

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

FALLS CHURCH MEDICAL CENTER, LLC *et al.*,

Plaintiffs,

v.

M. NORMAN OLIVER, *et al.*,

Defendants.

CASE NO: 3:18-CV-428-HEH

PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56(a) and Local Civil Rule 56, Plaintiffs hereby move this Court for summary judgment as to Count III and Count IV of Plaintiffs' Amended Complaint. Plaintiffs' motion is supported by the Memorandum of Law in Support of Plaintiffs' Motion for Partial Summary Judgment and by the Declarations of Mark D. Nichols, M.D., Joanne Spetz, Ph.D., Jane Collins, Ph.D., Caitlin Myers, Ph.D., Janet Turan, Ph.D., M.P.H., and D. Sean Trainor.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in favor of Plaintiffs on Counts III and IV of the Amended Complaint; declare unconstitutional the Hospital Requirement (Va. Code Ann. § 18.2-73; 12 Va. Admin. Code § 5-412-230(A)), the Physician-Only Law (Va. Code Ann. §§ 18.2-72, -73; 12 Va. Admin. Code §§ 5-412-190(B), -260(B)), and, as to medication and aspiration abortion provided by APCs and second-trimester abortion provided in facilities other than hospitals, the general criminal ban on abortion (Va. Code Ann. § 18.2-71); permanently enjoin Defendants, their employees, agents, and successors from

enforcing those provisions; and grant such other relief as the Court deems just, proper, and equitable.¹

RESPECTFULLY SUBMITTED this 11th day of March, 2019.

/s/ D. Sean Trainor

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¹ Mem. Op. at 13 n.10, ECF No. 52 (Sept. 26, 2018) (“[N]othing prevents [a] Court from awarding facial relief as the appropriate remedy for petitioners’ as-applied claims.” (quoting *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292, 2307 (2016))).

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**Motion for Admission Pro Hac Vice to be
filed or pending

CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2019, I electronically filed the foregoing Motion for Partial Summary Judgment and all accompanying documents, including the Memorandum of Law in Support of Plaintiffs' Motion for Partial Summary Judgment, Declaration of Mark D. Nichols, M.D., Declaration of Joanne Spetz, Ph.D., Declaration of Jane Collins, Ph.D., Declaration of Caitlin Myers, Ph.D., Declaration of Janet Turan, Ph.D., M.P.H., and Declaration of D. Sean Trainor, with the clerk of the court through the CM/ECF system, which will send a notice of electronic filing to all counsel of record who have appeared in the case.

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**[PROPOSED] ORDER
GRANTING PLAINTIFFS'
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

This matter comes before the Court on the Motion for Partial Summary Judgment filed pursuant to Fed. R. Civ. P. 56(a) and Local Civil Rule 56 by Plaintiffs Falls Church Medical Center, LLC, Whole Woman’s Health Alliance, Virginia League for Planned Parenthood, and Dr. Jane Doe. Upon consideration of the Memorandum of Law in Support of Plaintiffs’ Motion for Partial Summary Judgment and the Declarations of Mark D. Nichols, M.D., Joanne Spetz, Ph.D., Jane Collins, Ph.D., Caitlin Myers, Ph.D., Janet Turan, Ph.D., M.P.H., and D. Sean Trainor, along with the opposition filed thereto, the Court finds that there are no material facts in dispute and concludes that Plaintiffs are entitled to judgment as a matter of law on Count III and Count IV of the Amended Complaint.

Accordingly, IT IS ORDERED that Plaintiffs’ motion for partial summary judgment is GRANTED;

IT IS FURTHER DECLARED that Va. Code Ann. §§ 18.2-72, -73; 12 Va. Admin. Code §§ 5-412-190(B), -230(A), -260(B), and, as to medication and aspiration abortion provided by advanced practice clinicians and second-trimester abortion provided in facilities other than hospitals, Va. Code Ann. § 18.2-71, violate the United States Constitution; and

IT IS FURTHER ORDERED that Defendants, their employees, agents, and successors are permanently enjoined from enforcing the above provisions.

Date: _____

Hon. Henry E. Hudson
United States District Judge

Submitted by:

/s/ D. Sean Trainor

D. Sean Trainor (VSB No. 43260)

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