is currently turning patients away who would otherwise receive abortion care Monday, April 27, Wednesday, April 29, and Thursday, April 30. Plaintiff's counsel will make themselves available for a telephonic or video conference hearing at the Court's earliest convenience.

Respectfully submitted this 24th day of April, 2020.

By Counsel,

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CERTIFICATE OF SERVICE

I, Loree Stark, do hereby certify that on this 24th day of April, 2020, I electronically filed a true and exact copy of *Emergency Motion for a Temporary Restraining Order and Preliminary Injunction* with the Clerk of Court and all parties using the CM/ECF System.

/s/ Loree Stark

West Virginia Bar No. 12936