

ATTACHMENT

A. ISSUE/BASIS

From April 4, 2021 - April 21, 2021, Respondent AMITA Health Saint Alexius Medical Center Hoffman Estates (“Saint Alexius”) denied ██████ F█████ the full and equal access to its services on the basis of her sex (female) and on the basis of her pregnancy.

The day ██████ F█████ gave birth should have been the most joyful day of her life, yet Saint Alexius turned it into a living nightmare. Ms. F█████, a first-time mother, never could have imagined that eating poppy seed cake at an Easter celebration would cause her to be subjected to such mistreatment and discrimination.

By drug testing Ms. F█████ without her knowledge or informed consent, reporting her to the Illinois Department of Children and Family Services (DCFS) on the basis of a false positive test result, and treating her in a discriminatory manner throughout her hospital stay, Saint Alexius engaged in discrimination on the basis of sex and pregnancy in violation of the Illinois Human Rights Act, 775 ILCS 5/5-102(A).

B. PRIMA FACIE ALLEGATIONS

PARTIES

1. Complainant Ms. F█████ is a 46-year-old resident of Wood Dale, IL.
2. Ms. F█████ and her husband are originally from Poland. They have lived in the United States since 2001.
3. Respondent Saint Alexius is a 318-bed hospital in Hoffman Estates, IL that provides full-spectrum medical care, including obstetrics and gynecology.¹ Saint Alexius is operated by AMITA Health Medical Group, which operates hospitals and out-patient medical centers throughout Chicago and its surrounding suburbs.
4. Saint Alexius is a place of public accommodation as defined by 775 ILCS 5/5-101(A)(6) (places of public accommodation include the “professional office[s] of a health care provider, hospital, or other service establishment”).
5. Saint Alexius’s website provides that it abides by the U.S. Conference of Catholic Bishops’ Ethical and Religious Directives for Catholic Healthcare Services, which includes a mandate to provide “service to and advocacy for those people whose

¹ AMITA Health, *AMITA Health St. Alexius Medical Center Hoffman Estates* (last visited Jan. 24, 2022), <https://www.amitahealth.org/location/amita-health-st-alexius-medical-center-hoffman-estates>;

social condition puts them at the margins of our society and makes them particularly vulnerable to discrimination.”²

SAINT ALEXIUS’S DISCRIMINATORY TREATMENT OF MS. F█████

6. Ms. F█████ had always dreamed of becoming a mother. When she finally became pregnant after experiencing difficulty conceiving for three years, she was overjoyed.
7. During her pregnancy, Ms. F█████ was diagnosed with preeclampsia, a pregnancy complication characterized by high blood pressure.
8. In late March, Ms. F█████ was admitted to Saint Alexius due to her preeclampsia. When she was discharged on April 2, 2021, she was told to continue to monitor her blood pressure and to go to the emergency room if it spiked.
9. On April 3 and 4, 2021, Ms. F█████ ate makowiec, a Polish poppy seed cake traditionally eaten in celebration of Easter—a common Polish tradition that Ms. F█████, her husband, and their families had always observed.
10. Ms. F█████’s obstetrician, who is affiliated with Saint Alexius, never discouraged her from eating poppy seeds or mentioned that poppy seed consumption can trigger false positive drug test results for opioids.³ All medical staff at Saint Alexius who conduct drug tests and/or report the results of those tests to DCFS knew or should have known of this common reason for false positives.
11. On the evening of Easter Sunday—April 4, 2021—Ms. F█████ drove to the emergency room at Saint Alexius because her blood pressure was high. At the time, she was 34-weeks pregnant.
12. When she was admitted, medical staff drew her blood and collected her urine. Ms. F█████ believed that medical staff was collecting her blood and urine for reasons related to her preeclampsia.
13. No one at Saint Alexius ever told Ms. F█████ that she would be drug tested or sought her informed consent for drug testing. Saint Alexius’s failure to obtain Ms. F█████’s informed consent runs counter to the recommendations of leading medical organizations.⁴

² *Id.*; United States Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services: Sixth Edition* (last visited Jan. 24, 2022), <https://www.usccb.org/about/doctrine/ethical-and-religious-directives/upload/ethical-religious-directives-catholic-health-service-sixth-edition-2016-06.pdf>.

³ Kimberly L. Samano et al., *Concentrations of Morphine and Codeine in Paired Oral Fluid and Urine Specimens Following Ingestion of a Poppy Seed Roll and Raw Poppy Seeds*, 39(8) J. ANALYTICAL TOXICOL 655, 659 (Oct. 2015).

⁴ See American College of Obstetricians and Gynecologists, *Opposition to Criminalization of Individuals During Pregnancy and the Postpartum Period* (Dec. 2020), <https://www.acog.org/clinical->

14. Upon information and belief, Saint Alexius routinely drug tests perinatal patients without seeking their informed consent, despite the fact that they do not drug test any other class of patients—including fathers—and reports perinatal patients who receive positive test results to DCFS.
15. There is no medical justification for drug testing perinatal patients in the absence of a specific medical concern, and the practice is widely opposed by leading medical organizations. For instance, the American College of Obstetricians and Gynecologists notes, “False-positive test results can occur with immune-assay testing and legal consequences can be devastating to the patient and her family.”⁵
16. At no time was Ms. F■■■■ ever told that the drug test was medically indicated. For instance, her medical providers never informed her that a drug test was medically necessary in order to make a differential diagnosis. Nor was Ms. F■■■■ ever told why her medical providers failed to seek her informed consent for the drug test.
17. On Tuesday, April 6, 2021, an obstetrician advised Ms. F■■■■ that she should be induced and deliver her baby early due to her preeclampsia.
18. While the obstetrician was on her way out the door, she stated that Saint Alexius had run a drug test on Ms. F■■■■ and that it was positive for opiates.
19. Ms. F■■■■ felt shock, shame, and confusion regarding the obstetrician’s claim. Ms. F■■■■ did not know how the test could possibly have been positive, as she had not consumed any drugs during her pregnancy.
20. Ms. F■■■■ does not know whether Saint Alexius ever ran a confirmatory test, as expert medical associations recommend to ensure accuracy following an initial positive test result.⁶
21. When a nurse entered Ms. F■■■■’s room, Ms. F■■■■ stated that it was impossible that the drug test could have been positive. Ms. F■■■■ told the nurse that the only logical explanation she could think of for the positive test was that she had eaten

information/policy-and-position-statements/statements-of-policy/2020/opposition-criminalization-of-individuals-pregnancy-and-postpartum-period.

⁵ American College of Obstetricians and Gynecologists, *ACOG Committee Opinion: Opioid Use and Opioid Use Disorder in Pregnancy* (reaffirmed Oct. 2021), <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2017/08/opioid-use-and-opioid-use-disorder-in-pregnancy>; see also American College of Obstetricians and Gynecologists, *ACOG Committee Opinion: Substance Abuse Reporting and Pregnancy: The Role of the Obstetrician–Gynecologist* (reaffirmed June, 2019) (“[T]esting and reporting puts the therapeutic relationship between the obstetrician–gynecologist and the patient at risk, potentially placing the physician in an adversarial relationship with the patient . . . Drug enforcement policies that deter women from seeking prenatal care are contrary to the welfare of the mother and fetus.”), <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2011/01/substance-abuse-reporting-and-pregnancy-the-role-of-the-obstetrician-gynecologist>.

⁶ See, e.g., Substance Abuse and Mental Health Services Administration, *Clinical Guidance for Treating Pregnant and Parenting Women with Opioid Use Disorder and Their Infants* (Jan. 2018).

- poppy seed cake for Easter. The nurse responded by telling her that that was possible, but brushed her off and did not seem to want to speak about it further.
22. Ms. F■■■■ also asked a doctor if the poppy seed cake she had eaten for Easter could have caused the positive opiate test. The doctor responded that lots of people eat poppy seed cake for Easter—in fact she, herself, had eaten it. She told Ms. F■■■■ not to worry about the drug test. Ms. F■■■■ felt as though the doctor, like the nurse, was brushing off her concerns.
 23. Several hours after Ms. F■■■■'s labor was induced, the obstetrician advised Ms. F■■■■ to deliver her baby via cesarian surgery. Ms. F■■■■ agreed.
 24. Ms. F■■■■'s husband was told to leave the room in preparation for Ms. F■■■■'s cesarean surgery. This made Ms. F■■■■ feel more scared and alone.
 25. When other doctors and nurses entered the room to prepare Ms. F■■■■ for the cesarian surgery, they began whispering about Ms. F■■■■. Ms. F■■■■ overheard them saying, "Be prepared because the mom is positive for opiates, so we do not know what the baby's condition will be like."
 26. This comment made Ms. F■■■■ feel even more shame due to the implication that she had put her baby's wellbeing at risk, when all she had ever wanted was to have a healthy baby. She felt as though she could not defend herself.
 27. Ms. F■■■■ continued to hear nurses whispering about her when they changed shifts.
 28. Ms. F■■■■ began to cry because she felt so scared, confused, and alone. She continued to cry throughout her cesarean surgery, but the doctors and nurses ignored her tears. Ms. F■■■■ felt as though they were treating her inhumanely because they assumed she was addicted to drugs and a bad mother.
 29. Ms. F■■■■'s baby was born at 34 weeks and 2 days, and weighed four pounds and four ounces. Although he was small because he was premature, he did not exhibit lethargy or any other symptoms of withdrawal. He had a high APGAR score and was developmentally healthy.
 30. Ms. F■■■■ only got to see her baby momentarily before he was taken to the NICU.
 31. The next day, on April 7, 2021, as Ms. F■■■■ was recovering from major surgery, a hospital social worker called Ms. F■■■■ to discuss her positive test result and ask questions about drug use. Ms. F■■■■ explained to the social worker that she believed the poppy seeds had triggered a false positive test result. The social worker told Ms. F■■■■ that the hospital would test her baby's cord blood.
 32. Ms. F■■■■ was discharged from the hospital on Saturday, April 10, but her baby continued to stay in the NICU as a result of being born at 34 weeks gestation. At no point did he display any symptoms of withdrawal.

ENSUING DCFS INVESTIGATION

33. On April 12, 2021, Ms. F■■■■ received a call from the hospital social worker stating that her baby's cord blood had tested positive for morphine.
34. The hospital social worker stated that she was reporting Ms. F■■■■ to DCFS, even though she believed Ms. F■■■■ that she had never consumed drugs during her pregnancy. Accordingly, Saint Alexius reported Ms. F■■■■ to DCFS on the basis of a test result—obtained without Ms. F■■■■'s knowledge or informed consent—that its own social worker correctly believed was a false positive.
35. Also on April 12, 2021, while Ms. F■■■■ was with her baby in the NICU, a DCFS agent came to the hospital to conduct an investigatory report. The agent interviewed Ms. F■■■■, asking her questions about drug and alcohol use. The floor was quiet at the time, and Ms. F■■■■ felt embarrassed that other people could overhear the conversation. The agent also asked Ms. F■■■■ to undress her baby to check for marks and bruises, and took photographs of him. Ms. F■■■■ was horrified, but did as she was asked because she was afraid of being separated from her son if she refused.
36. Several days later, another DCFS agent came to Ms. F■■■■'s home and told her that she would be subject to a safety plan. The DCFS agent told Ms. F■■■■ that her baby could not be discharged from the NICU unless a third party lived with her 24 hours a day for a couple of weeks. Ms. F■■■■ was devastated by the implication that she could not be trusted to care for her own baby, even though she had done nothing wrong. She found the DCFS agent's presence at her home traumatizing and intrusive.
37. Ms. F■■■■'s family members all live out of the country, and her husband and husband's family members have jobs that precluded them from staying with Ms. F■■■■ 24 hours a day.
38. When Ms. F■■■■ asked the DCFS agent what would happen if she and her husband could not find someone to stay with them around the clock, the agent replied that the baby could not leave the NICU.
39. As Ms. F■■■■ was desperate to bring her baby home, her husband's mother arranged for one of her friends to stay with the new family. The arrangement felt extremely uncomfortable to Ms. F■■■■, who had never met the family friend before.
40. Ms. F■■■■ and her husband agreed to compensate the family friend for her time.
41. Ms. F■■■■'s baby was cleared for discharge from the NICU after approximately two weeks, and went home with Ms. F■■■■ on April 21, 2021.
42. DCFS told Ms. F■■■■ that as part of her safety plan, a DCFS agent and the family friend had to accompany her and her husband to pick their baby up from the

- NICU. This made Ms. F■■■ feel even greater shame. She had always looked forward to the day when she would bring her baby home from the hospital, but felt the day was ruined by the implication that she was not capable of safely providing for her baby without supervision.
43. The family friend stayed with Ms. F■■■ and her husband for two weeks. Ms. F■■■ felt horrible having a stranger stay in her home, particularly during the early, vulnerable days of the postpartum period while she was recovering from a major surgery herself.
 44. During this time, a DCFS agent came to Ms. F■■■'s home twice to check in on her and the baby. The visits felt intrusive.
 45. Ms. F■■■ felt that the presence of a stranger in her home and the regular visits from the DCFS agent negatively impacted her ability to build a joyful bond with her newborn. It also made it significantly more difficult for her to heal physically or emotionally from her traumatic birth experience.
 46. Ms. F■■■'s breastmilk supply suffered as a result of the stress she experienced. She had always hoped to breastfeed her baby in light of its known health benefits, but the drop in her supply meant she was unable to do so. As a result, she had to buy formula for her baby.
 47. When Ms. F■■■ took her baby to the pediatrician, she realized he had already been told about the false positive drug test. This made Ms. F■■■ feel ashamed, even though the pediatrician confirmed that her baby was healthy.
 48. In the course of the investigation, DCFS instructed Ms. F■■■ to get drug tested three or four different times. It was distressing for Ms. F■■■ that she had to take time away from her newborn to drive to a substance abuse center and submit to a drug test.
 49. DCFS transferred the case to its Youth Services Bureau where another agent was assigned. This agent also came at regular intervals to check in on Ms. F■■■ and her baby. The agent looked around Ms. F■■■'s house and asked to see the baby, even when he was sleeping. Each time the agent visited, Ms. F■■■ felt upset and ashamed.
 50. While Ms. F■■■ was initially told that the Youth Services Bureau would keep her case open for six months, she learned that her case was terminated in less than three months in a letter dated July 1, 2021.
 51. The letter stated that DCFS had determined the report of suspected child abuse or neglect to be "unfounded," meaning that "no credible evidence of child abuse or neglect was found."
 52. The letter provided that DCFS would nonetheless maintain a copy of the investigative report for a minimum of 5 years. The fact that DCFS is maintaining

a copy of the investigative report for 5 years makes Ms. F■■■ feel as though she is on probation, despite the fact that she never did anything wrong.

53. Saint Alexius's discriminatory treatment of Ms. F■■■ has led to lasting emotional pain and suffering, humiliation, and trauma.
54. Although Ms. F■■■ has always wanted to have multiple children, she is scared to get pregnant again or return to Saint Alexius for fear that she will once again be tested without her knowledge or consent and reported on the basis of a false positive.
55. Ms. F■■■ is also concerned that Saint Alexius is testing and reporting other new mothers without their knowledge or consent, leading to traumatizing DCFS investigations. Ms. F■■■ never wants another new mother to face the same devastating treatment that she faced.
56. Respondent Saint Alexius's nonconsensual drug testing, reporting, and hostile treatment of Ms. F■■■ constitutes unlawful sex and pregnancy discrimination in a place of public accommodation in violation of the Illinois Human Rights Act, 775 ILCS 5/5-102(A).
57. Upon information and belief, Saint Alexius's actions against Ms. F■■■ were taken pursuant to its medically unnecessary policy or practice of nonconsensual drug testing perinatal patients, and subsequently reporting unconfirmed false positive results to DCFS. Upon information and belief, Saint Alexius has no similar policy or practice of nonconsensual drug testing these patients' male partners or other male patients who are fathers, and no similar policy or practice of reporting unconfirmed false positive results to DCFS.
58. Ms. F■■■ has suffered substantial harm as a result of Saint Alexius's actions, including but not limited to, mental and psychological pain and suffering, humiliation, and monetary damages.