

# Exhibit I

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

WHOLE WOMAN’S HEALTH, et al.,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION
v.	)	
	)	CASE NO. _____
AUSTIN REEVE JACKSON, et al.,	)	
	)	
Defendants.	)	

**DECLARATION OF BERNARD ROSENFELD, M.D., Ph.D., IN SUPPORT OF  
PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT**

I, Bernard Rosenfeld, M.D., Ph.D., declare as follows:

1. I am over the age of 18. I make this declaration based on personal knowledge of the matters stated herein and on information known or reasonably available to my organization. If called to do so, I am competent to testify as to the matters contained herein.
  
2. I am the owner and sole physician at Houston Women’s Clinic (“HWC”), which provides medication abortion and aspiration abortion (sometimes referred to as “procedural” or “surgical” abortion), as well as contraceptive care. I have been providing abortion and contraceptive services at HWC since 1980. I received my medical degree at Tufts University; did my residency at Johns Hopkins University, the University of Southern California, and Wayne State University; and received a Ph.D. in Psychology at the University of Texas at Austin. I am on staff at Texas Women’s and St. Luke’s Hospitals in the Texas Medical Center, as well as at First Street Hospital. I also have a routine OB-GYN

practice with a surgical specialty in microsurgical tubal ligation reversals. I previously served as an assistant professor at Baylor College of Medicine.

3. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment seeking a declaratory judgment and to enjoin Texas Senate Bill 8 ("SB 8" or the "Act"). For more than four decades, HWC has persisted in providing high-quality, compassionate abortion care to Texans despite relentless attacks by our state legislature and anti-abortion activists. But if SB 8 is allowed to take effect, we will no longer be able to serve the vast majority of patients who come to us seeking abortion care and will soon be forced to permanently close our doors. I implore the Court to block this catastrophic law from taking effect.

#### **Impact of SB 8's Six-Week Ban**

4. Cardiac activity is first detectable in an embryo at approximately six weeks of pregnancy, as measured from the first day of a patient's last menstrual period ("LMP"). Thus, SB 8 bans abortion at or before six weeks LMP, a mere two weeks after a patient's first missed period (assuming regular menstrual cycles) and four months before viability (approximately 24 weeks LMP).
5. The vast majority of abortions that we perform at HWC are past SB 8's six-week cut-off. Many patients do not even realize they are pregnant before that point, and those patients who do generally still need time to make the decision whether to keep or end the pregnancy and then access care consistent with Texas's preexisting regulatory scheme.
6. It will be impossible for HWC to sustain our practice under SB 8's enforcement scheme. On the one hand, if we continue to perform abortions prohibited by SB 8, the clinic and I, as well as all of the nurses, medical assistants, receptionists, and other staff that assist

with providing, scheduling, billing, and/or counseling for abortion care, could *each* be sued under SB 8 and potentially held liable for *at least* \$10,000 in statutory damages per violation, quickly accruing enormous financial liability. On top of that, I understand that my staff and I would risk ruinous licensure consequences, because a violation of SB 8 could also trigger disciplinary action by the Texas Medical and Nursing Board, and that the clinic could likewise potentially lose its license. And, after a single ruling against us, we would be enjoined from performing any further abortions in violation of SB 8. Even if, hypothetically, we were guaranteed to win every one of the lawsuits sure to be brought against us—by anyone, anywhere, who opposes our mission and wants to win themselves tens or hundreds of thousands of dollars to boot—we would still face endless costs and burdens, because we would be forced to defend ourselves in venues across Texas with no opportunity to recover costs or attorney’s fees.

7. On the other hand, if we stop providing abortions after six weeks as SB 8 requires, we will soon have to lay off our staff and shutter our clinic permanently. SB 8 bans the majority of care we provide at HWC—the same care, in the same location, that we have been providing to Texans for decades—without which we simply cannot afford to keep our doors open.
8. In either scenario, we will be forced to turn away patients in need, to devastating effect.

#### **Impact of SB 8’s Fee-Shifting Provision**

9. I also understand that SB 8 makes parties and their attorneys liable to pay defendants’ costs and attorney’s fees in cases challenging Texas laws that restrict or regulate abortion if we lose on any one legal claim, even if the litigation was successful.

10. In order to fulfill our mission and provide our patients with the constitutionally protected abortion care they seek, HWC has repeatedly been forced to bring judicial challenges to restrictions targeting abortion providers in Texas.
11. SB 8's fee-shifting provision will undermine our ability to vindicate our patients' constitutional rights, potentially preventing us from bringing well-founded cases and/or claims for fear that we and our attorneys might have to absorb massive fees and costs if we are anything less than 100% successful.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 12, 2021, in Houston, Texas.

A handwritten signature in black ink, appearing to read "B. Rosenfeld M.D.", written over a horizontal line.

Bernard Rosenfeld, M.D., Ph.D.