STATE OF MISSOURI)
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CITY OF ST. LOUIS)

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22ND JUDICIAL CIRCUIT
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MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(City of St. Louis)

REPRODUCTIVE HEALTH SERVICES OF PLANNED PARENTHOOD OF THE ST. LOUIS REGION,	)	No. 1922-CC02395
Petitioner,	)	Division No. 6
vs.	)	
MICHAEL L. PARSON, et al.,	)	
Respondents.	)	

ORDER

The Court has before it Petitioner Reproductive Health Services of Planned Parenthood of the St. Louis Region's Motion for Temporary Restraining Order. The Court now rules as follows.

Section 197.205 RSMo requires any abortion facility to have a license issued by the Department of Health and Senior Services. On May 28, 2019, Petitioner filed a Verified Petition for Declaratory and Injunctive Relief, asserting six counts relating to the application for renewal of Petitioner's license.

The only issue before the Court today, however, is whether Petitioner is entitled to a Temporary Restraining Order ("TRO"). A TRO does not purport to pass upon the merits of a controversy or dispose of any issue. Ballesteros v. Johnson, 812 S.W.2d 217, 221

(Mo.App. E.D. 1991). The primary purpose of a TRO is "to preserve the status quo and prevent irreparable injury to the plaintiff pending disposition of the case on the merits." Walker v. Hanke, 992 S.W.2d 925, 933 (Mo.App. W.D. 1999).

A trial court is authorized to issue three types of injunctive relief: (1) a TRO, (2) a preliminary injunction, and (3) a permanent injunction. St. Louis Concessions, Inc. v. City of St. Louis, 926 S.W.2d 495, 497 (Mo.App. E.D. 1996). An injunction is a remedy, not a cause of action; thus, an injunction must be based on a recognized and pleaded legal theory. Zoological Park Subdist. of the Metro. Park Museum Dist. v. Smith, 561 S.W.3d 893, 896 (Mo.App. E.D. 2018). In order to be entitled to injunctive relief, a party shall have filed a petition setting forth a cause of action. Id., § 526.040 RSMo. Petitioner has set forth a viable claim for declaratory relief under §536.050 RSMo in Count I.

In its Motion for TRO, Petitioner asks this Court to "enjoin Respondents from refusing to accept Planned Parenthood's license renewal application and from allowing Planned Parenthood's license to expire." Rule 92.02 provides that the Court "shall not grant a temporary restraining order unless the party seeking relief demonstrates that immediate and irreparable injury, loss, or damage will result in the absence of relief."

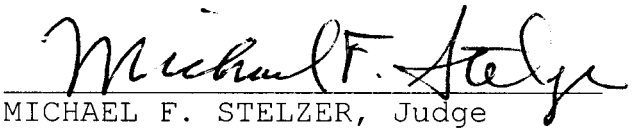
Unless the Department of Health and Senior Services issues Petitioner a license in response to its application for license renewal, Petitioner's license will expire at midnight on May 31, 2019, and Petitioner will not be permitted to operate an abortion facility. At oral argument, counsel for Respondents stated that there was "no prospect that the Department would act" on Petitioner's application before the deadline.

Petitioner has demonstrated that immediate and irreparable injury will result if Petitioner's license is allowed to expire. Pursuant to Rule 92.02, the Court finds that a temporary restraining order is necessary to preserve the status quo and prevent irreparable injury to Petitioner pending disposition of the case on the merits.

THEREFORE, it is Ordered and Decreed that Petitioner Reproductive Health Services of Planned Parenthood of the St. Louis Region's Motion for Temporary Restraining Order is GRANTED. Petitioner's license shall not expire and shall remain in effect until a ruling on Petitioner's request for preliminary injunction. Petitioner is required to post a bond in the amount of $100.00. This matter is set for hearing on Petitioner's request for preliminary injunction on June 4, 2019, at 9:00 a.m. Further, the

Court consolidates the trial on the merits with the preliminary injunction hearing under Rule 92.02(c)(3).

SO ORDERED:



MICHAEL F. STELZER, Judge

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Dated: May 31, 2019