

FILED

B
M MAY 05 2025

SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

PEOPLE OF THE STATE OF CALIFORNIA,

CASE NO. CV2401832

Plaintiff,

RULING ON DEFENDANT'S
DEMURRER TO COMPLAINT

vs.

ST. JOSEPH HEALTH OF NORTHERN
CALIFORNIA, et al.,

Defendants.

Defendant's demurrer to Plaintiff's complaint came on for hearing before the Honorable Timothy A. Canning on February 14, 2025. Attorneys Martine D'Agostino, Katelyn Wallace, and David Houska appeared on behalf of Plaintiff, and attorneys Harvey Rochman and Barry Landsberg appeared on behalf of Defendant and demurring party.

The Court has read and considered Plaintiff's complaint, the demurrer, the moving, opposing and reply points and authorities submitted by the parties, the requests for judicial notice and Plaintiff's opposition thereto, and has considered counsels' oral argument. The Court rules as follows.

Plaintiff State of California (People) through the state Attorney General brought this action for permanent injunction, civil penalties, and other equitable relief against defendant

1 St. Joseph Health Northern California, LLC, which owns and operates Providence St. Joseph
2 Hospital in Eureka ("Providence"). The People seek a permanent injunction requiring
3 Providence to provide necessary emergency procedures for pregnant women, including: abortion
4 services when medically required; to refrain from refusing to provide emergency services; and to
5 refrain from transferring patients needing emergency services to other emergency hospitals
6 without complying with California's Emergency Services Law (Health & Safety Code sections
7 1317 to 1317.10, herein "ESL").

8 **1. Fact Allegations**

9 The People's complaint alleges that Anna Nusslock was pregnant with twins when the
10 amniotic sac for one twin broke prematurely. Complaint, ¶55. Ms. Nusslock was in need of
11 emergency medical care and so she and her husband went to Providence's emergency room at
12 her doctor's direction. Complaint, ¶52. Once there, the emergency room doctor determined that
13 Ms. Nusslock was in need of an abortion to protect her health and life. Though one of the two
14 twins no longer had a fetal heart tone, the other did. Complaint, ¶56.

15 Due to Providence's religious policy on providing abortion services, the Providence
16 emergency room doctors were unable to perform an abortion until the second twin's fetal heart
17 tone was no longer detectable or until a more immediate threat to the mother's life was present.
18 Complaint, ¶63. The fetal heart tone notwithstanding, the second twin had no chance of survival.
19 Complaint, ¶59.

20 As Ms. Nusslock's medical condition continued to deteriorate, Providence provided her
21 with three options: she could wait at Providence until the fetal heart tone for the second fetus
22 ceased, though that would present a substantial risk to her health and life; she could take a
23 medical transport flight to a hospital in San Francisco, though the cost to do so was prohibitive
24 for Ms. Nusslock; or her husband could drive her to a community hospital 20 miles away to
25 receive the necessary and appropriate emergency medical care. Complaint, ¶6. Ms. Nusslock

1 elected the third option, left Providence, and arrived at Mad River Community Hospital (MRCH)
2 in a life-threatening condition. Complaint ¶¶75. MRCH provided the emergency medical
3 treatment she needed. Complaint ¶79. Ms. Nusslock ultimately recovered, though sustaining
4 physical and emotional injuries. Complaint ¶¶80, 82.

5 The People allege four causes of action against Providence: two causes of action for
6 violations of the ESL, a third cause of action for violating the Unruh Civil Rights Act (Civ. Code
7 §51), and a fourth cause of action for violating the Unfair Competition Law (Bus. & Prof. Code
8 §17200 et seq.).

9 Defendant Providence asserts a general demurrer to the complaint and each cause of
10 action alleged on the grounds that it fails to allege facts sufficient to state a cause of action.

11 **Standard for General Demurrer**

12 For the purpose of testing the sufficiency of the causes of action, the demurrer admits “all
13 material facts properly pleaded. The court does not, however, assume the truth of contentions,
14 deductions or conclusions of law.” *Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 967.
15 “To survive a demurrer, the complaint need only allege facts sufficient to state a cause of action;
16 each evidentiary fact that might eventually form part of the plaintiff’s proof need not be alleged.”
17 *C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal.4th 861, 872.

18 A general demurrer should be overruled where the complaint states some cause of action,
19 even if not the cause of action the pleader intended. *Sheehan v. San Francisco 49ers, Ltd.* (2009)
20 45 Cal.4th 992, 998 (general demurrer should be sustained “only if the complaint fails to state a
21 cause of action under any possible legal theory”); *Saunders v. Cariss* (1990) 224 Cal.App.3d
22 905, 908 (“Our task is to determine whether the pleaded facts state a cause of action on any
23 available legal theory”). A demurrer does not lie to a portion of a cause of action. *PH II, Inc. v.*
24 *Superior Court (Ibershof)*(1995) 33 Cal.App.4th 1680, 1682.

25 ///

1 A complaint will be upheld against a demurrer if it provides the defendant with “notice of
2 the issues sufficient to enable preparation of a defense.” *Doe v. City of Los Angeles* (2007) 42
3 Cal.4th 531, 549-550. The plaintiff need only plead such facts as are necessary “to acquaint a
4 defendant with the nature, source and extent of his claims.” *Doe, supra*, 42 Cal.4th at 550.

5 As to Defendant’s Request for Judicial Notice, filed 12/23/2024, the Court grants all four
6 requests, overrules Plaintiff’s objections, and will take judicial notice of the requested material.

7 As to Plaintiff’s Request for Judicial Notice, filed 1/28/2025, the Court grants all seven
8 requests, and will take judicial notice of the requested material.

9 Turning to Providence’s arguments in support of its general demurrer, the Court finds and
10 rules as follows.

11 **2. Primary Jurisdiction**

12 First, Providence contends that the doctrine of primary jurisdiction precludes this court
13 from hearing this matter until after the State Department of Public Health (CDPH) has reached a
14 decision as to Providence’s non-compliance with the ESL.¹ However, the ESL itself contains no
15 such restrictions. Instead, the Attorney General and individuals harmed by violations of the
16 ESL are expressly authorized by the legislature to bring civil actions under the ESL. Health &
17 Saf. Code §1317.6(j). Submitting the issue to CDPH is not a prerequisite. *Id.* The Court finds
18 that it has jurisdiction to hear this dispute.

19 In a related argument, Providence urges this Court to exercise its discretion and dismiss
20 or abate this action until CDPH weighs in, contending that the ESL is a complicated statute with
21 highly technical definitions which may be beyond this Court’s ability to comprehend. However,
22 to the extent that specialized knowledge or expertise is needed to resolve the issues raised by the
23 complaint, the parties can proffer expert testimony to assist the Court. See Evid. Code §730.

24
25 ¹ The parties agree that there is no proceeding pending with CDPH arising out of this incident, as
of the date this demurrer was heard.

1 The Court overrules the demurrer based on this ground.

2 **3. Transfer for Medical Reasons**

3 Providence next argues that the complaint alleges that the transfer of the patient was for
4 medical reasons, citing to paragraph 70 of the complaint, and therefore the People's second cause
5 of action for violating the non-medical transfer provisions fails as a matter of law.

6 The Court finds that the People's complaint does not contain inconsistent factual
7 allegations on the issue of transfer. Paragraph 70 itself does not specifically allege a medical
8 transfer, but generally alleges that Providence told the patient that "Mad River [Community
9 Hospital] will take you" and that Ms. Nusslock then "submitted to leave Providence Hospital and
10 drive to Mad River." Complaint, ¶70. However, in the second cause of action, the People
11 specifically allege that Providence's action in sending Ms. Nusslock away without medical
12 treatment was for non-medical reasons and therefore violated the ESA. (Complaint, ¶99).

13 A party cannot plead inconsistent factual allegations between causes of action. *Manti v.*
14 *Gunari* (1970) 5 Cal.App.3d 442, 449. A party can, however, plead inconsistent legal theories.
15 *Berman v. Bromberg* (1997) 56 Cal.App.4th 936, 948.

16 Here, the complaint arguably alleges a medical transfer in one paragraph (Complaint,
17 ¶70), then a non-medical transfer in another cause of action (Complaint, ¶99), and no transfer at
18 all in a third paragraph (Complaint, ¶100). The Court finds that those allegations are alternate
19 legal theories or claims under the ESA, and not inconsistent factual allegations. Though the
20 legal theories of medical transfer, non-medical transfer, or no transfer may be inconsistent, the
21 underlying alleged facts regarding Ms. Nusslock leaving Providence are not.

22 Further, the Court finds that there are sufficient factual allegations to support a claim of a
23 non-medical transfer, arising from Providence's alleged refusal to provide medical services. The
24 allegations in the complaint reflect the only reason that the necessary emergency services were
25 not performed by Providence's emergency room physicians was because of Providence's faith-

1 based policies. (Providence's RJN, ¶73). The People allege that Providence's refusal to provide
2 the needed emergency services had nothing to do with Providence's emergency room not being
3 equipped to perform such a procedure, or not having a qualified physician who could perform the
4 needed procedure. Complaint, ¶¶ 65-67, 70; see Health & Saf. Code §1317.2.

5 There may be fact issues as to whether Ms. Nusslock was actually transferred to MRCH
6 by Providence (whether for medical or non-medical reasons), or whether Providence simply
7 refused to provide emergency medical services and told Ms. Nusslock to go elsewhere for
8 emergency medical care. But disputed factual questions cannot be resolved on a demurrer.
9 *Limon v. Circle K Stores Inc.* (2022) 84 Cal.App.5th 671, 681.

10 Reading the complaint's allegations as a whole, and giving the fact allegations a
11 reasonable interpretation (*Roe v. Hesperia Unified School Dist.* (2022) 85 Cal.App.5th 13, 31), the
12 Court overrules the demurrer to the second cause of action on this ground.

13 **4.. The Unruh Civil Rights Act (third cause of action)**

14 The Unruh Civil Rights Act prohibits public accommodations from "denying full and
15 equal accommodations, advantages, facilities, privileges, or services" to anyone based on the fact
16 that they are pregnant or have medical conditions related to pregnancy, among other
17 characteristics. Civ. Code §51(e)(6).

18 Here, the complaint alleges that Providence diagnosed Ms. Nusslock with previable
19 preterm premature rupture of membranes (PPROM), a medical condition related to her
20 pregnancy. Complaint, ¶¶1, 27-31. Plaintiff further alleges that Providence had the facilities
21 and medical doctors with sufficient training and expertise to perform an induction or a dilation
22 and evacuation procedure (D&E), procedures necessary to protect Ms. Nusslock's health.
23 Complaint, ¶25. Providence refused to perform those procedures, however, as long as the one
24 twin still had a fetal heart tone. Complaint, ¶63. Plaintiff alleges that Providence has a policy of
25 providing "only limited emergency services to those who are pregnant...." Complaint, ¶83.

1 Plaintiff further alleges that “Pregnant patients, and those suffering from medical conditions
2 related to pregnancy, are denied the full range of emergency medical services at Providence
3 Hospital. No other set of patients sees their care so restricted or are denied the standard of care
4 for their conditions.” Complaint, ¶107.

5 In order to adequately plead a claim under the Unruh Civil Rights Act, the People must
6 allege facts showing the following:

- 7 (1) That Providence denied full and equal services to Ms. Nusslock;
- 8 (2) That a substantial motivating reason for Providence’s conduct was Ms. Nusslock’s
9 pregnancy and her medical condition connected with her pregnancy;
- 10 (3) That Ms. Nusslock was harmed by Providence denying her medical care; and
- 11 (4) That Providence’s conduct was a substantial factor in causing Ms. Nusslock’s harm.

12 Judicial Council of California Civil Jury Instructions (Feb. 2025) (CACI) No. 3060, *Unruh Civil*
13 *Rights Act-Essential Factual Elements*; see also *Minton v. Dignity Health* (2019) 39 Cal.App.5th
14 1155, 1162-1163 (hospital’s contention that its action was motivated by adherence to neutral
15 religious directives and not by plaintiff’s medical condition or sexual orientation is not
16 susceptible to resolution by demurrer); *North Coast Women’s Care Medical Group, Inc. v.*
17 *Superior Court* (2008) 44 Cal.4th 1145, 1157 (rejecting, inter alia, physicians’ claim to a
18 religious exemption from complying with the Unruh Act); and *Civil Rights Dept. v. Cathy’s*
19 *Creations, Inc.* (2025) 109 Cal.App.5th 204, *review filed* Mar. 20, 2025 case no. S289898.

20 Taking the complaint’s factual allegations as true, the Court finds that the People have
21 sufficiently pled a claim under the Unruh Civil Rights Act, and overrules Providence’s demurrer
22 to this cause of action on this ground.

23 **5. Violation of the UCL (fourth cause of action)**

24 The parties agree that the fourth cause of action, for violations of the Unfair Competition
25 Law, rises or falls based on the first three causes of action. As the court has found that the first

1 three causes of action have been adequately pled, the Court overrules the demurrer to this cause
2 of action as well.

3 **6. “Conscience Clause” Legislation**

4 The Court finds that the facts alleged in this case do not implicate the federal “conscience
5 clause” legislation. First, the Church Amendments (42 U.S.C. §300(a)-7(b)) prohibits
6 conditioning the acceptance of federal funds on the performance of abortion procedures. As
7 alleged, this case does not involve placing any such conditions on Providence’s receipt of federal
8 funds, and hence the Church Amendments are inapplicable. See *Becerra v. Azar* (9th Cir. 2020)
9 950 F.3d 1067, 1079.

10 Second, the Court finds that the Weldon Amendment and the Coats-Snowe Amendment
11 (42 U.S.C. §238n) are inapplicable to this case, in that there are no facts alleged to support a
12 claim that the People are discriminating against a federally-funded hospital or threatening to
13 cause Providence to lose any federal funding it receives as a result of Providence’s alleged
14 failure to comply with the state ESA.

15 Providence’s demurrer on this ground is also overruled.

16 **7. Constitutional Right to Free Exercise of Religion and Free Expression**

17 Providence also demurs to the first three causes of action (violations of the ESL and
18 Unruh Act), on the grounds that the ESL unconstitutionally interferes with Providence’s free
19 exercise of its religion by forcing a faith-based hospital to perform procedures that contravene
20 the tenets of its religion (Ethical and Religious Directives, Providence’s Request for Judicial
21 Notice, No. 3). Laws that burden religious exercise must be both neutral and generally
22 applicable, otherwise the law must pass the strict scrutiny analysis. *Fellowship of Christian*
23 *Athletes v. San Jose Unified School Dist. Board of Education* (9th Cir. 2023) 82 F.4th 664, 685.

24 The ESL requires California hospitals with emergency rooms to provide emergency
25 services to whoever needs them. The legislative purposes behind the statute are “the provision

of emergency medical care is a vital public service of great benefit to Californians. It is necessary for the protection of the health and safety of Californians that a comprehensive and high quality system of emergency medical services be provided.” *Hospitals—Emergency Patient Transfers*, 1987 Cal. Legis. Serv. 1240 (West) Stats. 1987, c.1240 §1(a). The ESL also provides that a hospital is not required to provide particular emergency services if it does not have the appropriate facilities or qualified personnel available to provide that particular service or care. Health & Safe. Code §1317(a).

Here, the complaint alleges that Providence does have the appropriate facilities and qualified personnel to perform an abortion in an emergency situation, where the mother's life is at grave risk and there is a fetal heart tone. The complaint specifically alleges that the emergency room physicians gave Ms. Nusslock medical advice that an abortion was medically necessary to prevent grave injury to her, but they could not perform the procedure only because of Providence's religious doctrine.

As the Court of Appeal for the 5th District recently observed:

[L]aws incidentally burdening religion are ordinarily not subject to strict scrutiny under the free exercise clause so long as they are neutral and generally applicable; rather, they are subject only to rational basis review. (*Smith, supra*, 494 U.S. at pp. 878–882, 110 S.Ct. 1595; accord, *Lukumi, supra*, 508 U.S. at p. 531, 113 S.Ct. 2217 [“a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular religious practice”].) If a law is not neutral and generally applicable, however, it is subject to strict scrutiny and survives only if it advances “ ‘interests of the highest order’ ” and is “narrowly tailored in pursuit of those interests.” (*Lukumi, supra*, at p. 546, 113 S.Ct. 2217.)

Civil Rights Dept. v. Cathy's Creations, Inc. (2025) 109 Cal.App.5th 204, __, 329 Cal.Rptr.3d 846, 895 (review filed Mar. 20, 2025); *Doe v. San Diego Unified School Dist.* (9th Cir. 2021) 19 F.4th 1173, 1181 (right to practice religion freely is not beyond regulation in the public interest, including regulation aimed at reducing the risk of ill-health or death).

///

1 The Court finds that the ESL is neutral as to religion and is a statute of general
2 applicability, and the exemptions contained in the ESL are also religion-neutral and narrowly
3 tailored to accomplish the purposes of the ESL. There is a rational and logical connection
4 between requiring a hospital to provide emergency services unless that hospital does not have
5 trained physicians to perform the service, or does not have the necessary equipment to perform
6 the emergency procedure. Ensuring hospitals only perform emergency treatments that their
7 staff are qualified to perform with the necessary medical equipment promotes patient welfare.
8 Further, allowing a hospital that is fully able to care for a patient to choose not to do so due to
9 its religious doctrine would undermine the purposes of the ESL. Finally, there is nothing in the
10 ESL or legislative history that is based on secular beliefs, or that prioritizes secular beliefs
11 above religious beliefs. Instead, the ESL addresses public policy concerns as found by the
12 legislature, acting well within its constitutional powers.

13 For the foregoing reasons, applying the rational basis standard of review, the Court
14 finds that the ESL is not an unconstitutional infringement of Providence's right to free religious
15 expression.

16 Even if the strict scrutiny standard applied here, the Court finds that the ESL satisfies that
17 test. The ESL statute serves a specific and identified compelling government interest, i.e., to
18 provide a comprehensive and high quality system of emergency medical services for the
19 protection of the health and safety of Californians. *Hospitals—Emergency Patient Transfers*,
20 1987 Cal. Legis. Serv. 1240 (West) Stats. 1987, c.1240 §1(a).

21 Though the complaint does not expressly allege that there are “no less restrictive
22 alternatives” to requiring Providence to provide emergency abortion services when medically
23 necessary, the complaint does allege that there are no other facilities within the area that could
24 perform emergency abortion services, as the hospital that finally treated Ms. Nusslock has now
25 closed its labor and delivery services. Complaint, ¶8. Transferring patients to a hospital in the

1 San Francisco bay area that is willing to perform an abortion when a woman's health is
2 endangered even though fetal heart tones are present is not a less restrictive alternative by which
3 the State can achieve its policy goals, as doing so is too time-consuming in an emergency
4 (complaint, ¶33) and prohibitively expensive (complaint, ¶68).

5 Assuming the facts as alleged in the complaint are true, the Court concludes that the ESL
6 does not unconstitutionally infringe on Providence's religious right to free expression.

7 The Court finds that, as pled, the complaint alleges sufficient facts to state causes of
8 action against Defendant.²

9 For the foregoing reasons,

10 IT IS HEREBY ORDERED that:

11 Defendant's demurrer is overruled. Defendant shall have thirty days from the date this
12 order is served to file an answer.

13
14 Dated: May 1, 2025


Timothy A. Canning
Judge of the Superior Court

15
16
17
18
19
20
21
22
23
24
25 ² Providence also argued that no other court has ever ordered Providence to perform an abortion
against its religious beliefs. That argument is irrelevant, since this Court is not, as this stage of
proceedings, ordering Providence to perform abortions, but is simply allowing the People's case
to move forward.

PROOF OF SERVICE BY MAIL

I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse, 825 5th St., Eureka, California, 95501; that I served a true copy of the attached RULING ON DEFENDANT'S DEMURRER TO COMPLAINT by placing said copies in the attorney's mail delivery box in the Court Operations Office at Eureka, California on the date indicated below, or by placing said copies in envelope(s) and then placing the envelope(s) for collection and mailing on the date indicated below following our ordinary business practices. I am readily familiar with this business practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service at Eureka, California in a sealed envelope with postage prepaid. These copies were addressed to:

Attorney General of California
Deputy Attorneys General Martine D'Agostino, David Houska, Katelyn Wallace
300 S. Spring Street
Los Angeles, CA 90013

Manatt Phelps & Phillips, LLP
Attorneys Harvey Rochman & Barry Landsberg
2049 Century Park East, Suite 1700
Los Angeles, CA 90067

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed on the 5th day of May 2025, at the City of Eureka, California.

Meara C. Hattan, Clerk of the Court

By

Bela F. Magan
Deputy Clerk