

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

WOMEN’S HEALTH CENTER OF WEST VIRGINIA, *on behalf of itself, its staff, and its patients*; and DR. JOHN DOE, *on behalf of himself and his patients*,

Plaintiffs,

v.

**Civil Action No. 2:23-cv-00079
Honorable Irene C. Berger, Judge**

ASHISH P. SHETH, *in his official capacity as President of the West Virginia Board of Medicine*; and MATTHEW CHRISTIANSEN, *in his official capacity as Secretary of the West Virginia Board of Medicine*,

Defendants.

DEFENDANTS’ MOTION TO DISMISS

NOW COME the Defendants, Ashish P. Sheth, in his official capacity as President of the West Virginia Board of Medicine, and Matthew Christiansen, in his official capacity as Secretary of the West Virginia Board of Medicine, by counsel, Roberta F. Green, Caleb B. David, and Shuman McCuskey Slicer PLLC, and hereby moves this Court to dismiss all claims asserted against them with prejudice as a matter of law on the basis that, first, Plaintiffs lack standing to bring suit on behalf of third parties who are not similarly situated. Second, Plaintiffs have failed to identify a substantive due process right of which they are deprived; regardless, the limitations in HB 302 satisfy rational basis review. Third, Plaintiffs have failed to identify a class to which they belong that has been unconstitutionally treated unequally; regardless, the limitations in HB 302 satisfy rational basis review.

Therefore, for the reasons set forth herein and in Defendants' Memorandum of Law in Support of Defendants' Motion to Dismiss, Plaintiffs' claims fail as a matter of law and Plaintiffs' Complaint must be dismissed.

**ASHISH P. SHETH, in his official capacity as
President of the West Virginia Board of Medicine;
and MATTHEW CHRISTIANSEN, in his official
capacity as Secretary of the West Virginia Board of
Medicine,**

By Counsel,

/s/ Roberta F. Green

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CERTIFICATE OF SERVICE

The undersigned, counsel for Defendants, do hereby certify that on the 22nd day of February, 2023, a true and exact copy of “DEFENDANTS’ MOTION TO DISMISS” was served on counsel via the Court’s ECF system as follows:

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