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*Motions for pro hac vice forthcoming

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**MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,
 YELLOWSTONE COUNTY**

PLANNED PARENTHOOD OF MONTANA,)
 and JOEY BANKS, M.D., on behalf of)
 themselves and their patients,)
)
 Plaintiffs,)

vs.)

STATE OF MONTANA, by and through Austin)
 Knudsen, in his official capacity as Attorney)
 General,)
)
 Defendant.)

Cause No. **DV 21-00999**

Judge: Jessica T. Fehr

**AFFIDAVIT OF
 MARTHA STAHL**

STATE OF MONTANA)
 : ss.
County of Yellowstone)

I, Martha Stahl, being first duly sworn upon her oath, state as follows:

1. I am the President and Chief Executive Officer of Planned Parenthood of Montana (“PPMT”). I have served in this capacity since July 2013.

2. My responsibilities at PPMT involve program development and administration; human resources and workforce development; patient experience, safety, and quality efforts; regulatory compliance; advocacy and community engagement; and fundraising.

3. This declaration is based upon my personal knowledge, my review of PPMT’s business records, and the knowledge I have acquired in the course of my duties with PPMT. If called and sworn as a witness, I could and would testify competently thereto.

PPMT’s Services

4. PPMT is a not-for-profit corporation organized under the laws of the State of Montana. PPMT provides high-quality health care to Montana residents and operates five health centers across Montana. It operates one health center in Helena, Missoula, and Great Falls, respectively, and two in Billings (Planned Parenthood Heights and Planned Parenthood West).

5. PPMT is the largest provider of reproductive health care in Montana. It delivers high-quality, affordable, and non-judgmental health care to more than 11,000 people annually. The services that PPMT provides include: pregnancy diagnosis and counseling; contraceptive counseling; provision of all methods of contraception; HIV/AIDS testing and counseling; testing, diagnosis, and treatment of sexually transmitted infections; screenings for cervical and breast cancer; gender affirming care; miscarriage management; and abortions.

6. PPMT health centers are staffed with experienced practitioners who provide exemplary medical care. In addition to in-person visits, PPMT also offers telehealth appointments, conducted through a private and secure video-conferencing platform.

7. All five of PPMT's health centers provide abortion services. The Helena and Billings Heights health centers provide procedural abortion, in-person medication abortion ("MAB"), and site-to-site MAB, in which a patient at one PPMT health center connects through a telehealth visit with an abortion provider at another PPMT health center. The Billings West health center offers in-person and site-to-site MAB. The Great Falls health center provides site-to-site MAB. The Missoula health center provides direct-to-patient MAB, in which a PPMT provider meets with a patient in Montana through a telehealth visit, then mails the patient the medications for the MAB to a Montana address.

8. There are few abortion providers in Montana, and PPMT is not able to staff abortion providers at each PPMT health center every day. Site-to-site MABs allow PPMT to bridge potential gaps in care by offering MABs at PPMT health centers where a provider is not physically present. Site-to-site MABs decrease the amount of travel and expense required for patients, who can travel to the nearest PPMT health center, rather than to a health center where an abortion provider is physically present—which may be hours away. Direct-to-patient MABs eliminate the need to travel to a PPMT health center in person and provide a safe and effective way to overcome barriers to abortion access in Montana.

9. PPMT provides MAB through 77 days (11 weeks) as dated from the first day of a woman's last menstrual period ("LMP") and procedural abortion up to 21.6 weeks LMP.

10. Between July 1, 2020 and June 30, 2021, PPMT provided 935 MABs and 255 procedural abortions. Of the MABs provided by PPMT, 140 were direct-to-patient, 575 were

site-to-site, and 220 were in person. During this time, around 40% of our abortion patients had household income at or below 211% of the Federal Poverty Level.

Impact on PPMT of Challenged Legislation

11. Montanans already face significant hurdles and limitations in accessing abortion. Abortion providers in Montana are few and far between. Approximately 90% of the counties in Montana do not have an abortion provider, and about 50% of Montanans live in those counties. Given the rural nature of the State, it is not uncommon for pregnant women¹ seeking abortion to travel six to eight hours round trip to visit one of PPMT's health centers. Travel can be particularly problematic for pregnant women who need to take time off from work or school, who have mobility limitations that prevent them from leaving their homes, who are at risk of or experience intimate partner violence, or who need to arrange for care of children or other family members.

12. I have reviewed the challenged laws (HB 136, 171, and 140). As I explain below, I believe that each will increase the burden on women's access to abortion in a State where access is already limited. When the effects of these laws are considered together, the harm to those seeking and providing abortion in Montana is even more pronounced. Any requirement that delays a woman's access to an abortion increases the costs of the procedure since it may mean missing more days of work or school, needing additional child care, or needing additional lodging or transportation, and later abortions can be more costly. These laws also increase the risk that a patient may become ineligible for MAB, which is only available through 11 weeks

¹ I use "women" as shorthand for people who are or may become pregnant, but people of other gender identities, including transgender men and gender-diverse individuals, may also become pregnant, seek abortion services, and be harmed by the laws.

LMP, or may be pushed past the point where abortions are available at all. Not only that, these laws seek to scare women from obtaining abortion care.

20-Week Ban on Abortion

13. Montana law allows abortion up to the point of viability. However, I understand that HB 136 bans abortion beginning at 20 weeks (with very narrow exceptions), meaning that it would deny some pregnant women access to a pre-viability abortion.

14. If PPMT is no longer allowed to provide abortion care beginning at 20 weeks, affected patients will be burdened by the additional time and expenses required to travel out of state (for example, to Washington or Colorado) in order to end their pregnancy. For pregnant women who are unable to travel due to work, school, child care, mobility limitations, limited financial resources, or other factors, and who do not meet the extremely limited exceptions to this ban, HB 136 will effectively deny them their right to a pre-viability abortion and force them to carry their pregnancy to term against their will.

15. I understand that HB 136 also threatens providers who fail to comply with the law with felony charges and civil penalties. PPMT already struggles to hire or contract with new abortion providers due to the stigma associated with abortion and the routine harassment abortion providers face. Indeed, some abortion providers in Montana want to stay anonymous to avoid the stigma, harassment, and potential violence that can accompany the association with abortion. I believe that HB 136's severe penalties will further stigmatize abortion and abortion providers, which will make it even more difficult for PPMT to hire or contract with providers to perform abortions since they may be afraid to risk criminal prosecution or be associated with abortion providers.

16. If not for the 20-week ban, PPMT would continue to provide abortion between 20 and 21.6 weeks.

Omnibus MAB Restrictions Law

17. I understand that HB 171 limits women's ability to access abortion care early in their pregnancy by imposing numerous burdensome and unnecessary restrictions on MABs, including, among other things, imposing a 24-hour mandatory delay; requiring multiple in-person visits with the same provider; banning the provision of MAB using telehealth and medications by mail; imposing onerous and unnecessary provider qualifications; mandating that providers give their patients what I understand to be inaccurate information about so-called MAB "reversals;" and imposing reporting requirements that could expose the personal information of our patients and providers.

18. These restrictions would impact all MABs and therefore would impact 75% of the abortions PPMT provides. They would prohibit PPMT from offering telehealth MABs entirely (both site-to-site and direct-to-patient).

19. HB 171 requires that the same provider conduct an in-person examination of the patient and obtain the patient's "informed consent" at least 24 hours before providing abortion medication. Women would therefore have to make at least two trips to see the same provider. Because there are so few abortion providers in Montana, PPMT is not able to offer in-person MABs at every health center every day, and our providers do not provide care at the same health center every day. It is thus very likely that the abortion provider whom the patient saw for the in-person examination required by HB 171 will not be available to see the patient for the MAB 24 hours later or may be working at a different PPMT health center, which could be significantly further away from the patient's home.

20. In addition, HB 171 would prohibit PPMT from providing telehealth MAB, which PPMT currently offers in the form of site-to-site and direct-to-patient MAB. Telehealth MAB significantly expands access to abortion care for Montanans. With site-to-site MAB, abortion patients can travel to the nearest PPMT health center to receive abortion care via telehealth. If patients are required to meet with the prescribing abortion providers in person, they either will have to wait until a provider is physically present at the PPMT health center nearest them, which could be weeks, or they will have to travel to the PPMT health center where the provider is working, which could require significantly greater travel and expense. Patients who rely on our Great Falls health center may not be able to get an MAB at all since that health center does not have an abortion provider physically present. With direct-to-patient MAB, eligible patients in Montana meet with providers via telehealth from wherever they are located and are sent the medications for MAB to a Montana address, and so they do not need to travel to a PPMT health center at all. This is particularly valuable for women who do not live near any PPMT health center, who are affected by intimate partner violence, or who have mobility issues, and it has proven to be a safe and effective option for all patients during the COVID-19 pandemic.

21. Of the 140 direct-to-patient MABs provided by PPMT in FY 2021, 56% were provided to women who would have been forced to drive at least one to two hours each way to reach the nearest MAB provider, assuming no stopping, traffic, or inclement weather, and 18% were provided to women who would have been forced to drive at least two to five hours each way, again assuming no stopping, traffic, or inclement weather.² In other words, under HB 171, more than 100 out of 140 women would have had to drive anywhere from four to 20 hours, at a

² FY 2021 for PPMT was July 1, 2020 through June 30, 2021.

minimum, to obtain an MAB—which can be safely and effectively completed from the comfort of a woman’s own home.

22. HB 171 also requires abortion providers to be “credentialed and competent to handle complications management,” or have a contract with another practitioner credentialed to handle complications. Because the law defines “complications” incredibly broadly, many of PPMT’s providers will not have the necessary credentials unless they are able to contract with another provider who will claim to be able to handle the long list of complications. And it will be extremely difficult—if not impossible—to identify a practitioner who is willing and able to enter into a contract to “handle” the long list of complications set forth in HB 171.

23. Our providers are fully trained and competent to provide MABs without this vague credentialing requirement, and PPMT is not required to comply with any similar credential or contract requirements when we provide other care.

24. HB 171 also sets up an onerous public reporting system for MAB and requires that the reports be available to the public. PPMT already reports each abortion it performs to the State, including information on the method of abortion (MAB or procedural) and the gestational age of the fetus. The additional information that HB 171 demands is unnecessary and could ultimately deter women from seeking abortion because it includes potentially identifying information.

25. In addition, the reporting requirements make public the identity of the provider who dispensed the abortion-inducing drug. Some abortion providers seek to keep the fact that they provide abortion care confidential due to stigmatization and harassment, and HB 171’s mandated reporting of their identity could scare providers from providing abortions entirely and make it even more difficult for PPMT to hire or contract with abortion providers.

26. Finally, the Department of Health has 60 days after HB 171's effective date to create and distribute the forms. This would appear to prevent providers, including PPMT, from providing any MABs in Montana until the Department creates the form.

Ultrasound "Offer"

27. I understand that HB 140 requires a person performing an abortion to offer patients the opportunity to view an "active ultrasound" and "ultrasound image," and to "listen to the fetal heart tone," absent limited exceptions. The law also requires patients to sign a certification form stating that such these offers were made and stating whether the patient chose to view or listen to fetal activity.

28. PPMT does not offer every patient the opportunity to view an "active ultrasound" and "ultrasound image," and to listen to the "fetal heart tone." PPMT providers are empowered to exercise their discretion as to what specific offers are in the best interest of our patients. My understanding is that there is no medical reason for making this suite of offers. In my opinion, the only discernible rationale for making these offers and forcing women to sign a form indicating whether they chose to view or listen to fetal activity is to stigmatize abortion and pressure women out of their decision to have an abortion.

29. According to HB 140, PPMT must have patients sign a certification form developed by the Department of Health reflecting whether they decided to view or hear fetal activity. HB 140 does not specify by when the Department of Health must develop the certification form. If the Department does not create the form by the law's effective date, this would appear to prevent providers, including PPMT, from providing *any* abortions in Montana.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 8/13/21

Martha Stahl
Martha Stahl

Subscribed and sworn to before me this 13th day of August, 2021.

(NOTARIAL SEAL)

Joyce Bonvillain

Printed Name: JOYCE BONVILLAIN

