

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION**

EMW WOMEN’S SURGICAL CENTER,  
P.S.C., *et al.*,

Plaintiffs,

v.

ANDREW G. BESHEAR *et al.*,

Defendants.

Case No.: 3:18-cv-00224-JHM

**JOINT CONSENT ORDER**

1. This matter involves a challenge to House Bill 454, 2018 Gen. Assemb., Reg. Sess. (Ky. 2018) (hereinafter “the Act”), which was signed into law on April 10, 2018, and took effect immediately pursuant to its emergency clause.

2. The Plaintiffs are EMW Women’s Surgical Center, P.S.C.; Ashlee Bergin, M.D., M.P.H.; and Tanya Franklin, M.D., M.S.P.H. (collectively “Plaintiffs” hereinafter). The Defendants are Andrew G. Beshear, in his official capacity as Attorney General of the Commonwealth of Kentucky; Scott Brinkman, in his official capacity as interim Secretary of the Cabinet for Health and Family Services; Michael S. Rodman, in his official capacity as Executive Director of the Kentucky Board of Medical Licensure; and Thomas B. Wine, in his official capacity as Commonwealth’s Attorney for the 30<sup>th</sup> Judicial Circuit of Kentucky (collectively “Defendants” hereinafter).

3. Plaintiffs filed their complaint the day the Act was signed (Docket No. 1); they moved for a temporary restraining order and/or preliminary injunctive relief the next morning, April 11, 2018 (Docket No. 6). On April 12, 2018, the Court convened a telephonic hearing on

the motion, at which Plaintiffs and Defendants agreed to the entry of this consent order suspending enforcement of the Act according to the terms set forth below until the Court rules on Plaintiffs' motion for preliminary injunctive relief.

4. Defendants hereby agree that they—along with their agents, employees, all those acting in concert with them, and their successors in office—shall take no actions to enforce the Act in any manner until such time as the Court rules upon Plaintiffs' motion for temporary restraining order and/or preliminary injunctive relief (Docket No. 6). Defendants further agree that if the constitutionality of the Act (or any provision thereof) is ever upheld at any later date, neither Defendants nor their agents, employees, those acting in concert with them, or their successors in office shall take any action to enforce the Act against Plaintiffs for conduct undertaken during the period that this Order suspends the Act's operation—that is, from the date of this Order's entry until such time as the Court rules upon Plaintiffs' motion for preliminary injunctive relief.

5. Defendants' brief in opposition to Plaintiffs' motion shall be due on May 2, 2018 (21 days after the filing of Plaintiffs' motion). Plaintiffs' reply in further support of their motion shall be due May 17, 2018 (14 days after the filing of Defendants' opposition brief).

6. The evidentiary hearing on Plaintiffs' motion for preliminary injunctive relief will be held at 9:00 a.m. on June 5, 2018.

7. On May 22, 2018, the parties shall exchange lists containing all witnesses who will testify at the June 5, 2018, preliminary injunction hearing.

Dated: April 12, 2018



Joseph H. McKinley, Jr., Chief Judge  
United States District Court

April 13, 2018

Seen and Approved:

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*\*Motion for pro hac vice granted*

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