

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

FALLS CHURCH MEDICAL CENTER, )  
LLC d/b/a FALLS CHURCH )  
HEALTHCARE CENTER, *et al.*, )

Plaintiffs, )

v. )

Civil Action No. 3:18cv428-HEH

M. NORMAN OLIVER, VIRGINIA )  
HEALTH COMMISSIONER, *et al.*, )

Defendants. )

**ORDER**  
**(Post-Trial Judgment)**

For the reasons stated in the accompanying Memorandum Opinion, it is hereby ORDERED that:


1. The FGI Guidelines on Design and Construction for Health Care Facilities, mandated by 12 Va. Admin. Code § 5-412-370, Part VII, with respect to first trimester abortion procedures, violate the Due Process Clause, and are therefore INVALIDATED and ENJOINED from enforcement. The Court leaves the balance of 12 Va. Admin Code § 5-412-370 in full force and effect.
2. The FGI Guidelines, with respect to surgical second trimester abortion procedures, are UPHELD.
3. The “Hospital Requirement,” Va. Code Ann. § 18.2-73, and the associated regulations, as challenged in Count III, in the context of non-surgical second trimester abortions up to viability, violates the Due Process Clause, and is

therefore INVALIDATED and ENJOINED from enforcement. As such, enforcement of 12 Va. Admin. Code § 5-412-230(A), the regulation preventing abortion facilities from performing second trimester abortion procedures, is ENJOINED as to pre-viability, non-surgical second trimester abortion procedures. However, as applied to surgical second trimester abortion procedures, the Court finds that the Hospital Requirement is not unduly burdensome, and is therefore UPHELD.

4. The regulations challenged in Count VIII do not violate the Fourth Amendment, and are therefore UPHELD.
5. The remaining statutes and regulations challenged in Counts I, II, IV, and V do not violate the Due Process Clause of the Fourteenth Amendment, and are therefore UPHELD.

The Clerk is directed to send a copy of the Memorandum Opinion and this Order to all counsel of record.

It is so ORDERED.

  
\_\_\_\_\_/s/  
Henry E. Hudson  
Senior United States District Judge

Date: September 30, 2019  
Richmond, Virginia