

No. \_\_\_\_\_

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IN THE  
**Supreme Court of the United States**

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COMMISSIONER, INDIANA STATE DEPARTMENT OF HEALTH, *et al.*,

*Petitioners,*

v.

PLANNED PARENTHOOD OF INDIANA AND KENTUCKY, INC.,

*Respondent.*

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**APPLICATION FOR EXTENSION OF TIME TO FILE A  
PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

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*\*Counsel of Record*

*Counsel for Petitioner*

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**To the Honorable Justice Brett Kavanaugh, as Circuit Justice for the  
United States Court of Appeals for the Seventh Circuit:**

Petitioners, Commissioner, Indiana State Department of Health, in his official capacity, Lake County Prosecutor, in his official capacity, Marion County Prosecutor, in his official capacity, Monroe County Prosecutor, in his official capacity, Tippecanoe County Prosecutor, in his official capacity, and Members of the Indiana Medical Licensing Board, in their official capacities, respectfully request a 32-day extension of time, to and including February 4, 2019, to file a petition for writ of certiorari. In support of this application, Petitioner states as follows:

1. The United States Court of Appeals for the Seventh Circuit issued its panel decision on July 25, 2018. This decision is attached. Petitioner timely filed a petition for rehearing *en banc*, and the Seventh Circuit denied that petition on October 5, 2018. That decision is also attached. Absent an extension of time, the petition for writ of certiorari would therefore be due on January 3, 2019. Petitioner files this application at least ten days before the petition's due date. *See* Sup. Ct. R. 13.5.

2. The Court to which certiorari would be directed is the United States Court of Appeals for the Seventh Circuit. This Court would have jurisdiction to review the judgment of the Seventh Circuit under 28 U.S.C § 1254.

3. The State seeks a 32-day extension for two reasons: other cases requiring the attention of undersigned counsel of record and the intervening state holidays between now and the proposed deadline.

4. First, undersigned counsel has been engaged in other litigation matters that have interfered with counsel's ability to research and prepare an adequate petition by the current due date of September 24, 2018. Those matters include:

- *Timbs v. Indiana*, No. 17-1091 (U.S.) (concerning whether the Excessive Fines Clause of the Eighth Amendment is incorporated against the States): Oral argument held November 28, 2018.
- *Common Cause v. Lawson*, Nos. 18-2491, 18-2492 (7th Cir.) (involving National Voting Registration Act challenge to Indiana's implementation

of Crosscheck system for removing ineligible voters from the rolls): State's reply brief filed December 14, 2018.

- *Indiana v. Massachusetts*, No. 149, Original (U.S.) (concerning Indiana's Commerce Clause challenge to Massachusetts animal welfare law): States' supplemental brief filed December 17, 2018.
- *Box v. Planned Parenthood of Ind. & Ky.*, No. 18-483 (U.S.) (concerning whether Indiana's discriminatory abortion ban and fetal disposition requirements violate the Fourteenth Amendment): State's reply brief in support of Petition for Writ of Certiorari filed December 18, 2018.
- *City of Bloomington v. Holcomb*, No. 53C06-1705-PL-1138 (Monroe Cir. Ct.) (concerning state constitutional challenge to statute preventing City's annexation): State's reply brief due January 10, 2019.
- *Gunderson v. Indiana*, No. 18-462 (U.S.) (concerning application of public trust doctrine to the shore of Lake Michigan): State's brief in opposition to Petition for Writ of Certiorari due January 11, 2019.
- *Common Cause v. Marion County Election Board*, No. 18-2735 (7th Cir.) (concerning constitutional challenge to Board's refusal to authorize satellite locations for early voting): States' reply brief due January 29, 2018.

5. Second, several intervening state holidays between now and the proposed deadline for the Petition for Writ of Certiorari will impede preparation of the

Petition: December 24, 2018, December 25, 2018, January 1, 2019, and January 21, 2019.

6. If petitioners requested a 30-day extension, the deadline would fall on a weekend. Therefore, a 32-day extension of time is necessary so that the State can devote adequate time and attention to its petition in this matter. No meaningful prejudice would arise from a 32-day extension.

### CONCLUSION

Petitioners, Commissioner, Indiana State Department of Health, in his official capacity, Lake County Prosecutor, in his official capacity, Marion County Prosecutor, in his official capacity, Monroe County Prosecutor, in his official capacity, Tippecanoe County Prosecutor, in his official capacity, and Members of the Indiana Medical Licensing Board, in their official capacities, respectfully request a 32-day extension of time, to and including February 4, 2019, to file a petition for writ of certiorari.

Respectfully submitted,

/s/ Thomas M. Fisher

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December 18, 2018