

D134029885

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

ENTERED
JAN 31 2022

PLANNED PARENTHOOD SOUTHWEST OHIO
REGION, *ET AL.*,

Plaintiffs,

-vs.-

OHIO DEPARTMENT OF HEALTH, *ET AL.*,

Defendants.

CASE NO. A 2100870

JUDGE ALISON HATHEWAY

ENTRY GRANTING PLAINTIFFS’
SECOND MOTION FOR
PRELIMINARY INJUNCTION

This matter comes before the Court on Plaintiffs Planned Parenthood Southwest Ohio Region, et al.’s Second Motion for Preliminary Injunction. This case involves a challenge to Am.S.B. No. 27, 2020 Ohio Laws File 77 (“SB27”), which requires embryonic and fetal tissue after a procedural abortion (also known as a surgical abortion) to be cremated or interred. On January 28, 2022, the Court heard Oral Arguments on the Motion.

The Court, having considered Plaintiffs’ Second Motion for Preliminary Injunction, State Defendants’ Brief in Opposition, and Plaintiffs’ Reply and having fully reviewed the positions of the parties, hereby **GRANTS** Plaintiffs’ Second Motion for Preliminary Injunction. Defendants, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with them are **PRELIMINARILY ENJOINED** from enforcing SB27 until final judgment is entered in this case.

I. BACKGROUND

Plaintiffs Planned Parenthood Southwest Ohio Region (“PPSWO”), Dr. Sharon Liner, Planned Parenthood of Greater Ohio (“PPGOH”), Preterm-Cleveland (“Preterm”), Women’s Med Group Professional Corporation (“WMGPC”), and Northeast Ohio Women’s Center (“NEOWC”) (collectively “Plaintiffs”) are health care providers in the state of Ohio who provide reproductive

health care, including procedural abortions. Plaintiffs, who represent all providers of procedural abortion in the state, raise due-process and equal-protection claims under the Ohio Constitution and pursuant to the Declaratory Judgment Act, R.C. 2721.03, against SB 27, which was signed into law on December 30, 2020. Under this Court’s previous order, Defendants are currently enjoined from enforcing the law until 30 days after the implementing rules took effect—that is, until February 8, 2022. Defendants are the Ohio Department of Health (“ODH”), ODH Director Bruce Vanderhoff, the State Medical Board of Ohio, and county and city prosecutors charged with enforcing the criminal penalties set forth in the law.

A. Abortion Provision in Ohio

Plaintiffs represent the following facts regarding abortion provision in Ohio, which Defendants do not dispute. Plaintiffs state there are two main methods of abortion: medication abortion and procedural abortion, and that both are effective in terminating a pregnancy. Procedural abortion is the only method of abortion available after ten weeks in pregnancy, and for some patients, it is the only method available at any gestation. According to ODH data, in 2019, more than 61 percent of abortions in the state were procedural abortions.

B. SB27

SB27 requires that “fetal remains” (which it defines as “the product of human conception that has been aborted,” R.C. 3726.01(C)) from a procedural abortion be disposed of only by cremation or interment. A patient who has a procedural abortion may decide whether to dispose of fetal remains by cremation or interment and may determine the location of such disposition. R.C. 3726.03(A).

Failure to comply with SB27 would subject Plaintiffs and their physicians to significant penalties, including criminal penalties. Noncriminal penalties include license suspension or

revocation for both abortion facilities and physicians, fines, damages, and court injunctions. *See* Ohio Adm.Code 3701-83-05(C); Ohio Adm.Code 3701-83-05.1(B), (C)(2), (C)(4), and (F); Ohio Adm.Code 3701-83-05.2(F); R.C. 3702.32(D); R.C. 2317.56(G)(1) and (2); R.C. 4731.22(B)(21) and (23); R.C. 4731.225(B); R.C. 3701.79(J). Defendants ODH and the State Medical Board have independent enforcement authority.

II. ANALYSIS & DISCUSSION

A. Standard

A party seeking a preliminary injunction must demonstrate “that the moving party has a substantial likelihood of success in the underlying suit; that the moving party will suffer irreparable harm if the order does not issue; that no third parties will be harmed if the order is issued; that the public interest is served by issuing the order.” *Procter & Gamble Co. v. Stoneham*, 140 Ohio App.3d 260, 267–68, 747 N.E.2d 268 (1st Dist.2000).

B. Plaintiffs Are Substantially Likely to Succeed on Their Claims.

1. Plaintiffs are likely to prevail against Defendants’ threshold challenges to their standing and the availability of relief they seek.

State Defendants raise two threshold challenges to Plaintiffs’ claims, but Plaintiffs are likely to prevail on both issues.

First, State Defendants argue that Plaintiffs lack third-party standing to bring claims on behalf of their patients. But, as decades of precedent have confirmed and as this Court has previously held, “[t]hird-party standing is available in circumstances like these.” *Planned Parenthood Southwest Ohio Region. v. Ohio Dept. of Health*, Hamilton C.P. No. A 2101148 (Apr. 19, 2021) (“PPSWO Telemedicine Op.”), at 5; *June Med. Servs. L.L.C. v. Russo*, ___ U.S. ___, 140 S.Ct. 2103, 2118, 207 L.Ed.2d 566 (2020) (plurality opinion); *id.* at 2139 fn.4 (Roberts, C.J., concurring). Indeed, the Ohio Supreme Court has stated that “[t]here may be . . . ‘circumstances

where it is necessary to grant a third party standing to assert the rights of another.” *Util. Serv. Partners, Inc. v. Pub. Util. Comm.*, 124 Ohio St.3d 284, 2009-Ohio-6764, 921 N.E.2d 1038, ¶ 49 (“PUC”), quoting *Kowalski v. Tesmer*, 543 U.S. 125, 129–130, 125 S.Ct. 564, 160 L.Ed.2d 519 (2004); *see also, e.g., State v. Madison*, 160 Ohio St.3d 232, 2020-Ohio-3735, 155 N.E.3d 867, ¶ 95, *cert. denied, sub nom. Madison v. Ohio*, ___ U.S. ___, 141 S.Ct. 2597, 209 L.Ed.2d 733 (2021) (mem.); *Cincinnati City School Dist. v. State Bd. of Edn.*, 113 Ohio App.3d 305, 314, 680 N.E.2d 106 (10th Dist.1996); *compare Women’s Med. Professional Corp. v. Voinovich*, 911 F.Supp. 1051, 1058 (S.D. Ohio 1995), citing *Singleton v. Wulff*, 428 U.S. 106, 96 S.Ct. 2868, 49 L.Ed.2d 826 (1976) (plurality opinion), *aff’d*, 130 F.3d 187 (6th Cir.1997).

Further, a long line of federal precedent—which this Court may look to by analogy—confirms third-party standing is available both (1) to “abortion providers [who] invoke the rights of their actual or potential patients in challenges to abortion-related regulations,” and (2) where “enforcement of [a] challenged restriction against the litigant would result indirectly in the violation of third parties’ rights.” (Emphasis deleted.) *June Med. Servs.* at 2118–19 (plurality opinion), quoting *Kowalski* at 130; *see also id.* at 2139 fn.4 (Roberts, C.J., concurring); *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 881–87, 112 S.Ct. 2791, 120 L.Ed.2d 674 (1992) (plurality opinion); *City of Akron v. Akron Ctr. for Reproductive Health, Inc.*, 462 U.S. 416, 440 fn.30, 103 S.Ct. 2481, 76 L.Ed.2d 687 (1983), *overruled on other grounds by Casey* at 881–82; *Planned Parenthood of Cent. Missouri v. Danforth*, 428 U.S. 52, 62, 96 S.Ct. 2831, 49 L.Ed.2d 788 (1976); *Doe v. Bolton*, 410 U.S. 179, 188, 93 S.Ct. 739, 35 L.Ed.2d 201 (1973); *compare Griswold v. Connecticut*, 381 U.S. 479, 481, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965).

State Defendants claim that Plaintiffs have not shown that their patients are hindered from bringing claims of their own. Defendants Ohio Dept. of Health, Director Bruce Vanderhoff, and State Medical Board of Ohio's Response in Opposition to Plaintiffs' Second Motion for Preliminary Injunction ("Opp. Br.") at 7. Even if such a separate showing were required, precedent establishes that abortion patients are hindered from asserting their own claims, given the time-sensitive and private nature of pregnancy and the decision to have an abortion. *See Singleton* at 117–18 (plurality opinion). In any case, third-party standing is a prudential—not jurisdictional—consideration even under federal law. *See, e.g., June Med. Servs.*, 140 S.Ct. at 2117–20 (plurality opinion); *id.* at 2139 fn.4 (Roberts, C.J., concurring). Plaintiffs are therefore likely to prevail against Defendants' third-party standing argument.

Second, State Defendants argue that Plaintiffs lack a cause of action for their claims. State Defendants "ignore the availability of relief under Ohio's Declaratory Judgment Act" ("DJA"). PPSWO Telemedicine Op. at 6, citing R.C. 2721.03, *Pack v. City of Cleveland*, 1 Ohio St.3d 129, 438 N.E.2d 434 (1982), at paragraph one of the syllabus; *see also generally* Opp. Br. at 8–10. As this Court and other Ohio courts have held, the DJA "provides a 'legislative enactment' on which Plaintiffs may rely to seek declaratory and injunctive relief for due-process and equal-protection violations[.]" PPSWO Telemedicine Op. at 6; R.C. 2721.09; R.C. 2727.02; *see also, e.g., State v. Williams*, 88 Ohio St.3d 513, 521, 728 N.E.2d 342 (2000); *Moore v. City of Middletown*, 133 Ohio St.3d 55, 2012-Ohio-3897, 975 N.E.2d 977, ¶ 45; *Riverside v. State*, 2d. Dist. Montgomery No. 26024, 2014-Ohio-1974, ¶ 30–38. Moreover, "[e]ven if the [DJA] did not supply a cause of action for the Plaintiffs to seek declaratory and injunctive relief," the Ohio Constitution's "guarantees of equal protection and substantive due process under Article I, Sections 1, 2, 16, 20, and 21 are self-executing because they are 'sufficiently precise . . . to provide clear guidance to courts with respect

to their application.” PPSWO Telemedicine Op. at 7, quoting *Williams* at 521; see also *In re Adoption of H.N.R.*, 145 Ohio St.3d 144, 2015-Ohio-5476, 47 N.E.3d 803, ¶ 24–25; *Arbino v. Johnson & Johnson*, 116 Ohio St.3d 469, 2007-Ohio-6948, 880 N.E.2d 420, ¶ 99–104; *Stolz v. J & B Steel Erectors, Inc.*, 155 Ohio St.3d 567, 2018-Ohio-5088, 122 N.E.3d 1228, ¶13, citing *Arbino* at ¶ 48–49; *In the Matter of Adoption of Y.E.F.*, 163 Ohio St.3d 521, 2020-Ohio-6785, 171 N.E.3d 302, ¶ 15.

2. Plaintiffs are substantially likely to succeed on their claims that SB27 violates the Ohio Constitution’s guarantee of due process.

The Ohio Supreme Court has on numerous occasions recognized a fundamental substantive-due-process right under the Ohio Constitution that extends to matters involving privacy, procreation, and bodily integrity and autonomy. See, e.g., *Stone v. City of Stow*, 64 Ohio St.3d 156, 160–63, 593 N.E.2d 294 (1992). The Ohio Constitution’s protection for substantive-due-process rights is distinct from that accorded under the U.S. Constitution because the Ohio Constitution provides a “remedy by due course of law” to “every person, for an injury done to him in his land, goods, *person*, or reputation.” (Emphasis added.) Ohio Constitution, Article I, Section 16. Deprivation of reproductive autonomy falls squarely within the meaning of an injury done to one’s person under the Ohio Constitution. Moreover, Article I, Section 21 of the Ohio Constitution, which “[p]reserv[es] [] the freedom to choose health care and health care coverage” for Ohioans, confirms that freedom of choice in health care is a fundamental right. Given the breadth of the Ohio Constitution’s guarantees of bodily autonomy, privacy, and freedom of choice in health care, strict scrutiny must apply to a law that infringes on this protection for patients and their medical providers. See also PPSWO Telemedicine Op. at 8–9.

State Defendants argue that rational basis review applies because SB27 does not regulate abortion. But SB27, on its face, applies to abortion providers who provide, and patients who obtain,

procedural abortions. Abortion providers cannot provide procedural abortions without complying with SB27. See *Women's Med. Professional Corp. v. Baird*, 438 F.3d 595 (6th Cir.2006). Strict scrutiny applies, and State Defendants have not shown that SB27 meets its demands. Indeed, they make no arguments at all under the strict scrutiny standard, despite the burden being on them to show SB27 survives strict scrutiny.

SB27 is not narrowly tailored to serve a compelling state interest. State Defendants argue SB27 furthers an interest in proper disposal of tissue after a procedural abortion. But it is unclear why this is so when Plaintiffs' current method of disposing of this tissue—incineration—is generally the same process as cremation, and infectious waste requirements that applied to this tissue before SB27 still apply to disposal of tissue removed from a patient's body after a medical procedure, including tissue from the identical procedure providers utilize to aid patients after a miscarriage.

State Defendants also argue that SB27 furthers an interest in “respect for unborn life.” Opp. Br. at 13. But the State does not require health care facilities to dispose of identical tissue after miscarriage and infertility treatments by cremation or interment, thus casting strong doubt on the State's claimed purposes. Finally, while State Defendants claim SB27 increases patient choice in disposition of tissue, it actually does the opposite by limiting disposition to *only* cremation or interment—disposition options that patients can already choose under the requirements that previously applied to disposal of tissue from a procedural abortion. In sum, SB27 is not narrowly tailored to serve any compelling state interest.

Even if strict scrutiny did not apply, SB27 could not survive the federal undue burden standard.¹ That standard requires courts to “consider the burdens a law imposes on abortion access together with the benefits those laws confer” and “weigh[] the asserted benefits against the burdens.” *Whole Woman's Health v. Hellerstedt*, 136 S.Ct. 2292, 2309–10, 2195 L.Ed.2d 665 (2016). As explained above, SB27 imposes substantial burdens on patients seeking procedural abortion. Plaintiffs present convincing evidence that SB27 will operate as an effective ban on procedural abortions before approximately 13 weeks of pregnancy, as measured from the first day of a patient’s last menstrual period (“LMP”),² when most patients obtain procedural abortions, and a complete ban on abortions between 10 and 13 weeks LMP; that patients will be forced to delay their procedures until later in pregnancy, when abortion carries greater risks and is more expensive; and that the law will otherwise substantially increase the cost of obtaining an abortion. Additionally, the law may prevent abortion patients seeking to identify or convict a perpetrator of

¹ Ohio precedent recognizes that the Ohio Constitution’s Due Course clause is at least as protective of individual rights as the federal due process clause, including in the abortion context. *See, e.g., Arnold v. City of Cleveland*, 67 Ohio St.3d 35, 42, 616 N.E.2d 163 (1993).

² Plaintiffs present convincing evidence, which State Defendants do not dispute, that they cannot reliably separate embryonic and fetal tissue (which must be cremated or interred under SB27) from other pregnancy tissue (which remains subject to infectious waste regulations and cannot be cremated or interred) prior to around 13 weeks of LMP, and thereby risk violating either SB27 or infectious waste regulations if they provide procedural abortions prior to that time. State Defendants appear to take the position that pregnancy tissue from a procedural abortion need not be separated, and that all of it must be cremated or interred, thereby potentially relieving Plaintiffs and their patients of the burden of not being able to provide or obtain procedural abortions until approximately 13 weeks LMP. Opp. Br. at 24–25. But State Defendants’ statements on this point are muddled and in tension with arguments they make elsewhere indicating that some tissue from procedural abortions can be sent to third parties without violating SB27’s requirements. In any case, Plaintiffs are not required to rely on State Defendants’ mid-litigation assurances. *See EMW Women's Surgical Ctr., P.S.C. v. Friedlander*, 960 F.3d 785, 805–06 (6th Cir.2020) (subsequent history omitted). Moreover, even if this particular burden is mitigated, Plaintiffs’ evidence demonstrates that SB27 would still impose significant burdens, such that Plaintiffs are substantially likely to succeed on their due-process claim.

sexual assault or seeking to diagnose a medical condition from sending the tissue to a pathology or crime lab without providers risking violating SB27.

3. *Plaintiffs are substantially likely to succeed on their claims that SB27 violates the Ohio Constitution's guarantee of equal protection.*

The Ohio Constitution's guarantee of equal protection, found in Article I, Section 2, "requires that the government treat all similarly situated persons alike." *Sherman v. Ohio Pub. Emps. Retirement Sys.*, 163 Ohio St.3d 258, 2020-Ohio-4960, 169 N.E.3d 602, slip op. ¶ 14, citing *McCrone v. Bank One Corp.*, 107 Ohio St.3d 272, 2005-Ohio-6505, 839 N.E.2d 1, ¶ 6. SB27 does not do so. Instead, it singles out patients who obtain and providers who perform procedural abortion for unnecessary restrictions that do not apply to similarly situated persons—including those who obtain or perform other medical procedures such as miscarriage management or in vitro fertilization that involve the disposition of identical embryonic or fetal tissue. It imposes severe burdens on "pregnant wom[e]n" who need procedural abortions, R.C. 3726.03, without any countervailing benefit. And SB27 targets abortion providers with severe sanctions for violations of its requirements that do not apply to other medical providers, including providers who treat miscarriage using the same medical procedure.

The parties again disagree as to the appropriate level of review to apply. The Court agrees with Plaintiffs that SB27 warrants strict scrutiny because it burdens a fundamental right to substantive due process in matters involving privacy, procreation, bodily autonomy, and freedom of choice in health care decision making, *see above*, and because it expressly discriminates against women—a suspect class. *Williams*, 88 Ohio St.3d at 530, 728 N.E.2d 342, quoting *Massachusetts Bd. of Retirement v. Murgia*, 427 U.S. 307, 313, 96 S.Ct. 2562, 49 L.Ed.2d 520 (1976). State Defendants argue instead that "the undue-burden test applies, and the equal-protection claims collapse into that analysis." Opp. Br. at 18. But Plaintiffs bring constitutional claims under the

Ohio Constitution, which provides distinct protections under the due course of law clause in Article I, Section 16 and the equal protection clause in Article I, Section 2, and the claims must be analyzed separately. *See Morris v. Savoy*, 61 Ohio St.3d 684, 691–692, 576 N.E.2d 765 (1991); *Simpkins v. Grace Brethren Church of Delaware*, 149 Ohio St.3d 307, 2016-Ohio-8118, ¶ 45. Finally, strict scrutiny applies to both Plaintiffs’ and their patients’ equal-protection claims, as a person’s right to obtain an abortion is inextricably bound up with the doctor’s ability to provide that care. *See, e.g., Planned Parenthood Assn. of Utah v. Herbert*, 828 F.3d 1245, 1260 (10th Cir.2016); *Planned Parenthood of Mid-Missouri & E. Kansas v. Dempsey*, 167 F.3d 458, 464 (8th Cir.1999); *Planned Parenthood of Cent. & N. Arizona v. Arizona*, 718 F.2d 938, 944 (9th Cir.1983).

SB27 does not survive strict scrutiny—and once again State Defendants make no arguments that it does. There is no compelling state interest in applying SB27’s requirements only to tissue from procedural abortion and not to identical tissue resulting from physician management of miscarriage, during which providers utilize a procedure identical to procedural abortion to remove embryonic or fetal tissue (and other pregnancy tissue) from a patient undergoing a miscarriage. In vitro fertilization (“IVF”) clinics are not required to comply with SB27’s mandates when they dispose of pre-implantation embryos either. *See Whole Woman’s Health v. Smith*, 338 F.Supp.3d 606, 641–42 (W.D.Tex.2018), *appeal filed*, No. 18-50730 (5th Cir. Sep. 7, 2018). Indeed, SB27’s requirements appear even more restrictive than pre-existing disposal requirements for human bodies under Ohio law, by limiting disposal options to interment or cremation and requiring that cremation of tissue from a procedural abortion be at an Ohio-licensed crematory, R.C. 3726.02(B), and that locations for interring tissue provided by the abortion provider be at Ohio-registered cemeteries, Ohio Adm.Code 3701-46-01(B)(1)(b). *Compare* R.C. 3705.01(J) (stating dead human bodies can be interred or cremated, can be removed from the state, donated,

or disposed of pursuant to “other authorized means”). There is no compelling state interest to which SB27 is narrowly tailored for such differential treatment. Even if this Court were to hold that strict scrutiny did not apply here, it would nevertheless enjoin SB27 because the law could not satisfy even rational-basis review for these same reasons.

4. *Plaintiffs are substantially likely to succeed on their claims that SB27 is unconstitutionally vague.*

This Court preliminarily enjoins Defendants from enforcing SB27 for the additional reason that it is impermissibly vague in several key respects. First, the Court agrees with Plaintiffs that the term “fetal remains” is vague because it does not specify whether it includes pregnancy tissue such as the placenta, gestational sac, and umbilical cord, and therefore does not provide “fair notice” to Plaintiffs as to how they must dispose of this other, non-embryonic or fetal tissue, *see State v. Tanner*, 15 Ohio St.3d 1, 3, 472 N.E.2d 689 (1984), and will force them to “steer far wider of the unlawful zone” than if the law were not vague by not providing procedural abortions until around 13 weeks LMP. *Grayned v. City of Rockford*, 408 U.S. 104, 109, 92 S.Ct. 2294, 33 L.Ed.2d 222 (1972).

Second, SB27 invites “arbitrary, capricious and generally discriminatory enforcement,” *Tanner* at 3, because it leaves providers unsure of whether they can send embryonic and fetal tissue from procedural abortion to pathologists and crime labs without risking the law’s penalties. Plaintiffs represent (and State Defendants do not dispute) that they cannot control whether the pathologists—who are sometimes located in another state—and crime labs to whom they send tissue will cremate and inter the tissue, and it is unclear under the statute whether Plaintiffs will be subject to penalties if these third parties fail to do so.

Third, SB27 does not address whether embryonic and fetal tissue can be simultaneously cremated. Despite State Defendants’ claims that individual cremation is required, such a

requirement is not apparent from either the face of the law itself nor from the pre-existing regulations in Ohio law governing cremation. Plaintiffs represent that they will thus be forced to “steer far wider of the unlawful zone” by contracting with vendors to individually cremate tissue, thereby burdening their patients. *Grayned* at 109.

Finally, SB27 states that cremation must occur at Ohio-licensed crematories. R.C. 3726.02(B). And the law’s implementing rules require that the interment options provided by abortion providers be at Ohio-registered cemeteries. Ohio Adm.Code 3701-46-01(B)(1)(b). But it is unclear whether this means that all tissue from procedural abortions must be disposed in state, or whether it requires only that the tissue that is disposed in state must be disposed at a licensed or registered entity.

Because SB27 fails to provide fair notice, invites arbitrary enforcement, and forces Plaintiffs to steer far wider of the unlawful zone than if the law provided clear guidelines, resulting in severe burdens to Plaintiffs and their patients, it is unconstitutionally vague.

C. Plaintiffs and Their Patients Will Suffer Irreparable Harm Absent Relief.

“A finding that a constitutional right has been threatened or impaired mandates a finding of irreparable injury as well.” *Magda v. Ohio Elections Comm.*, 2016-Ohio-5043, 58 N.E.3d 1188, ¶ 38 (10th Dist.), citing *Bonnell v. Lorenzo*, 241 F.3d 800, 809 (6th Cir.2001). Plaintiffs have shown a likelihood of success on the merits of their claims that enforcement of SB27 will deprive them and their patients of their constitutional rights of due process and equal protection, and so “a finding of irreparable harm follows.” PPSWO Telemedicine Op. at 11.

Contrary to State Defendants’ assertion, and as this Court holds above, SB27 is a restriction on abortion. SB27 would severely impede access to abortion, and its enforcement would irreparably harm Plaintiffs and their patients. Plaintiffs have submitted ample evidence detailing the non-compensatory harms SB27 will cause to themselves and to their patients, including

significantly delaying patients in obtaining abortions and preventing patients from obtaining abortions. SB27 will also irreparably harm Plaintiffs because it will force them to deny or delay requested care.

D. No Third Parties Will Be Harmed and the Public Interest Will Be Served.

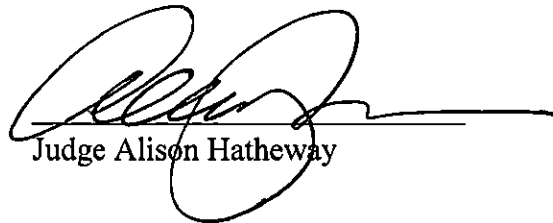
“[T]he state cannot be harmed when an unconstitutional law does not go into effect.” *Newburgh Heights v. State*, 2021-Ohio-61, 166 N.E.3d 632, ¶ 76 (8th Dist.); *see also* PPSWO Telemedicine Op. at 13. Plaintiffs have demonstrated that they are substantially likely to succeed on their due-process and equal-protection claims and therefore preventing this violation of their and their patients’ constitutional rights is in the public interest.

III. CONCLUSION

For the foregoing reasons, Plaintiffs’ Second Motion for Preliminary Injunction is hereby **GRANTED**. Defendants, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with them are **PRELIMINARILY ENJOINED** from enforcing SB27 until final judgment is entered in this case. The Court hereby sets the Civ. R. 65(C) bond requirement at \$0.00.

IT IS SO ORDERED.

Dated: 1-31-2022


Judge Alison Hatheway