



DEPARTMENT OF HEALTH & HUMAN SERVICES

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<http://www.hhs.gov/ocr/>

OFFICE OF THE SECRETARY

Office for Civil Rights  
200 Independence Ave., SW  
Washington, DC 20201

VIA U.S. MAIL AND ELECTRONIC MAIL [REDACTED]

January 18, 2019

Francis J. Manion, Esq.  
American Center for Law and Justice  
[REDACTED]

Re: Finding of Violation in OCR Transaction Number 18-292848

Dear Mr. Manion:

The Office for Civil Rights (OCR) for the U.S. Department of Health & Human Services (HHS) has completed its investigation and has reached a determination regarding the complaint you filed with our office on behalf of LivingWell Medical Clinic, Inc., Pregnancy Center of the North Coast, Inc., and Confidence Pregnancy Center, Inc. (OCR Transaction Number 18-292848). The complaint alleged that the State of California ("California") engaged in impermissible discrimination when it enacted the Reproductive Freedom, Accountability, Comprehensive Care, and Transparency Act (the "FACT Act"),<sup>1</sup> subjecting your clients to potential fines if they refused to provide certain notices or refer for or make arrangements for abortion.

OCR has completed its investigation and, as detailed in the enclosed Notice of Violation, has determined that California violated the Weldon Amendment<sup>2</sup> and the Coats-Snowe Amendment.<sup>3</sup>

On June 26, 2018, the Supreme Court issued its opinion in *National Institute of Family and Life Advocates v. Becerra*, 585 U.S. \_\_\_, 138 S. Ct. 2361 (2018) ("*NIFLA*"), in which it held that the plaintiffs in that case were likely to prevail on the merits of their claim that the FACT Act violated their First Amendment right of free speech. In light of this decision, on October 26, 2018, the U.S. District Court for the Southern District of California entered a permanent injunction in favor of the plaintiffs and against California concerning the FACT Act. The court order permanently enjoins California from enforcing the FACT Act and does not limit its application to the named plaintiffs. Thus, the injunction also protects your clients and all similarly-situated pregnancy resource centers in California.

<sup>1</sup> Cal. Health & Safety Code Ann. §§ 123470 *et seq.*

<sup>2</sup> *E.g.*, Dep't of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Pub. L. No. 115-245, Div. B, Tit. V, § 507(d), 132 Stat. 2981, 3118 (September 28, 2018).

<sup>3</sup> 42 U.S.C. § 238n.

Accordingly, because the offending statute has been permanently enjoined, OCR deems California's adherence to the injunction a sufficient remedy to the violations found by OCR, and is therefore closing your clients' complaints as satisfactorily resolved. However, if California were to violate the terms of the injunction, it would be subject to a reopening of the complaints and further enforcement action by OCR.

If you or your clients believe that you have been or are being intimidated, threatened, coerced, discriminated against or retaliated against for filing this complaint, providing information to OCR, or otherwise participating in this investigation, please let OCR know immediately, including if you or your clients experience such actions in the future.

If you have any questions about OCR's findings, please contact Luis E. Perez, Deputy Director, Conscience and Religious Freedom Division, Office for Civil Rights, U.S. Department of Health and Human Services, at [REDACTED] or [REDACTED].

Sincerely,



Roger T. Severino  
Director

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