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23 **Application for admission pro hac vice forthcoming*

24 **UNITED STATES DISTRICT COURT**
25 **FOR THE DISTRICT OF ARIZONA**

26 Tucson Women's Center; Family
27 Planning Associates; William
28 Richardson, M.D.; Paul A. Isaacson,

No. CV 2009-01909-DGC

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M.D.; and Frank Laudonio, M.D.,

Plaintiffs,

vs.

Arizona Medical Board; Lisa Wynn, in her official capacity as Executive Director of the Arizona Medical Board; and Terry Goddard, in his official capacity as Attorney General of Arizona,

Defendants,

and

American Association of Pro-Life Obstetricians and Gynecologists, a nonprofit association on behalf of its individual members in the State of Arizona; Catholic Medical Association, a nonprofit association on behalf of its individual members in the State of Arizona; Christian Medical and Dental Associations, a nonprofit association on behalf its individual members in the State of Arizona; Christian Pharmacists Fellowship International, a nonprofit association on behalf of its individual members in the State of Arizona; Ave Maria Pharmacy, PLLC, an Arizona corporation; Arizona Catholic Conference, an Arizona nonprofit corporation; Crisis Pregnancy Centers of Greater Phoenix, an Arizona nonprofit corporation; Senator Linda Gray; and Representative Nancy Barto,

Proposed
Defendant-Intervenors

MOTION TO INTERVENE AS DEFENDANTS

MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

EXHIBIT "A" (PROPOSED ANSWER TO COMPLAINT)

ORAL ARGUMENT REQUESTED

**MOTION TO INTERVENE AS DEFENDANTS AND
MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE**

COME NOW Proposed Defendant-Intervenors pursuant to FED. R. CIV. P. 24(a)(2), intervention of right, and alternatively, Rule 24(b), permissive intervention, and hereby move for leave to intervene as party Defendants in the above-captioned case. In support of this motion, Proposed Defendant-Intervenors rely on the accompanying Memorandum of Points and Authorities in Support of Motion to Intervene and attached declarations. Pursuant to FED. R. CIV. P. 24(c), Proposed Defendant-Intervenors also submit herewith the accompanying proposed Answer to Complaint. See Exhibit “A” hereto.

STATEMENT REGARDING ORAL ARGUMENT

This case presents important issues of broad public importance regarding the ability of public interest groups to intervene to defend a state statute for which the organizations have advocated and which protect the constitutional and statutory rights of their members. Oral argument will assist this Court in reaching a full understanding of the motion, and allow the attorneys for all parties the opportunity to address any outstanding factual or legal issues which this Court deems relevant. Defendant-Intervenors believe that oral argument is necessary to address these matters thoroughly.

MEMORANDUM OF POINTS AND AUTHORITIES

DEFENDANT-INTERVENORS’ INTERESTS

Representative Nancy Barto and Senator Linda Gray are elected members of the Arizona Legislature. Decl. of Nancy Barto, ¶ 2 (“Barto Decl.”); Decl. of Linda Gray, ¶ 2 (“Gray Decl.”). Representative Barto was the primary sponsor of HB 2564, and Senator Gray was the primary sponsor of the Senate version of HB 2564. Barto Decl. at ¶ 3; Gray Decl. at ¶ 3. Representative Barto is the Chairwoman of the House Health and Human Services Committee and presided over the House committee hearing for HB 2564. Barto Decl. at ¶¶ 2, 4. Senator Gray is the Chairwoman of the Senate Public Safety and Human Services Committee and presided over the Senate committee hearing for the Senate version of HB 2564. Gray Decl. at ¶¶ 2, 4. Both Representative Barto and Senator Gray

1 voted in favor of HB 2564. Representative Barto and Senator Gray have a legislative
2 interest in protecting the effectiveness of their efforts in sponsoring and their votes for
3 HB 2564. Both Representative Barto and Senator Gray believe HB 2564 is important for
4 protecting the health and safety of Arizonans, especially women facing unplanned
5 pregnancies. Barto Decl. at ¶ 6; Gray Decl. at ¶ 5.

6 The American Association of Pro-Life Obstetricians and Gynecologists
7 (“AAPLOG”) is one of the largest special interest groups within the American College of
8 Obstetricians and Gynecologists, Decl. of Donna Harrison, ¶ 3, with at least five hundred
9 sixty (560) dues-paying members and over fifteen hundred (1,500) doctors associated
10 with the organization. *Id.* at ¶ 5. AAPLOG has 36 physician members licensed in
11 Arizona. AAPLOG members affirm the following Mission Statement:

- 12 a. That we, as physicians, are responsible for the care and well being of
both our pregnant woman patient and her unborn child.
- 13 b. That the unborn child is a human being from the time of fertilization.
- 14 c. That elective disruption/abortion of human life at any time from
15 fertilization onward constitutes the willful destruction of an innocent
human being, and that this procedure will have no place in our
16 practice of the healing arts.
- 17 d. That we are committed to educate abortion-vulnerable patients, the
18 general public, pregnancy center counselors, and our medical
colleagues regarding the medical and psychological complications
19 associated with induced abortion, as evidenced in the scientific
literature.
- 20 e. That we are deeply concerned about the profound, adverse effects
21 that elective abortion imposes, not just on the women, but also on
the entire involved family, and on our society at large.

22 *Id.* at ¶ 4.

23 AAPLOG and its members oppose the practice of abortion for a variety of reasons,
24 including religious and moral beliefs and the belief that the practice of abortion is
25 inconsistent with professional medical ethics. *Id.* at ¶ 5. One of AAPLOG’s primary
26 purposes is to reaffirm the unique value and dignity of individual human life in all states
27 of its development and subsequent course from the moment of conception. *Id.* at ¶ 6. To
28 this end, AAPLOG sponsors and conducts research and educational programs consistent

1 with this purpose. *Id.* AAPLOG is also deeply committed to defending the right of
2 conscience of doctors, including its members, not to perform, refer for or to otherwise
3 assist in the practice of abortion. *Id.* at 7. AAPLOG's members are committed to the
4 sanctity of human life and it would violate their consciences to participate in or refer for
5 abortions. *Id.* at ¶ 9. It is likely that if AAPLOG members are forced or coerced to
6 perform or assist in abortions in violation of their consciences, they would leave the
7 profession or relocate from those jurisdictions compelling them to do so instead of
8 performing or referring for abortions. *Id.* at ¶ 9. Many AAPLOG members are providers
9 in rural or remote areas. Forcing such persons from those areas or out of the medical
10 profession altogether would leave these populations unserved or underserved. *Id.* at ¶ 9.
11 AAPLOG has actively sought conscience protections for its members and other
12 healthcare professionals who might otherwise be forced by their employers to provide or
13 refer for abortions. *Id.* at ¶ 10.

14 CMDA is a nonprofit national organization of Christian physicians and allied
15 healthcare professionals with 16,340 members. Decl. of Gene Rudd, ¶ 3. CMDA has
16 225 physician members licensed in Arizona. In addition to CMDA's physician members,
17 it also has associate members from a number of allied healthcare professions, including
18 nurses and physician assistants. *Id.*

19 CMDA is opposed to the practice of abortion as contrary to Scripture, a respect for
20 the sanctity of human life, and traditional, historical and Judeo-Christian medical ethics.
21 *Id.* at ¶ 5. CMDA's members are committed to the sanctity of human life, and it would
22 violate their consciences to participate in or refer for abortions. *Id.* at ¶ 6. Based on
23 CMDA's own polling data, CMDA is aware that if CMDA's members are forced or
24 coerced to perform or assist in abortions in violation of their consciences, the
25 overwhelming majority of them state they would leave the profession or relocate from
26 those jurisdictions compelling them to do so instead of performing or referring for
27 abortions. *Id.* Many CMDA members are providers in rural or remote areas. *Id.* at ¶ 7.
28 Forcing such persons from those areas or out of the medical profession altogether would
leave these populations unserved or underserved. *Id.* CMDA has actively sought

1 conscience protections for its members and other healthcare professionals who might
2 otherwise be forced by their employers to provide or refer for abortions. *Id.* at ¶ 8.

3 Both CMDA and AAPLOG have previously been granted intervention as of right
4 to defend laws protecting rights of conscience for healthcare professionals. *California ex.*
5 *rel. Lockyer v. United States*, 450 F.3d 436, 445 (9th Cir. 2006) (reversing on expedited
6 appeal district court's order denying intervention); *Nat'l Family Planning &*
7 *Reproductive Health Ass'n v. Gonzales*, 468 F.3d 826, 827 (D.C. Cir. 2006) (listing
8 CMDA and AAPLOG as appellees); *Nat'l Family Planning & Reproductive Health*
9 *Ass'n*, No. 04-02148 (D. D.C. Sept. 28, 2005) (order granting motion of CMDA and
10 AAPLOG to intervene as of right).

11 The Catholic Medical Association is a nonprofit national organization of Catholic
12 physicians and allied healthcare professionals with over 1,000 members. Decl. of Louis
13 Breschi, ¶ 3. Catholic Medical has 19 physician members licensed in Arizona. *Id.* In
14 addition to Catholic Medical's physician members, it also has associate members from a
15 number of allied healthcare professions, including nurses and physician assistants, a
16 number of whom practice within the State of Arizona. *Id.* at ¶ 3. The purposes of
17 Catholic Medical Association are:

- 18 a. To uphold the principles of the Catholic faith in the science and
19 practice of medicine.
- 20 b. To assist the Church in the work of communicating Catholic medical
21 ethics to the medical profession and society at large.
- 22 c. To support Catholic hospitals in faithfully applying Catholic moral
23 principles in health care delivery.
- 24 d. To enable Catholic physicians to know one another better and to
25 work together with deeper mutual support and understanding.

26 Breschi Dec., ¶ 4.

27 As physicians, all CMA members solemnly pledge, among other commitments:

- 28 a. To respect my patients as human persons, putting their interests
ahead of political and economic considerations, and to treat them without
prejudice arising from religion, racial, ethnic, socio-economic or sexual
differences.

1 b. To defend and protect human life from conception to its natural end,
2 believing that human life, transmitted by parents, is created by God and has
3 an eternal destiny that belongs to Him.

4 c. To refuse to become an instrument of violent or oppressive
5 applications of medicine.

6 d. To serve the public health, promoting healthful policies respectful of
7 life and the dignity and nature of the human person.

8 e. To cooperate with the applications of just law, except on the grounds
9 of conscientious objection when the civil law does not respect human
10 rights, especially the right to life.

11 f. To work with openness toward every person, independently of their
12 religious beliefs.

13 Breschi Dec., ¶ 5.

14 Catholic Medical is opposed to the practice of abortion as contrary to the teaching
15 and tradition of the Catholic Church, to respect for the sanctity of human life, to
16 traditional Judeo-Christian medical ethics, and to the good of patients. *Id.* at ¶ 8.
17 Catholic Medical's members are committed to the sanctity of human life, and it would
18 violate their consciences to participate in or refer for abortions. *Id.* at ¶ 9. It is likely that
19 if Catholic Medical's members are forced or coerced to perform or assist in abortions or
20 other unethical actions in violation of their consciences, they would leave the profession
21 or relocate from those jurisdictions compelling them to do so instead of performing or
22 referring for abortions. *Id.* at ¶ 9. Many Catholic Medical members are providers in rural
23 or remote areas. *Id.* Forcing such persons from those areas or out of the medical
24 profession altogether would leave these populations unserved or underserved. *Id.*
25 Catholic Medical has actively sought conscience protections for its members and other
26 healthcare professionals who might otherwise be forced by their employers to provide or
27 refer for abortions. Catholic Medical will continue to be an advocate for rights of
28 conscience for its own members and all medical professionals in courts and legislatures
both at the state and federal levels. *Id.* at ¶ 10.

Christian Pharmacists Fellowship International is a nonprofit national organization
of Christian pharmacists with over 1,000 members. Decl. of Fred Eckel, ¶ 5. Christian
Pharmacists has numerous members licensed in Arizona. *Id.* Christian Pharmacists is

1 opposed to the practice of abortion as contrary to Scripture, to respect for the sanctity of
2 human life, to traditional Judeo-Christian medical ethics, and to the good of patients. *Id.*
3 at ¶ 8. Christian Pharmacists' members are committed to the sanctity of human life, and
4 it would violate their consciences to participate in or refer for abortions. *Id.* at ¶ 9. It is
5 likely that if Christian Pharmacists' members are forced or coerced to dispense drugs the
6 primary indication for which is to terminate pregnancy or prevent implantation of a
7 fertilized ovum in violation of their consciences, they would leave the profession or
8 relocate from those jurisdictions compelling them to do so instead of dispensing
9 abortifacient drugs. *Id.* at ¶ 9. Many Christian Pharmacists members are providers in
10 rural or remote areas. *Id.* Forcing such persons from those areas or out of the medical
11 profession altogether would leave these populations unserved or underserved. *Id.*
12 Christian Pharmacists has actively sought conscience protections for its members and
13 other healthcare professionals who might otherwise be forced by their employers to
14 provide or refer for abortions. Christian Pharmacists will continue to be an advocate for
15 rights of conscience for its own members and all medical professionals in courts and
16 legislatures both at the state and federal levels. *Id.* at ¶ 10.

17 Ave Maria Pharmacy, PLLC is a state-licensed pharmacy located in Prescott
18 Valley, Arizona. Decl. of Pat McNerny, ¶ 4. The mission of Ave Maria Pharmacy is to
19 provide individual patient care through the dispensing of medication in a manner
20 consistent with the teaching of the Holy Catholic Church. *Id.* at ¶ 5. Because Catholic
21 teaching emphasizes the sanctity of human life from conception until natural death,
22 dispensing medications that can act as abortifacients, including by preventing
23 implantation of a fertilized ovum in the womb, is inconsistent with Catholic doctrine. *Id.*
24 at ¶¶ 6-7. If Ave Maria Pharmacy were forced or coerced to dispense drugs the primary
25 indication for which is to terminate pregnancy or prevent implantation of a fertilized
26 ovum, the pharmacy would close instead of dispensing abortifacient drugs. *Id.* at ¶ 8. As
27 a result, the already underserved area of Prescott Valley would be even more critically
28 short of licensed pharmacists and pharmacies. *Id.*

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The Crisis Pregnancy Centers of Greater Phoenix (“CPC Phoenix”) is a nonprofit organization that operates six pregnancy resource centers in the Phoenix area. Decl. of Barbara Willis, ¶ 2. CPC Phoenix is dedicated to providing women and men with medically accurate and up-to-date information to empower them to make informed, healthy choices that will serve to save lives and protect futures. *Id.* at ¶ 5. Additionally, CPC Phoenix offers resources and services to women who choose not to have an abortion, including parenting education and information relating to adoption. HB 2564 requires that women be informed of the availability of these benefits at least twenty-four hours before receiving an abortion. HB 2564, Section 4, Ariz. Rev. Stat. § 36-2153(A)(2)(c). CPC Phoenix desires for all women considering abortion to be aware of the resources and services provided by CPC Phoenix and other pregnancy resource centers so that they are empowered to make informed choices about their healthcare. *Id.* at ¶ 7.

Arizona Catholic Conference (“ACC”) is the public policy agency of the Catholic Dioceses of Gallup, Phoenix, and Tucson. ACC advocates for legislation on issues that are addressed by Church doctrine, including freedom of conscience for healthcare workers, the health and safety of women facing unplanned pregnancy, and the sanctity of human life from conception until natural death. ACC expended resources to advocate in the Legislature on behalf of HB 2564 through committee testimony and communication with individual legislators.

ARGUMENT

I. DEFENDANT-INTERVENORS ARE ENTITLED TO INTERVENE OF RIGHT UNDER FED. R. CIV. P. 24(A).

Federal Rule of Civil Procedure 24(a) provides,

On timely motion, the court must permit anyone to intervene who . . . claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest, unless existing parties adequately represent that interest.

1 FED. R. CIV. P. 24(a). *See also Donnelly v. Glickman*, 159 F.3d 405, 409 (9th Cir. 1998).
2 Rule 24(a) is construed broadly in favor of potential intervenors. *United States v. Alisal*
3 *Water Corp.*, 370 F.3d 915, 919 (9th Cir. 2004); *United States v. City of Los Angeles*, 288
4 F.3d 391, 397 (9th Cir. 2002). In addition to this broad construction, review of the
5 motion is “guided primarily by practical considerations, not technical distinctions.”
6 *Southwest Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 818 (9th Cir. 2001)
7 (internal quotations omitted).

8 A. Proposed Defendant-Intervenors are Not Required to Demonstrate
9 Independent Standing to Intervene in this Action.

10 Several Circuits have held that “there [i]s no need to impose the standing
11 requirement upon [a] proposed intervenor” because “[t]he existence of a case or
12 controversy ha[s] been established as between the [existing parties].” *U. S. Postal Serv.*
13 *v. Brennan*, 579 F.2d 188, 190 (2d Cir. 1978) (intervention denied on other grounds); *see*
14 *Hoblock v. Albany Cty. Bd. of Elections*, 233 F.R.D. 95, 97 (N.D.N.Y. 2005) (“there is no
15 Article III standing requirement in the Second Circuit, with an intervenor only needing to
16 meet the Rule 24(a) requirements and have an interest in the litigation”) (citing with *see*
17 signal *Brennan*, 579 F.2d at 190; citing with *see also* signal *San Juan Cty., Utah v.*
18 *United States*, 503 F.3d 1163, 1172 (10th Cir. 2005) (*en banc*) (same); *Associated*
19 *Builders & Contractors v. Perry*, 16 F.3d 688, 690 (6th Cir.1994) (no independent
20 intervenor standing required); *but cf. Planned Parenthood of Mid-Missouri & Eastern*
21 *Kansas, Inc. v. Ehlmann*, 137 F.3d 573, 576-77 (8th Cir.1998); *Building & Const. Trades*
22 *Dep't v. Reich*, 40 F.3d 1275, 1282 (D.C.Cir.1994); and *Prete v. Bradbury*, 438 F.3d 949
23 (9th Cir. 2006) (open question in the Ninth Circuit). However, should this Court require
24 Defendant-Intervenors to show that they have standing to intervene as defendants,
25 Defendant-Intervenors readily satisfy the requirements of standing for the reasons stated
26 below.

27 In deciding a motion to intervene as of right, the court considers four factors: (1)
28 whether the application for intervention is timely, (2) whether the applicant has a
“significantly protectable” interest relating to the property or transaction that is the

1 subject of the action, (3) whether the applicant is so situated that the disposition of the
2 action may, as a practical matter, impair or impede the applicant's ability to protect that
3 interest, and (4) whether the applicant's interest is adequately represented by the parties
4 in the lawsuit. *Berg*, 268 F.3d at 817. Intervenors readily satisfy the test for intervention
5 as of right under these four factors.

6 B. Defendant-Intervenors' Motion is Timely.

7 Defendant-Intervenors' motion is timely under FED. R. CIV. P. 24(a). *See League*
8 *of United Latin Am. Citizens v. Wilson*, 131 F.3d 1297, 1302 (9th Cir. 1997) (describing
9 timeliness considerations). Defendant-Intervenors have promptly filed their motion to
10 intervene a few days after Plaintiffs filed their complaint, before any ruling on
11 substantive motions, and before any responsive pleading has been submitted by or is even
12 due from Defendants. Defendant-Intervenors do not intend to seek any delay in the case.
13 Thus, this motion will cause neither prejudice to the existing parties or any delay in these
14 proceedings. Under these circumstances, this motion is clearly timely.

15 C. Defendant-Intervenors Have Sufficient Interests Relating to the
16 Subject Matter of this Action.

17 In the Ninth Circuit, the interest requirement of FED. R. CIV. P. 24(a) is not viewed
18 as a "determinative criterion for intervention." *Fresno County v. Andrus*, 622 F. 2d 436,
19 438 (9th Cir. 1980). "Whether an applicant for intervention demonstrates sufficient
20 interest in an action is a practical, threshold inquiry. No specific legal or equitable
21 interest need be established." *Greene v. United States*, 996 F.2d 973, 976 (9th Cir. 1993).
22 Rather, to satisfy this minimal burden "[i]t is generally enough that the interest [asserted]
23 is protectable under some law, and that there is a relationship between the legally
24 protected interest and the claims at issue." *Sierra Club v. United States EPA*, 995 F.2d
25 1478, 1484 (9th Cir. 1993).

- 26 1. Defendant-Intervenors Medical Professionals and Ave Maria
27 Pharmacy Have a Protectable Interest Because They Are Among
28 the Class of Beneficiaries HB 2564 Was Intended to Protect.

1 Defendant-Intervenors Medical Professionals and Ave Maria Pharmacy have a
2 sufficient interest because they are among the class of individuals the Arizona Legislature
3 sought to protect with HB 2564. *See Lockyer*, 450 F.3d at 441. In *Lockyer*, the court
4 found it clear that the proposed intervenors (several of the Defendant-Intervenors
5 Medical Professionals in the instant case) had a sufficient interest in statutory protections
6 for rights of conscience to warrant intervention because it “seem[ed] beyond
7 dispute[]that Congress passed the Weldon Amendment to protect health care providers
8 like those represented by the proposed intervenors.” *Id.* Defendant-Intervenors’
9 individual members, physicians (including obstetricians and gynecologists), physician-
10 assistants, nurses, and other health care professionals, are specifically protected by HB
11 2564 from discrimination because they refuse to provide abortion, refer for abortion,
12 assist in abortion, train for abortion, or prescribe or dispense abortifacients. HB 2564,
13 Section 5, ARIZ REV. STAT. § 36-2154. It is self-evident that the Defendant-Intervenors’
14 members’ interests in the conscience protections provided by HB 2564 would be
15 eliminated should this Court grant Plaintiffs the relief they seek. *Lockyer*, 450 F.3d at
16 441.

17 Defendant-Intervenors Medical Professionals and Ave Maria Pharmacy also
18 satisfy the interest test because the order sought by Plaintiffs could compromise their
19 members’ First Amendment free exercise and free speech and state and federal statutory
20 rights, even leaving them subject to regulatory and/or criminal penalties should they
21 refuse to perform, participate in or refer for abortions. Defendant-Intervenors have a
22 “sufficient” interest in protecting themselves from employment discrimination because of
23 adherence to their consciences, since if Arizona’s state law that protects conscience is
24 declared unconstitutional or substantially narrowed as a consequence of this litigation,
25 then medical professionals “will be more likely to be forced to choose between adhering
26 to their beliefs and losing their professional licenses.” *Lockyer*, 450 F.3d at 441.

27 2. Applicant Arizona Catholic Conference Has a Protectable Interest
28 in HB 2564 as an Organization that Advocated for its Passage.

1 The Ninth Circuit has held that “a public interest group is entitled as a matter of
2 right to intervene in an action challenging the legality of a measure it has supported.”
3 *Idaho Farm Bureau Fed’n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995) (granting
4 intervention as of right to environmental group that supported adding spring snails to
5 endangered species list); *Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 526-27 (9th
6 Cir. 1983) (finding protectable interest by Audobon Society in suit against the
7 Department of Interior challenging the creation of a wildlife habitat area for which
8 Audobon Society advocated). Applicant Arizona Catholic Conference is a public interest
9 organization that has consistently advocated for and continues to advocate for statutory
10 protection for freedom of conscience for healthcare workers, the health and safety of
11 women facing unplanned pregnancy, and the sanctity of human life from conception until
12 natural death. Decl. of Ronald Johnson, ¶ 6-7. To that end, Arizona Catholic Conference
13 advocated in the Arizona Legislature specifically for HB 2564 that is at issue in this
14 action, and consequently it may intervene of right. *Id.* at ¶ 7.

15 3. Defendant-Intervenors Representative Barto and Senator Gray
16 Have a Protectable Interest as Legislators Whose Votes Are in
17 Jeopardy of Being Invalidated.

18 Defendant-Intervenors Representative Barto and Senator Gray have a right to
19 intervene because their legislative votes in favor of HB 2564 are in jeopardy of being
20 invalidated by Plaintiffs’ suit. Each legislator who sponsors a bill, or campaigns for a
21 bill, or ultimately votes for a bill, has a valid legal interest in seeing that bill come into
22 effect. The Supreme Court has said as much: “[L]egislators whose votes would have
23 been sufficient to defeat (or enact) a specific legislative act have standing to sue if that
24 legislative action goes into effect (or does not go into effect), on the ground that their
25 votes have been completely nullified. *Raines v. Byrd*, 521 U.S. 811, 823 (1997) (internal
26 citation to footnote omitted). *See also Kennedy v. Sampson*. *See* 511 F.2d 430, 435 (D.C.
27 Cir. 1974) (“an individual legislator has standing to protect the effectiveness of his
28 vote”). Additionally, in *Coleman v. Miller*, the Supreme Court held that members of the
Kansas Senate had a “plain, direct and adequate interest in maintaining the effectiveness

1 of their votes.” 307 U.S. 433, 438 (1939). There, the legislators’ votes on a specific bill
2 would likewise have been nullified.

3 4. Applicant CPC Phoenix has a Protectable Interest as an
4 Organization that Provides the Services Required by HB 2564.

5 Applicant CPC Phoenix offers the services contemplated by HB 2564. HB 2564
6 requires that a woman seeking an abortion be informed of the availability of services
7 from public and private agencies that can assist the woman during her pregnancy and
8 after the birth of her child if she chooses not to have an abortion. HB 2564, Section 4,
9 Ariz. Rev. Stat. § 36-2153(A)(2)(c). CPC Phoenix is one such private agency. CPC
10 Phoenix has an interest in ensuring that women receive full information about the
11 availability of services from CPC Phoenix and other pregnancy resource centers that
12 could be jeopardized if the court grants Plaintiffs the relief requested. Should this court
13 enjoin HB 2564, Plaintiffs could withhold information from women seeking abortions
14 about the availability of these services, reducing CPC Phoenix’s ability to fulfill its
15 purpose and serve women who are facing unplanned pregnancies.

16 D. The Defendant-Intervenors’ Interests May Be Impaired By this
17 Litigation Because Their Ability to Protect Their Rights Will Be
Impeded.

18 An intervenor need merely show that the disposition of the action “may as a
19 practical matter impair or impede its ability to protect its interest.” FED. R. CIV. P.
20 24(a)(2). This requirement also is to be construed liberally. “If any applicant would be
21 substantially affected in a practical sense by the determination made in an action, [the
22 applicant] should, as a general rule, be entitled to intervene.” FED. R. CIV. P. 24(a)(2),
23 Advisory Committee Note; *City of Los Angeles*, 288 F.3d at 399 (“Whether an
24 applicant’s interest would be impaired by disposition of a lawsuit depends on the range of
25 dispositions open to a court about which an applicant is entitled to be concerned, not the
26 specific disposition the original parties are seeking to have the court approve.”), quoting
27 *Brennan v. Conn. State UAW Cmty. v. Action Program Council*, 60 F.R.D. 626, 631 (D.
28 Conn. 1973); *Berg*, 268 F.3d at 822 (“We follow the guidance of Rule 24 advisory
committee note [cited above].”).

1 The Ninth Circuit said in *Lockyer*, “Having found that appellants have a
2 significant protectable interest, we have little difficulty concluding that the disposition of
3 this case may, as a practical matter, affect it.” 450 F.3d at 442. In light of the clear
4 interest that each of the Defendant-Intervenors has in this action challenging the validity
5 of HB 2564, the Defendant-Intervenors’ interests will certainly be affected by the
6 disposition of this case.

7 Defendant-Intervenors Medical Professionals and Ave Maria Pharmacy easily
8 satisfy the impairment of interests test because their members’ interests in their rights of
9 conscience under HB 2564 might be impaired, and their First Amendment and Title VII
10 and state statutory rights could be impeded by the Court’s disposition of this action.
11 Defendant-Intervenors Medical Professionals and Ave Maria Pharmacy are the very
12 persons that the conscience provisions of HB 2564 were intended to protect. Should the
13 Court order the relief sought by Plaintiffs in this action, Defendant-Intervenors’
14 protection from discrimination would be diminished because they would be deprived of
15 the protections provided by HB 2564. Plaintiffs ultimately seek a declaratory judgment
16 that HB 2564 is unconstitutional and injunctive relief prohibiting its enforcement.
17 Compl. ¶ 90. Such relief, if granted by this Court, would eliminate the conscience
18 protections for Defendant-Intervenors Medical Professionals’ members and Applicant Ave
19 Maria Pharmacy, subjecting them to the imminent threat of being forced to perform
20 abortions, assist in abortions, train for abortions, refer individuals for abortions and
21 prescribe or dispense abortifacients despite their religious, moral, and ethical objections
22 to the practice of abortion. The imminent threat of having their rights of conscience
23 infringed is certainly sufficient to show that the disposition of this case in favor of
24 Plaintiffs will practically affect Defendant-Intervenors Medical Professionals and Ave
25 Maria Pharmacy. *Lockyer*, F.3d 450 at 442.

26 Such relief enjoining enforcement of HB 2564 would also wipe out the efforts of
27 Defendant-Intervenors Arizona Catholic Conference, Representative Barto, and Senator
28 Gray to pass important legislation and would impair the ability of Applicant CPC
Phoenix to provide services to women facing unplanned pregnancies. Appellants’ legal

1 interests will unquestionably be at least as impaired as those of other intervenors under
2 Ninth Circuit case law. *See, e.g., Sagebrush Rebellion*, 713 F.2d at 525 (finding potential
3 impairment of interest by national wildlife organization seeking to intervene as
4 defendants in a suit brought against the Department of Interior challenging the creation of
5 a wildlife habitat area); *Idaho Farm Bureau Fed'n*, 58 F.3d at 1392 (finding potential
6 impairment of interest by environmental group seeking to intervene as defendants in a
7 suit brought by companies against Fish & Wildlife Service challenging its categorization
8 of a snail as an endangered species). Defendant-Intervenors easily satisfy the impairment
9 of interest requirement of Rule 24(a)(2).

10 E. Defendant-Intervenors Satisfy the Requirement of Showing
11 Inadequate Representation by Defendants.

12 As the Supreme Court has stated, “[t]he requirement of the Rule [providing for
13 intervention as of right] is satisfied if the applicant shows that representation of his
14 interest ‘may be’ inadequate; and the burden of making that showing should be treated as
15 minimal.” *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972)
16 (cited by *Sagebrush Rebellion*, 713 F.2d at 528). An applicant “ordinarily should be
17 allowed to intervene unless it is clear that the party will provide adequate representation
18 for the absentee.” *United States v. American Tel. & Tel. Co.*, 642 F.2d 1285, 1293 (D.C.
19 Cir. 1980). Moreover, “justice is best served when *all* parties with a real stake in a
20 controversy are afforded an opportunity to be heard.” *Hodgson v. United Mine Workers*
21 *of America*, 473 F.2d 118, 130 (D.C. Cir. 1972). For the reasons below, Defendant-
22 Intervenors lack adequate representation because it will allow Defendant-Intervenors to
23 assert their unique legal arguments and to ensure full factual development of the record.

24 Although Defendant-Intervenors share some interests with the existing defendants,
25 the divergence in their interests is more than sufficient to satisfy Rule 24(a)(2)’s
26 requirement that the intervenors’ interests might not be adequately represented in this
27 litigation. The government defendants in this case are charged with protecting a broader
28 public interest that might not be consistent with Defendant-Intervenors’ interests. *See*
Forest Conservation Council v. U.S. Forest Service, 66 F.3d 1489, 1499 (9th Cir. 1995)

1 (federal agency, which must take a “broader view,” would not adequately represent
2 “narrow, parochial” interests of intervening environmental groups).

3 In *Lockyer*, the court specifically held that the government defendants would not
4 adequately represent proposed intervenor medical associations, *i.e.*, two of the
5 Defendant-Intervenors in this case, because the government defended a narrow reading of
6 the challenged regulation, while the medical associations advanced a broad reading of the
7 regulation, revealing the divergent interests of the avoidance of constitutional infirmity
8 and the protection of conscience. *Lockyer*, 450 F.3d at 444 (citing *Prete v. Bradbury*, 438
9 F.3d 949, 958 (9th Cir. 2006)) (“We have recognized that willingness to suggest a
10 limiting construction in defense of a statute is an important consideration in determining
11 whether the government will adequately represent its constituents’ interests.”).
12 Additionally, the *Lockyer* court found that the proposed intervenors brought “a point of
13 view to the litigation not presented by either the plaintiffs or the defendants.” *Id.* at 445.
14 In this case, Defendant-Intervenors are likely to advance arguments that are illuminative
15 of the private sector health care professional perspective, the perspective of organizations
16 that provide information and services through pregnancy resource centers, and the
17 perspective of legislators and groups whose advocacy efforts resulted in successful
18 passage of the statute at issue – in contrast to Defendants, which represent governmental
19 interests in enforcing this statute. Defendant-Intervenors are uniquely suited to give
20 primacy to arguments that emphasize the concerns regarding health and safety of women
21 and protection for rights of conscience that make state statutory protections necessary.
22 Decl. ¶¶ 4-7. Furthermore, in support of these arguments, Defendant-Intervenors have
23 and will introduce significant factual evidence that government defendants are likely
24 unable to produce attesting to their members’ medical practice and exercise of
25 professional conscience and the impact of granting relief to Plaintiffs.

26 The potential that Defendant-Intervenors’ interests will not be adequately
27 represented is heightened by public statements and activities of the Arizona Attorney
28 General who is charged with defending the statute. *Farmland Irrigation Co. v.*
Dopplmaier, 220 F.2d 247, 248-49 (9th Cir. 1955) (citing Moore's Federal Practice, §

1 24.07, at page 2333) (“Inadequacy of representation is shown if there is proof of
2 collusion between the representative and an opposing party, if the representative has or
3 represents some interest adverse to that of the applicant for intervention....”). There is
4 substantial reason to believe that Defendant-Intervenors’ interests will be inadequately
5 represented because of Attorney General Goddard’s consistent and vocal stance against
6 government regulation of abortion and protection for healthcare workers’ rights of
7 conscience. Recently, Attorney General Goddard joined twelve other attorneys general
8 in calling for the U.S. Department of Health and Human Services to withdraw a proposed
9 rule protecting healthcare workers’ rights of conscience. Press Release, Office of
10 Arizona Attorney General Terry Goddard, Terry Goddard Urges Proposed Abortion Rule
11 Be Withdrawn (Sept. 24, 2008), *available at*
12 http://www.azag.gov/press_releases/sept/2008/Provider_Conscience_Release.pdf.
13 Attorney General Goddard also delivered the keynote address at “Progressive Lobby Day”
14 sponsored, in part, by abortion-advocates NARAL Pro-Choice Arizona and Planned
15 Parenthood. Progressive Lobby Day 2009, [http://www.ppaction.org/ppaz/events/](http://www.ppaction.org/ppaz/events/lobby_day_09/details.tcl)
16 [lobby_day_09/details.tcl](http://www.ppaction.org/ppaz/events/lobby_day_09/details.tcl) (last visited Sept. 21, 2009). Because of this open association
17 between Attorney General Goddard and abortion advocates, there is a strong likelihood
18 that Defendant-Intervenors’ interest will not be adequately represented. Therefore,
19 Defendant-Intervenors meet the final criteria for intervention of right under Rule 24(a).

20 II. IN THE ALTERNATIVE, DEFENDANT-INTERVENORS SHOULD BE
21 GRANTED PERMISSION TO INTERVENE UNDER FED. R. CIV. P. 24(B).

22 Federal Rule of Civil Procedure 24(b)(2) provides, “[o]n timely motion, the court
23 may permit anyone to intervene who . . . has a claim or defense that shares with the main
24 action a common question of law or fact.” Furthermore, “[i]n exercising its discretion,
25 the court must consider whether the intervention will unduly delay or prejudice the
26 adjudication of the original parties’ rights.” FED. CIV. R. P. 24(c).
27 Defendant-Intervenors satisfy the requirements for permissive intervention. As
28 demonstrated above, the application for intervention is timely, filed only a few days after
the initiation of this action and well in advance of any decisions on the merits. The

1 Defendant-Intervenors will also raise common questions of law and fact with those
2 asserted by the original parties.

3 Specifically, as members of the class of persons the legislative and executive
4 branches intended to protect from discrimination, Defendant-Intervenors Medical
5 Professionals and Ave Maria Pharmacy will seek to defend HB 2564's constitutionality
6 against Plaintiff's claims, arguing that it is necessary to preserve constitutional rights of
7 religious freedom and consistent with existing statutory rights and responsibilities.
8 Furthermore, the Defendant-Intervenors' knowledge of their own religious and ethical
9 views concerning abortion would provide this Court a perspective it might not otherwise
10 hear, and might aid the Court in the disposition of this case.

11 Additionally, Defendant-Intervenors Arizona Catholic Conference, Representative
12 Nancy Barto, and Senator Linda Gray, as those whose hard work went into passing HB
13 2564, and CPC Phoenix, as an organization that provides information and resources for
14 women considering abortion, seek to defend the constitutionality of HB 2564, arguing
15 that the provisions do not place any undue burden on obtaining an abortion and that every
16 woman deserves the opportunity to be fully informed about the risks and alternatives to
17 abortion before undergoing the procedure. The Defendant-Intervenors knowledge of the
18 bases for the legislation and the real-world practice of providing this information to
19 women facing unplanned pregnancies would also provide a unique perspective to the
20 Court and assist in the disposition of this case.

21 Thus, should the Court not grant Defendant-Intervenors' motion for intervention
22 as of right, Defendant-Intervenors respectfully request that the Court exercise its
23 discretion to grant them permissive intervention pursuant to Fed. R. Civ. P. 24(b).

24 **CONCLUSION**

25 For the foregoing reasons, the Court should grant the Defendant-Intervenors'
26 motion to intervene as of right, or in the alternative grant the Defendant-Intervenors'
27 motion for permissive intervention.

28 DATED: This 22nd day of September, 2009

s/ Deborah Sheasby

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CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2009, a copy of foregoing Motion to Intervene, and all attachments thereto, was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

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Attorneys for Applicants for Intervention
*Application for admission *pro hac vice* filed
**Application for admission *pro hac vice* forthcoming

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Tucson Women's Center; Family
Planning Associates; William

No. CV 2009-01909-DGC

Exhibit A

Richardson, M.D.; Paul A. Isaacson,
M.D.; and Frank Laudonio, M.D.,

Plaintiffs,

v.

Arizona Medical Board; Lisa Wynn,
in her official capacity as Executive
Director of the Arizona Medical
Board; and Terry Goddard, in his
official capacity as Attorney General
of Arizona,

Defendants,

and

American Association of Pro-Life
Obstetricians and Gynecologists, a
nonprofit association on behalf of its
individual members in the State of
Arizona; Catholic Medical
Association, a nonprofit association
on behalf of its individual members in
the State of Arizona; Christian
Medical and Dental Associations, a
nonprofit association on behalf its
individual members in the State of
Arizona; Christian Pharmacists
Fellowship International, a nonprofit
association on behalf of its individual
members in the State of Arizona; Ave
Maria Pharmacy, PLLC, an Arizona
corporation; Arizona Catholic
Conference, an Arizona nonprofit
corporation; Crisis Pregnancy Centers
of Greater Phoenix, an Arizona
nonprofit corporation; Senator Linda
Gray; and Representative Nancy
Barto,

Proposed

**(PROPOSED) ANSWER TO
COMPLAINT OF DEFENDANT-
INTERVENORS**

Defendant-Intervenors

**(PROPOSED) ANSWER TO COMPLAINT OF DEFENDANT
INTERVENORS**

COME NOW Proposed Defendant-Intervenors AMERICAN ASSOCIATION OF PRO-LIFE OBSTETRICIANS AND GYNECOLOGISTS (“AAPLOG”), CATHOLIC MEDICAL ASSOCIATION (“Catholic Medical”), CHRISTIAN MEDICAL ASSOCIATION (“CMDA”), CHRISTIAN PHARMACISTS FELLOWSHIP INTERNATIONAL (“Christian Pharmacists”), AVE MARIA PHARMACY, PLLC, ARIZONA CATHOLIC CONFERENCE, CRISIS PREGNANCY CENTERS OF GREATER PHOENIX (“CPC Phoenix”), SENATOR LINDA GRAY, and REPRESENTATIVE NANCY BARTO, and as and for an Answer to the Complaint filed herein, state as follows:

1. The allegations of paragraph 1 of the Complaint require no answer.
2. The allegations of paragraph 2 constitute conclusions of law as to which no answer is required, as the Act in question (H.B. 2564) speaks for itself; Defendant-Intervenors are without knowledge or information sufficient to form a belief as to the truth of any factual allegations therein.
3. The allegations of paragraph 3 constitute conclusions of law as to which no answer is required, as the Act in question (H.B. 2564) speaks for itself; Defendant-Intervenors are without knowledge or information sufficient to form a belief as to the truth of any factual allegations therein.
4. The allegations of paragraph 4 constitute conclusions of law as to which no answer is required, as the Act in question (H.B. 2564) speaks for itself; Defendant-

Intervenors are without knowledge or information sufficient to form a belief as to the truth of any factual allegations therein.

5. The allegations of paragraph 5 constitute conclusions of law as to which no answer is required, as the Act in question (H.B. 2564) speaks for itself; Defendant-Intervenors are without knowledge or information sufficient to form a belief as to the truth of any factual allegations therein.

6. Admitted.

7. Denied.

8. Denied.

9. The allegations of paragraph 9 constitute conclusions of law as to which no answer is required.

10. The allegations of paragraph 10 constitute conclusions of law as to which no answer is required.

11. Denied. Defendant-Intervenors do not believe that Plaintiffs have standing to pursue this action.

12. Admitted.

13. Admitted.

14. Defendant-Intervenors are without knowledge or information sufficient to form a belief as to the truth of any factual allegations set forth in paragraph 14, and consequently deny them.

15. Defendant-Intervenors are without knowledge or information sufficient to form a belief as to the truth of any factual allegations set forth in paragraph 15, and consequently deny them.

16. Defendant-Intervenors are without knowledge or information sufficient to form a belief as to the truth of any factual allegations set forth in paragraph 16, and consequently deny them.

17. Defendant-Intervenors are without knowledge or information sufficient to form a belief as to the truth of any factual allegations set forth in paragraph 17, and consequently deny them.

18. Defendant-Intervenors are without knowledge or information sufficient to form a belief as to the truth of any factual allegations set forth in paragraph 18, and consequently deny them.

19. The allegations of paragraph 19 constitute conclusions of law as to which no answer is required, as the statutes in question speak for themselves.

20. Admitted.

21. Admitted.

22. The allegations of paragraph 22 constitute conclusions of law as to which no answer is required, as the Act in question (H.B. 2564) speaks for itself.

23. The allegations of paragraph 23 constitute conclusions of law as to which no answer is required, as the Act in question (H.B. 2564) speaks for itself.

24. The allegations of paragraph 24 constitute conclusions of law as to which no answer is required, as the Act in question (H.B. 2564) speaks for itself.

25. The allegations of paragraph 25 constitute conclusions of law as to which no answer is required, as the Act in question (H.B. 2564) speaks for itself.

26. The allegations of paragraph 26 constitute conclusions of law as to which no answer is required, as the Act in question (H.B. 2564) speaks for itself.

27. The allegations of paragraph 27 constitute conclusions of law as to which no answer is required, as the Act in question (H.B. 2564) speaks for itself.

28. The allegations of paragraph 28 constitute conclusions of law as to which no answer is required, as the Act in question (H.B. 2564) speaks for itself.

29. Admitted, except that Defendant-Intervenors are without knowledge sufficient to form a belief as to the number of abortions done in Arizona.

30. Denied.

31. Admitted. Defendant-Intervenors further answer that many women seek abortion because they are in abusive relationships in which their partners or parents coerce them to have abortions, because they are misinformed about abortion and its alternatives by parents, acquaintances, and health care providers, or because they are subjected to false or incomplete diagnoses concerning fetal health and/or their own health risks in carrying a child to term. H.B. 2564 appropriately seeks to redress the provision of false or incomplete information to women considering abortion.

32. Admitted. Defendant-Intervenors further answer that many women seek abortion because they are in abusive relationships in which their partners or parents coerce them to have abortions, because they are misinformed about abortion and its alternatives by parents, acquaintances, and health care providers, or because they are

subjected to false or incomplete diagnoses concerning fetal health and/or their own health risks in carrying a child to term. H.B. 2564 appropriately seeks to redress the provision of false or incomplete information to women considering abortion.

33. Admitted. Defendant-Intervenors further answer that many women seek abortion because they are in abusive relationships in which their partners or parents coerce them to have abortions, because they are misinformed about abortion and its alternatives by parents, acquaintances, and health care providers, or because they are subjected to false or incomplete diagnoses concerning fetal health and/or their own health risks in carrying a child to term. H.B. 2564 appropriately seeks to redress the provision of false or incomplete information to women considering abortion.

34. The allegations of paragraph 34 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

35. The allegations of paragraph 35 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

36. The allegations of paragraph 36 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. The allegations of paragraph 45 are confusing and irrelevant, as the challenged statute does not prohibit Plaintiffs from requiring payment for abortion services on the day they are to be provided.

46. Denied.

47. The allegations of paragraph 47 constitute conclusions of law as to which no answer is required, as the statute in question speaks for itself.

48. The allegations of paragraph 48 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

49. Denied.

50. Denied.

51. Denied.

52. The allegations of paragraph 52 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

53. The allegations of paragraph 53 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

54. The allegations of paragraph 54 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

55. The allegations of paragraph 55 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

56. The allegations of paragraph 56 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

57. The allegations of paragraph 57 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

58. The allegations of paragraph 58 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

59. The allegations of paragraph 59 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

60. The allegations of paragraph 60 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

61. The allegations of paragraph 61 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

62. The allegations of paragraph 62 are mere speculation, and as such are irrelevant and immaterial and are consequently denied.

63. Denied.

64. Denied.

65. Denied.

66. Denied.

67. Defendant-Intervenors admit that all women must receive the mandated information outside of medical emergency situations, but deny that said information will have a negative physical or psychological impact on them.

68. Denied.

69. Denied.

70. The allegations of paragraph 70 are irrelevant and are consequently denied.

71. Defendant-Intervenors lack sufficient knowledge to form a basis for admitting or denying the allegations of paragraph 71, and thus deny them.

72. Denied.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Defendant-Intervenors reallege and reincorporate by reference their response to paragraphs 1 through 76 above.

78. Denied.

79. Defendant-Intervenors reallege and reincorporate by reference their response to paragraphs 1 through 78 above.

80. Denied.

81. Defendant-Intervenors reallege and reincorporate by reference their response to paragraphs 1 through 80 above.

82. Denied.

83. Defendant-Intervenors reallege and reincorporate by reference their response to paragraphs 1 through 82 above.

84. Denied.

85. Defendant-Intervenors reallege and reincorporate by reference their response to paragraphs 1 through 84 above.

86. Denied.

87. Defendant-Intervenors reallege and reincorporate by reference their response to paragraphs 1 through 86 above.

88. Denied.

89. Defendant-Intervenors reallege and reincorporate by reference their response to paragraphs 1 through 88 above.

90. Denied.

91. The remainder of the Complaint constitutes Plaintiffs' prayer for relief, to which no response is required, but to the extent a response is deemed necessary, Defendant-Intervenors deny that Plaintiffs are entitled to the relief requested, or to any relief whatsoever.

92. Defendant-Intervenors deny all of the allegations of the complaint not otherwise answered above.

AFFIRMATIVE DEFENSES

1. The court lacks subject matter jurisdiction over this action.
2. Plaintiffs lack standing to sue.
3. Plaintiffs' claims are not ripe.
4. Plaintiffs have not presented an actual case or controversy.
5. Plaintiffs and their patients have not suffered any injury in fact.
6. Plaintiffs have failed to state a claim upon which relief can be granted.

7. The relief Plaintiffs request to declare unconstitutional the health care right of conscience provisions of H.B. 2564 would violate the rights of Defendant-Intervenors and their associational members to liberty of conscience, free exercise of religion and equal protection of the laws under the First Amendment to the United States Constitution and applicable federal statutes, including the Weldon Amendment, the Coates-Snowe Amendment and the Church Amendments.

CONCLUSION

Having fully answered, Defendant-Intervenors respectfully request that Plaintiffs' claims be dismissed with prejudice, that costs be taxed against Plaintiffs, and that the Court award Defendant-Intervenors such other and further relief as the Court may deem just and proper.

Respectfully submitted this ___ day of _____, 2009.

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Tucson Women's Center; Family
Planning Associates; William
Richardson, M.D.; Paul A. Isaacson,
M.D.; and Frank Laudonio, M.D.,

Plaintiffs,

v.

Arizona Medical Board; Lisa Wynn,
in her official capacity as Executive
Director of the Arizona Medical
Board; and Terry Goddard, in his
official capacity as Attorney General
of Arizona,

Defendants,

and

American Association of Pro-Life
Obstetricians and Gynecologists, a
nonprofit association on behalf of its
individual members in the State of
Arizona; Catholic Medical
Association, a nonprofit association
on behalf of its individual members in
the State of Arizona; Christian
Medical and Dental Associations, a
nonprofit association on behalf its
individual members in the State of
Arizona; Christian Pharmacists
Fellowship International, a nonprofit
association on behalf of its individual
members in the State of Arizona; Ave
Maria Pharmacy, PLLC, an Arizona
corporation; Arizona Catholic
Conference, an Arizona nonprofit

No. CV 2009-01909-DGC

**[PROPOSED] ORDER GRANTING
MOTION TO INTERVENE**

corporation; Crisis Pregnancy Centers of Greater Phoenix, an Arizona nonprofit corporation; Senator Linda Gray; and Representative Nancy Barto,

Proposed
Defendant-Intervenors

[PROPOSED] ORDER GRANTING MOTION TO INTERVENE

On considering the motion of American Association of Pro-Life Obstetricians and Gynecologists, Catholic Medical Association, Christian Medical and Dental Associations, Christian Pharmacists Fellowship International, Ave Maria Pharmacy, PLLC, Arizona Catholic Conference, Crisis Pregnancy Centers of Greater Phoenix, Senator Linda Gray, and Representative Nancy Barto (collectively, “Movants”) to intervene, the briefs and argument in support thereof and in opposition thereto, and the record herein, it is hereby

ORDERED that the Movant’s motion to intervene as of right is GRANTED; and it is

FURTHER ORDERED that the counsel for the parties confer and that, within ten business days of this Order, Movants file a proposed scheduling order for furthering proceedings consistent with this Order.

DATED: This __ day of _____, 2009.

Judge of the Above-Entitled Court