

FILED IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
NATRONA COUNTY, WYOMING

DANIELLE JOHNSON; GIOVANNINA)
ANTHONY, M.D.; RENE HINKLE, M.D.;)
CHELSEA’S FUND; CIRCLE OF HOPE HEALTH)
CARE SERVICES, INC., d/b/a Wellspring Health)
Access,)
Plaintiffs,)

vs.)

No. 116148

STATE OF WYOMING; MARK GORDON,)
Governor of Wyoming; KEITH G. KAUTZ,)
Attorney General for the State of Wyoming; JOHN)
HARLIN, Sheriff of Natrona County, Wyoming;)
SHANE CHANEY, Chief of Police, City of Casper,)
Wyoming,)
Defendants.)

ORDER

This matter is before the court on the plaintiffs’ Motion For Temporary Restraining Order Against The 2026 Abortion Ban, filed March 31, 2026. The court held a hearing on the motion April 22, 2026.¹ The motion was heard by the court on an expedited basis; the case has not been fully litigated and all parties will have opportunities to provide the court additional information, evidence, pertinent legal authority, and argument, as the case proceeds. The court has reviewed and considered the pertinent pleadings, the parties’ arguments, and all the parties’ contentions (even if those contentions are not referenced in this ruling), and finds and orders as follows:

Summaries of Wyoming’s recent abortion legislation and its ensuing litigation appear in the plaintiffs’ and state defendants’ pleadings in this case, and the Wyoming Supreme Court’s opinion in *State v. Johnson*, 2026 WY 1,

¹ This is not a case in which the plaintiffs’ motion for a temporary injunction is before the court *ex parte*, or without notice to adverse parties.

Defendants Harlin and Chaney did not file a written response to the plaintiffs’ motion and did not argue or take a position on the motion at the April 22, 2026 hearing.

582 P.3d 380 (Wyo. 2026). In response to *Johnson* and related litigation, the Wyoming Legislature passed several more statutes in early 2026 that address the “termination of pregnancy.” Some of the statutes are now effective and legally enforceable.² Amongst these statutes is Wyo. Stat. Ann. § 35-6-403:

(a) Except as provided in subsection (b) of this section, no person shall perform, induce, attempt to perform or attempt to induce a termination of pregnancy if:

(i) The unborn child has a detectable fetal heartbeat; or

(ii) The person fails or has failed to make the determination of whether the unborn child has a detectable fetal heartbeat under W.S. 35-6-402.

(b) The restriction in subsection (a) of this section shall not apply if, in reasonable medical judgment, a medical emergency exists. If a medical emergency exists, a licensed physician may terminate the pregnancy, provided that the termination of the pregnancy shall be in the manner that provides the best opportunity for the unborn child to survive, unless that manner would pose a greater risk of death or substantial and irreversible physical impairment to the pregnant woman.

Others of the statutes define the terms contained in Section 403, guide its application, and establish felony criminal and mandatory civil licensure penalties for statutory violations. *See* Wyo. Stat. Ann. §§ 35-6-401, -402, and -404; 33-21-146(c); 33-24-122(d); 33-26-402(c); and 33-26-508(e).

On March 31, 2026, the plaintiffs filed a complaint for declaratory and injunctive relief, wherein they ask this court to declare certain statutes unconstitutional and enjoin enforcement of the statutes. The plaintiffs also (concomitantly with their complaint) filed a Motion For Temporary Restraining Order Against The 2026 Abortion Ban “request[ing] the entry of a temporary restraining order effective *immediately*, enjoining Defendants

² Wyo. Stat. Ann. §§ 35-6-501 to -510 are referenced in the plaintiffs’ motion, but it is not clear that the statutes are presently effective or enforceable, and the plaintiffs did not cogently argue that the court should temporarily enjoin these statutes.

from enforcement of House Bill 126 pending trial on the merits of this action” (Emphasis in original.)

Temporary Injunctive Relief

Wyo. Stat. Ann. § 1-28-102 provides, in part, as follows with respect to temporary injunctive relief:

When it appears by the petition that [a] plaintiff is entitled to relief consisting of restraining the commission or continuance of some act the commission or continuance of which during the litigation would produce great or irreparable injury to [a] plaintiff, or when during the litigation it appears that [a] defendant is doing, threatens to do, or is procuring to be done some act in violation of [a] plaintiff's rights respecting the subject of the action and tending to render the judgment ineffectual, a temporary order may be granted restraining the act.

See also W.R.C.P. 65. The Wyoming Supreme Court has further said:

The purpose of a temporary injunction is to preserve the status quo until the merits of an action can be determined. And a temporary injunction rests upon an alleged existence of an emergency, or a special reason for such an order, before the case can be regularly heard.

Also, the award of a temporary injunction is an extraordinary remedy which will not be granted except upon a clear showing of probable success and possible irreparable injury to the plaintiff, lest the proper freedom of action of the defendant be circumscribed when no wrong has been committed.

In granting temporary relief by interlocutory injunction courts of equity do not generally anticipate the ultimate determination of the questions of right involved. They merely recognize that a sufficient case has been made out to warrant the preservation of the property or rights in issue *in statu quo* until a hearing upon

the merits, without expressing, and indeed without having the means of forming a final opinion as to such rights.

CBM Geosolutions, Inc. v. Gas Sensing Technology Corp., 2009 WY 113, ¶ 7, 215 P.3d 1054, 1057 (Wyo. 2009) (citations omitted).

Article 1, § 38 of the Wyoming Constitution

Article 1, § 38³ of the Wyoming constitution states that “[e]ach competent adult shall have the right to make his or her own health care decisions.” Wyo. Const. art. 1, § 38(a). In *Johnson*, the Wyoming Supreme Court found that “the phrase ‘health care’ includes abortion care and that the decision whether to terminate or continue a pregnancy is a health care decision” within § 38(a); “[t]here is nothing in the plain language of the amendment which indicates abortion is not health care or otherwise limits access to abortion care.” 2026 WY 1, ¶¶ 40-41, 582 P.3d at 397. The decision on whether to have an abortion is a woman’s own health care decision, and is a fundamental constitutional right in Wyoming. *Id.* at ¶¶ 44, 48, 582 P.3d at 398-99.

Laws that restrict this fundamental constitutional right to make a health care decision are subject to strict scrutiny by a court. *Id.* at ¶ 72, 582 P.3d at 405. Under a strict scrutiny analysis:

restrictions on a woman's right to make her own health care decisions will be “reasonable and necessary,” as those terms are used in Article 1, § 38(c), if the State establishes they do not unduly infringe on the constitutional right because they are narrowly tailored to achieve a compelling government interest. Wyo. Const. art. 1, § 38(c) & (d).

³ Const. Art. 1, § 38. Right of health care access:

- (a) Each competent adult shall have the right to make his or her own health care decisions. The parent, guardian or legal representative of any other natural person shall have the right to make health care decisions for that person.
- (b) Any person may pay, and a health care provider may accept, direct payment for health care without imposition of penalties or fines for doing so.
- (c) The legislature may determine reasonable and necessary restrictions on the rights granted under this section to protect the health and general welfare of the people or to accomplish the other purposes set forth in the Wyoming Constitution.
- (d) The state of Wyoming shall act to preserve these rights from undue governmental infringement.

Id. In other words, the pertinent issues are:

1) whether the State has a compelling interest in restricting a woman's fundamental right to make her own health care decision to have an abortion; 2) whether the restrictions actually accomplish the compelling state objective; and 3) whether the statutes' methods of accomplishing the objective are least restrictive on the constitutional right.

Id. at ¶ 73, 582 P.3d at 405.

Discussion

A) Likelihood of Success on the Merits

The plaintiffs argue, in part,⁴ that the statutes at issue violate Article 1, § 38 of the Wyoming Constitution and *Johnson*. According to the plaintiffs, the statutes “effectively [prohibit] the termination of pregnancy (absent very narrow exceptions) once the embryonic ‘cardiac activity’ becomes ‘detectable,’ which can occur as early as approximately six weeks gestation.” This is a time when “many women do not yet know they are pregnant or have had sufficient time to confirm the pregnancy and schedule a medical appointment.” The statutes “[function] as a substantial ban on abortion services and [operate] as a complete ban after six weeks . . .,” restrict “women’s health care decisions by mandating ultrasound imaging without any clinical indication,” “operate at several stages of care[,] . . . and collectively function to eliminate meaningful access to abortion services in Wyoming.” According to the plaintiffs, the statutes cannot survive a strict scrutiny analysis because the state “cannot prove [the statutes are] necessary to further any actual ‘compelling interests’” and the state “cannot show [the statutes are] narrowly tailored to achieve their asserted interests.” These arguments are set forth in more detail in the plaintiffs’ pleadings and accompanying argument during the motion hearing.

⁴ The plaintiffs also assert that the statutes at issue are unconstitutionally vague for reasons set forth in more detail in their motion.

The state defendants contend, in part,⁵ that the statutes at issue do not violate Article 1, § 38 of the Wyoming Constitution and *Johnson*. According to the state defendants, the statutes “are justified means of advancing the State’s evidentiarily and scientifically supported compelling interest in protecting life as established by a detectable fetal heartbeat [(the objectively identifiable point where its interest in protecting life becomes compelling)],” and are “narrowly tailored to directly accomplish the State’s compelling interest without constituting undue infringement.” The Wyoming legislature instead, the state defendants argue, “addressed all the problems noted by the Wyoming Supreme Court in *Johnson* and passed [the statutes] according to the authority recognized by the Court.” These arguments are set forth in more detail in the state defendants’ pleadings and accompanying argument during the motion hearing.

The court finds that the plaintiffs have on this record made a sufficient showing of probable success that justifies their request for temporary injunctive relief, particularly when the statutes at issue are evaluated and considered according to Article 1, § 38 of the Wyoming Constitution, and how the Wyoming Supreme Court applied it in *Johnson*.⁶

B) Irreparable Harm

The plaintiffs assert that the statutes at issue have “irreparably harmed and will continue to irreparably harm not just Plaintiffs, but also the Wyomingites whose interests they represent who have been denied constitutional rights that they would have otherwise enjoyed.” They contend that since the statutes would violate “several constitutional rights,” “this alone is sufficient to satisfy the requirement to show irreparable injury.” However, the plaintiffs then cite multiple, specific examples of actual harm (largely supported by sworn declarations) including: 1) the statutes “effectively [ban] all abortion services across the state”; 2) Dr. Anthony, Dr. Hinkle, and/or medical professionals at Wellspring, now facing “the risk of criminal prosecution, imprisonment, and loss of licensure” for violations of the vague statutes, have “delay[ed] or refuse[d] care in situations where the law’s application is uncertain,” suspended telehealth services, canceled

⁵ The state defendants also argue that the statutes at issue are not unconstitutionally vague for reasons set forth in more detail in their response to the plaintiffs’ motion.

⁶ Court decisions from other states that have considered similar statutes or issues do not appear to have done so under a constitutional provision like Article 1, § 38 of the Wyoming Constitution. *See, for example, Wrigley v. Romanick*, 2023 ND 50, ¶ 19, 988 N.W.2d 231, 239-40 (N.D. 2023) (collecting cases).

appointments, referred care out of state, and/or reduced their patient load; 3) the statutes “[compel] physicians to perform [invasive] medically unnecessary procedures”; and 4) “[t]elemedicine providers [who normally lawfully provide medication abortion care or other telehealth pregnancy care in Wyoming] cannot comply with the statute[s].” These arguments are set forth in more detail in the plaintiffs’ pleadings and accompanying argument during the motion hearing.

“What makes an injury ‘irreparable’ is the inadequacy of, and the difficulty of calculating, a monetary remedy after a full trial. Any deprivation of any constitutional right fits that bill.” *Free the Nipple-Fort Collins v. City of Fort Collins, Colorado*, 916 F.3d 792, 806 (10th Cir. 2019)(citations omitted). *See also CBM Geosolutions, Inc.*, ¶ 10, 215 P.3d at 1058 (an “injury is irreparable where it is of a peculiar nature, so that compensation in money cannot atone for it”) (citation omitted).

The court finds that the plaintiffs have on this record made a sufficient showing of irreparable injury that justifies their request for temporary injunctive relief. The state defendants did not persuasively argue otherwise.

C) Conclusion


The issue before the court is whether, on an expedited record, the plaintiffs made a sufficient showing for temporary injunctive relief until the court holds subsequent hearings on the case’s merits. In finding that the plaintiffs have made such a showing at this time, the court is not issuing a final decision or determination on the merits of the parties’ arguments.

Bond

No one has requested that the plaintiffs post a bond, and there is no persuasive legal or factual basis in the record that would justify or require the plaintiffs to post a bond at this time.

THEREFORE, it is hereby ORDERED, that the plaintiffs' motion for temporary injunctive relief is granted, in part. This court hereby immediately and temporarily (pending further order of the court) orders, enjoins, and restrains the defendants, their officers, agents, servants, employees, attorneys, appointees, successors, or anyone who are in active concert or participation with the defendants, from enforcing Wyo. Stat. Ann. §§ 35-6-401, -402, -403 and -404; 33-21-146(c); 33-24-122(d); 33-26-402(c); and 33-26-508(e).

DATED this 24th day of April 2026.



District Judge

Copies to: Counsel