

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT

VERMONT ALLIANCE FOR ETHICAL)	
HEALTHCARE, INC.; CHRISTIAN)	Civil Action No. 5:16-cv-205
MEDICAL & DENTAL ASSOCIATIONS,)	
INC.,)	MOTION FOR
)	PRELIMINARY
<i>Plaintiffs,</i>)	INJUNCTION
)	
v.)	ORAL ARGUMENT
)	REQUESTED
)	
WILLIAM K. HOSER, in his official)	
capacity as Chair of the Vermont Board of)	
Medical Practice; MICHAEL A. DREW,)	
M.D., ALLEN EVANS, FAISAL GILL,)	
ROBERT G. HAYWARD, M.D.,)	
PATRICIA HUNTER, DAVID A.)	
JENKINS, RICHARD CLATTENBURG,)	
M.D., LEO LECOURS, SARAH)	
McCLAIN, CHRISTINE PAYNE, M.D.,)	
JOSHUA A. PLAVIN, M.D., HARVEY S.)	
REICH, M.D., GARY BRENT BURGEE,)	
M.D. MARGA S. SPROUL, M.D.,)	
RICHARD BERNSTEIN, M.D., DAVID)	
LIEBOW, D.P.M., in their official)	
capacities as Members of the Vermont)	
Board of Medical Practice; JAMES C.)	
CONDOS, in his official capacity as)	
Secretary of State of Vermont; and COLIN)	
R. BENJAMIN, in his official capacity as)	
Director of the Office of Professional)	
Regulation,)	
)	
<i>Defendants.</i>)	

MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65 and L. Cv. R. 7, Plaintiffs VERMONT ALLIANCE FOR ETHICAL HEALTHCARE (“VAEH”) and CHRISTIAN MEDICAL AND DENTAL ASSOCIATION (“CMDA”), by and through their counsel, Alliance Defending Freedom and

Michael J. Tierney, Wadleigh, Starr & Peters, hereby move this Honorable Court for a preliminary injunction enjoining Defendants from enforcing the provisions of 18 V.S.A. § 5282, 18 V.S.A. § 1871, and/or 12 V.S.A. § 1909 against their members for declining to counsel patients who have been diagnosed with “terminal conditions” on the availability of physician-assisted suicide pursuant to Act 39, Vt. Statutes 2013. In support of this motion, Plaintiffs submit an accompanying memorandum of law and declarations and exhibits in support thereof.

Plaintiffs state as follows:

1. As set forth in the accompanying memorandum of law, Plaintiffs are very likely to succeed on the merits of their claims under the First and Fourteenth Amendments to the U.S. Constitution and Chap. I, Art. 1 and 13 of the Vermont Constitution, as well as 12 V.S.A. § 4711 and 3 V.S.A. § 801 et seq. Requiring Plaintiffs’ members to participate in providing assistance in suicide to patients by counseling them and/or referring them to those who will carry out the practice or any similar actions violates their right not to express the State’s messages, and interpreting Act 39 and its related statutes to mandate such participation is a violation of federal law and hence null and void. The State has no compelling interest in ensuring that patients are informed about prescription suicide that would justify these burdens on Plaintiffs’ members’ constitutional rights, and other, less restrictive means of pursuing any legitimate interests are available to Defendants.

2. Without injunctive relief, Plaintiffs’ members and the public interest will be irreparably harmed. Defendants will suffer no measurable injury if the injunction is granted, and thus the balancing of harms plainly favors Plaintiffs.

3. Pursuant to L. R. 7(a)(7), Plaintiffs certify that they have made a good faith effort to obtain the opposing party’s agreement to the requested relief. Counsel for Plaintiffs contacted counsel for Defendants requesting consent to the motion, but Defendants declined to consent.

Respectfully submitted this 26th day of September, 2016.

Attorneys for Plaintiffs:

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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of September, 2016, I electronically filed Plaintiffs' Motion for Preliminary Injunction with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to and serve the following NEF parties:

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Dated this 26th day of September 2016.

By:

_____/s/ Steven H. Aden_____
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