

**IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI**

EMILY NOE, <i>et al.</i>	)	
	)	
<i>Plaintiffs,</i>	)	
	)	
v.	)	
	)	Case No. 23AC-CC04530
MICHAEL L. PARSON, in his official capacity	)	
as Governor for the State of Missouri, <i>et al.</i>	)	
	)	
<i>Defendants.</i>	)	

**DEFENDANTS’ ANSWER AND COUNTERCLAIM**

Come now Defendants, by and through the undersigned counsel, and for their Answer to Plaintiffs’ Petition, state as follows:

1. Paragraph 1 contains a legal conclusion to which no response is required. To the extent a response is required, lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

2. Paragraph 2 contains a legal conclusion to which no response is required. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

3. Paragraph 3 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

4. Paragraph 4 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

5. Paragraph 5 contains a legal conclusion to which no response is required. Furthermore, Paragraph 5 is unduly and prejudicially vague as to the use of the term “[d]ecisions about medical care.” Defendants lack sufficient information to admit or deny the allegations in this

paragraph, and thus, DENY the allegations in this paragraph.

6. Paragraph 6 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants ADMIT that this lawsuit purports to challenge the constitutionality of §§191.1720, 208.152.15 of the Missouri Revised Statutes. Defendants further ADMIT that the aforementioned statutes were adopted by the Missouri General Assembly in 2023 as part of “Senate Substitute No. 2 to Senate Bills Nos. 49, 236 & 164. For all remaining allegations contained in this paragraph, Defendants lack sufficient information to admit or deny, and thus, DENY the allegations in this paragraph.

7. Paragraph 7 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 and § 208.152.15 speaks for itself and deny any allegations inconsistent therewith. Defendants DENY any remaining allegations contained in this paragraph.

8. Paragraph 8 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 and § 208.152.15 speaks for itself as to its contents and deny any allegations inconsistent therewith.

**JURISDICTION AND VENUE**

9. Paragraph 9 contains a legal conclusion to which no response is required. To the extent a response is required, defendants DENY the allegations contained in this paragraph.

10. Paragraph 10 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants ADMIT that venue is proper in this Court. Defendants DENY any remaining allegations contained in this paragraph.

**PARTIES**

11. Defendants lack sufficient information to admit or deny the allegations contained

in this paragraph, and thus, DENY the allegations in this paragraph.

12. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

13. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

14. Paragraph 14 is not a properly pled factual allegation, and therefore no response is required. To the extent a response is required, Defendants ADMIT that Plaintiffs' Petition refers to the plaintiffs named in this paragraph as "Parent Plaintiffs." Defendants DENY any remaining allegations contained in this paragraph.

15. Paragraph 15 is not a properly pled factual allegation, and therefore no response is required. To the extent a response is required, Defendants ADMIT that Plaintiffs' Petition refers to the plaintiffs named in this paragraph as "Minor Plaintiffs." Defendants DENY any remaining allegations contained in this paragraph.

16. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

17. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

18. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

19. Paragraph 19 contains a legal conclusion to which no response is required. Furthermore, Paragraph 19 is not a properly pled factual allegation, and therefore no response is required. To the extent a response is required, Defendants ADMIT that the Plaintiffs referred to in the Petition as the "Medical Provider Plaintiffs" purport to bring their claims on behalf of

themselves and their patients. Defendants DENY all remaining allegations in this paragraph.

20. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

21. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

22. Paragraph 22 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants ADMIT that this lawsuit purports to name Governor Parson in his official capacity as Governor of the State of Missouri. In further answering, Defendants assert that the text of Article IV, §§ 1–2 of the Missouri Constitution speaks for itself and deny any allegation inconsistent therewith.

23. Paragraph 23 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants ADMIT that this lawsuit purports to name Attorney General Bailey in his official capacity as Attorney General of the State of Missouri. In further answering, Defendants assert that the text of § 27.060 speaks for itself and deny any allegation inconsistent therewith.

24. Paragraph 24 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants ADMIT that the Missouri Division of Professional Registration, Board of Registration for the Healing Arts is the licensing entity in the State of Missouri responsible for issuing, reviewing, renewing, and revoking professional licenses for medical providers and conducting disciplinary review and making disciplinary decisions for medical providers.

25. Defendants ADMIT that Marc K. Taormina, M.D., F.A.C.P., is a member of the Missouri Board of Healing Arts, but DENY that he is the President. Defendants further ADMIT

that Naveed Razzaque, M.D., F.A.C.P., is a member of the Missouri Board of Healing Arts, but DENY that he is the Secretary. By way of further answer, Naveed Razzaque, M.D., F.A.C.P., is the President of the Board. Defendants ADMIT that Jeffrey D. Carter, M.D., is a member of the Missouri Board of Healing Arts. Defendants DENY that James A. DiRenna, D.O, is a member of the Missouri Board of Healing Arts. Defendants ADMIT that Jeffrey S. Glaser, M.D., F.A.C.S. and Jade D. James-Halbert, M.D., MPH, are members of the Missouri Board of Healing Arts.

26. Defendants ADMIT the allegations in this paragraph.

**GENERAL FACTUAL ALLEGATIONS**

27. Defendants DENY the allegations in this paragraph.

28. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

29. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

30. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

31. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

32. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

33. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

34. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

35. Defendants assert that the text of DSM-5 speaks for itself as to its contents and deny any allegation inconsistent therewith. Defendants DENY any remaining allegations in this paragraph.

36. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

37. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

38. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

39. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

40. Defendants assert that the WPATH Standards of Care speak for themselves as to their contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations contained in this paragraph.

41. Defendants assert that WPATH Standard of Care 8 speaks for itself as to its contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations and characterizations contained in this paragraph.

42. Defendants assert that WPATH Standard of Care 8 speaks for itself as to its contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations and characterizations contained in this paragraph.

43. Defendants assert that the Endocrine Society Guidelines speaks for itself as to its contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations and characterizations contained in this paragraph.

44. Defendants assert that WPATH Standard of Care 8 and the Endocrine Society Guidelines speak for themselves as to their contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations and characterizations contained in this paragraph.

45. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

46. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

47. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

48. Defendants assert that WPATH Standard of Care 8 and the Endocrine Society Guidelines speak for themselves as to their contents and deny any allegation inconsistent therewith. Defendants lack sufficient information to admit or deny the remaining allegations in this paragraph, and thus, DENY the allegations in this paragraph.

49. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

50. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

51. Defendants assert that WPATH Standard of Care 8 and the Endocrine Society Guidelines speak for themselves as to their contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations and characterizations in this paragraph.

52. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

53. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

54. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

55. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

56. Paragraph 56 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that § 191.1720 speaks for itself as to its contents and deny any allegation inconsistent therewith. For any remaining allegations, Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

57. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

58. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

59. Defendants DENY the allegations in this paragraph.

60. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

61. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

62. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

63. Defendants lack sufficient information to admit or deny the allegations in this



paragraph, and thus, DENY the allegations in this paragraph.

64. Defendants assert that the Endocrine Society Guidelines speaks for itself as to its contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations and characterizations in this paragraph.

65. Defendants assert that the WPATH Standards of Care speaks for itself as to its contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations and characterizations in this paragraph.

66. Defendants assert that the WPATH Standards of Care speaks for itself as to its contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations and characterizations in this paragraph.

67. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

68. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

69. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

70. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

71. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

72. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

73. Defendants DENY the allegations in this paragraph.

74. Defendants assert that the Endocrine Society Guidelines speaks for itself as to its contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations and characterizations in this paragraph.

75. Defendants assert that the WPATH Standards of Care speaks for themselves as to their contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations and characterizations in this paragraph.

76. Defendants assert that the WPATH Standards of Care speaks for themselves as to their contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations and characterizations in this paragraph.

77. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

78. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

79. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

80. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

81. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

82. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

83. Defendants DENY the allegations in this paragraph.

84. Defendants assert that the Endocrine Society Guidelines speaks for itself as to its

contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations and characterizations in this paragraph.

85. Defendants ADMIT the allegations in this paragraph.

86. Defendants ADMIT the allegations in this paragraph.

87. Defendant ADMIT that the Act referenced in this allegation took effect on August 28, 2023. Defendants DENY any remaining allegations contained in this paragraph.

88. Paragraph 88 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith. Defendants DENY any remaining allegations contained in this Paragraph.

89. Paragraph 89 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 208.152.15 speaks for itself and deny any allegation inconsistent therewith.

90. Paragraph 90 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith.

91. Paragraph 91 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith.

92. Paragraph 92 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith.

93. Paragraph 93 contains a legal conclusion to which no response is required. To the

extent a response is required, Defendants assert that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith.

94. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith. Defendants DENY that § 191.1720.6(6) contains the quoted language. Defendants ADMIT that § 191.1720.6(5) contains the quoted language. Defendants DENY any remaining allegations contained in this paragraph.

95. Paragraph 95 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720.6 speaks for itself and deny any allegation inconsistent therewith.

96. Paragraph 96 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720.6 speaks for itself and deny any allegations inconsistent therewith.

97. Paragraph 97 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of §§ 208.152 and 191.1720 speak for themselves as to their contents and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations contained in this paragraph.

98. Defendants DENY the allegations in this paragraph.

99. Paragraph 99 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

100. Paragraph 100 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

101. Paragraph 101 contains a legal conclusion to which no response is required. To the

extent a response is required, Defendants DENY the allegations in this paragraph.

102. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

103. Defendants DENY the allegations in this paragraph.

104. Paragraph 104 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 and § 208.132 speak for itself and deny any allegations inconsistent therewith.

105. Paragraph 105 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 and § 208.132 speak for itself and deny any allegations inconsistent therewith. Defendants DENY all remaining allegations contained in Paragraph 105.

106. Paragraph 106 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720.8 speaks for itself and deny any allegation inconsistent therewith. For all remaining allegations, Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

107. Defendants lack sufficient information to admit or deny the allegations contained in this paragraph, and thus, DENY the allegations in this paragraph.

108. Defendants DENY the allegations in this paragraph.

109. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

110. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

111. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

112. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

113. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

114. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

115. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

116. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

117. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

118. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

119. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

120. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

121. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

122. Defendants lack sufficient information to admit or deny the allegations in this

paragraph, and thus, DENY the allegations in this paragraph.

123. Paragraph 123 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 speaks for itself and deny any allegations inconsistent therewith. For all remaining allegations, Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

124. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

125. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

126. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

127. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

128. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

129. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

130. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

131. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

132. Defendants lack sufficient information to admit or deny the allegations in this

paragraph, and thus, DENY the allegations in this paragraph.

133. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

134. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

135. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

136. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

137. Paragraph 137 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

138. Paragraph 138 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

139. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

140. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

141. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

142. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.



143. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

144. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

145. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

146. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

147. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

148. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

149. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

150. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

151. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

152. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

153. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

154. Defendants lack sufficient information to admit or deny the allegations in this

paragraph, and thus, DENY the allegations in this paragraph.

155. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

156. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

157. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

158. Paragraph 158 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 speaks for itself as to its contents and deny any allegation inconsistent therewith. For all remaining allegations, Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

159. Paragraph 159 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 speaks for itself as to its contents and deny any allegation inconsistent therewith. For all remaining allegations, Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

160. Paragraph 160 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith. For all remaining allegations, Defendants DENY the allegations in this paragraph.

161. Paragraph 161 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 speaks for itself and

deny any allegation inconsistent therewith. For all remaining allegations, Defendants DENY the allegations in this paragraph.

162. Paragraph 162 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith. For all remaining allegations, Defendants DENY the allegations in this paragraph.

163. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

164. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

165. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

166. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

167. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

168. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

169. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

170. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

171. Defendants lack sufficient information to admit or deny the allegations in this

paragraph, and thus, DENY the allegations in this paragraph.

172. Paragraph 172 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of §§ 191.1720 and 208.152 speaks for itself and deny any allegation inconsistent therewith. For all remaining allegations, Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

173. Defendants DENY the allegations in this paragraph.

174. Paragraph 174 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of §§ 191.1720 and 208.152 speaks for itself and deny any allegation inconsistent therewith. For all remaining allegations, Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

175. Paragraph 175 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of §§ 191.1720 and 208.152 speaks for itself and deny any allegation inconsistent therewith. For all remaining allegations, Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

176. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

177. Paragraph 177 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of §§ 191.1720 and 208.152 speaks for itself and deny any allegation inconsistent therewith.

178. Paragraph 178 contains a legal conclusion to which no response is required. To the

extent a response is required, Defendants assert that the text of §§ 191.1720 and 208.152 speaks for itself and deny any allegation inconsistent therewith. For all remaining allegations, Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

179. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

180. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

181. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

182. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

183. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

184. Paragraph 184 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

185. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

186. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

187. Paragraph 187 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of §§ 191.1720 and 208.152 speaks

for itself and deny any allegation inconsistent therewith. For all remaining allegations, Defendants DENY the allegations in this paragraph.

188. Paragraph 188 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

189. Paragraph 189 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

190. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

191. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

192. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

193. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

194. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

195. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

196. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

197. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

198. Paragraph 198 contains a legal conclusion to which no response is required. To the

extent a response is required, Defendants assert that the text of §§ 191.1720 and 208.152 speaks for itself and deny any allegation inconsistent therewith. For all other allegations, Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

199. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

200. Paragraph 200 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of §§ 191.1720 and 208.152 speaks for itself and deny any allegation inconsistent therewith.

201. Paragraph 201 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

202. Paragraph 202 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of §§ 191.1720 and 208.152 speaks for itself and deny any allegation inconsistent therewith. For all other allegations, Defendants lack sufficient information to admit or deny, and thus, DENY the allegations in this paragraph.

203. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

204. Paragraph 204 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

205. Paragraph 205 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

206. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

207. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

208. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

209. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

210. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

211. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

212. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

### **CAUSES OF ACTION**

213. Paragraph 213 is not a properly pled factual allegation, and therefore no response is required. Additionally, Paragraph 213 contains a legal conclusion to which no response is required. To the extent any response is required, Defendants DENY the allegations in this paragraph.

### **COUNT I**

#### ***Violation of the Equal Protection Clause (Article I, Section 2) of the Missouri Constitution (All Plaintiffs)***

214. This paragraph incorporates by reference prior paragraphs, and Defendants incorporate their responses to such paragraphs, provided above, herein.

215. Paragraph 215 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants state that the text of Article I, Section 2 of the Missouri



Constitution speaks for itself as to its contents and deny any allegation inconsistent therewith.

216. Paragraph 216 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants state that the Equal Protection Clause of the Missouri Constitution speaks for itself as to its contents and deny any allegation inconsistent therewith.

217. Paragraph 217 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

218. Paragraph 218 contains a legal conclusion to which no response is required. To the extent a response is required, DENY the allegations in this paragraph.

219. Paragraph 219 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

220. Paragraph 220 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

221. Paragraph 221 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

222. Paragraph 222 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

223. Paragraph 223 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

224. Paragraph 224 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

225. Paragraph 225 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the quoted text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith. Defendants DENY all remaining allegations in this

paragraph.

226. Paragraph 226 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants state that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith. Defendants DENY any remaining allegations contained in this paragraph.

227. Paragraph 227 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants state that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith. Defendants DENY any remaining allegations contained in this paragraph.

228. Paragraph 228 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants state that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith. Defendants DENY any remaining allegations contained in this paragraph.

229. Paragraph 229 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants state that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith. Defendants DENY any remaining allegations contained in this paragraph.

230. Paragraph 230 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants state that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith. Defendants DENY any remaining allegations contained in this paragraph.

231. Paragraph 231 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations contained in this paragraph.

232. Paragraph 232 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

233. Paragraph 233 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants state that the text of § 191.1720 speaks for itself as to its contents and deny any allegation inconsistent therewith. Defendants DENY any remaining allegations contained in this paragraph.

234. Paragraph 234 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants state that the text of § 191.1720 speaks for itself and deny any allegation inconsistent therewith. Defendants DENY any remaining allegations contained in this paragraph.

235. Paragraph 235 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

236. Paragraph 236 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

237. Paragraph 237 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

238. Paragraph 238 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

239. Paragraph 239 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

240. Paragraph 240 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

241. Paragraph 241 contains a legal conclusion to which no response is required. To the

extent a response is required, Defendants DENY the allegations in this paragraph.

242. Paragraph 242 contains a legal assertion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

## **COUNT II**

### ***Violation of the Natural Rights and Due Process Clauses (Article I, Sections 2 and 10) of the Missouri Constitution (Family Plaintiffs and PFLAG)***

243. This paragraph incorporates by reference prior paragraphs, and Defendants incorporate their responses to such paragraphs, provided above, herein.

244. Paragraph 244 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants state that the quoted text of Article I, Section 2 of the Missouri Constitution speaks for itself as to its contents and deny any allegation inconsistent therewith.

245. Paragraph 245 contains a legal conclusion or reference to which no response is required. To the extent a response is required, Defendants state that the quoted text of Article I, Section 2 of the Missouri Constitution speaks for itself as to its contents and deny any allegation inconsistent therewith.

246. Paragraph 246 contains a legal conclusion to which no response is required. To the extent a response is required, DENY the allegations in this paragraph.

247. Paragraph 247 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

248. Paragraph 248 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

249. Paragraph 249 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

250. Paragraph 250 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

251. Paragraph 251 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

252. Paragraph 252 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants state that the text of § 191.1720 speaks for itself as to its contents and deny any allegation inconsistent therewith. Defendants DENY any remaining allegations in this paragraph.

253. Paragraph 253 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

254. Paragraph 254 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

255. Paragraph 255 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

256. Paragraph 256 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

257. Paragraph 257 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

258. Paragraph 258 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

259. Paragraph 259 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

260. Paragraph 260 contains a legal conclusion to which no response is required. To the

extent a response is required, Defendants DENY the allegations in this paragraph.

### COUNT III

*Violation of the Right to the Enjoyment of the Gains of Their Own Industry Clause  
(Article I, Section 2) of the Missouri Constitution  
(Medical Provider Plaintiffs and GLMA)*

261. This paragraph incorporates by reference prior paragraphs, and Defendants incorporate their responses to such paragraphs, provided above, herein.

262. Paragraph 262 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of Article I, Section 2 of the Missouri Constitution quoted in the allegation speaks for itself and deny any allegation inconsistent therewith.

263. Paragraph 263 contains a legal conclusion to which no response is provided. Additionally, the allegations in Paragraph 263 are impermissibly vague as to the meaning of “protects an individual’s services.” To the extent a response is required, Defendants DENY the allegations in this paragraph.

264. Paragraph 264 contains a legal conclusion or reference to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

265. Paragraph 265 contains a legal conclusion or reference to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

266. Paragraph 266 contains a legal conclusion or reference to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

267. Defendants lack sufficient information to admit or deny the allegations in this paragraph, and thus, DENY the allegations in this paragraph.

268. Paragraph 268 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

269. Paragraph 269 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

270. Paragraph 270 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

271. Paragraph 271 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

272. Paragraph 272 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

#### **COUNT IV**

#### ***Violation of the Special Law Limitation (Article III, Section 40) of the Missouri Constitution (All Plaintiffs)***

273. This paragraph incorporates by reference prior paragraphs, and Defendants incorporate their responses to such paragraphs, provided above, herein.

274. Paragraph 274 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants assert that the text of Article III, Section 40 of the Missouri Constitution quoted in the allegation speaks for itself and deny any allegation inconsistent therewith.

275. Paragraph 275 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

276. Paragraph 276 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants state that the cited legal provision speaks for itself as to its contents and deny any allegation inconsistent therewith.

277. Paragraph 277 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants lack sufficient information to admit or deny the

allegations in this paragraph, and thus, DENY the allegations in this paragraph.

278. Paragraph 278 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

279. Paragraph 279 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

280. Paragraph 280 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

281. Paragraph 281 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

282. Paragraph 282 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

283. Paragraph 283 contains a legal conclusion or reference to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

284. Paragraph 284 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegations in this paragraph.

### **PRAYER FOR RELIEF**

Plaintiffs' wherefore clauses contain allegations to which no response is required. To the extent a response is required, Defendants deny all allegations contained in Plaintiffs' wherefore clauses. Defendants deny each and every allegation not specifically admitted above. Defendants request that the Court deny Plaintiffs' Petition with prejudice, at Plaintiffs' cost, and that the Court provide Defendants with all other relief that is proper.



### **AFFIRMATIVE DEFENSES**

In pleading the following additional and affirmative defenses, the Attorney General reserves its position that Plaintiffs retain the burden of proof on all matters necessary to state the claims they attempt to bring forth in their Petition to establish any entitlement to relief.

1. Plaintiffs' Petition fails to state a claim upon which relief can be granted.
2. Plaintiffs lack standing to bring their claims against Defendants.
3. Plaintiffs cannot establish the existence of any damages that will necessarily result as a consequence of the Act.
4. Plaintiffs have failed to demonstrate that the Act affronts fundamental law embodied in the constitution. "A statute is presumed to be constitutional and will not be invalidated unless it 'clearly and undoubtedly violates some constitutional provision and palpably affronts fundamental law embodied in the constitution.'" *Carpenter v. Countrywide Home Loans, Inc.*, 250 S.W.3d 697, 701 (Mo. 2008) (citing *Bd. of Educ. of City of St. Louis v. State*, 47 S.W.3d 366, 368–69 (Mo. banc 2001)).
5. In bringing a facial challenge, Plaintiffs seek overbroad relief.
6. Defendants reserve the right to amend these affirmative defenses, in the event additional information relevant to any possible affirmative defenses become known.

Respectfully submitted,

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## COUNTERCLAIM

Comes Now Defendant/Counterclaim-Plaintiff Attorney General Andrew Bailey, and petitions the Court for the following relief against Plaintiffs/Counterclaim-Defendants.

### Parties, Jurisdiction, and Venue

1. Defendant/Counterclaim-Plaintiff Attorney General Andrew Bailey is the Attorney General of the State of Missouri.

2. Plaintiff/Counterclaim-Defendant Southampton Community Healthcare, Inc., is a nonprofit organization located and doing business in the City of St. Louis, Missouri. At all relevant times, Southampton provided gender transition interventions to minors in Missouri, such as puberty blockers or cross-sex hormones to minors for the purpose of gender transition.

3. Plaintiff/Counterclaim-Defendant Michael Donovan is a board-certified primary care physician at Southampton. At all relevant times, Donovan provided or supervised the provision of gender transition interventions to minors in Missouri, such as puberty blockers or cross-sex hormones for the purpose of gender transition.

4. Plaintiff/Counterclaim-Defendant Nicole Carr is a board-certified nurse practitioner at Southampton. At all relevant times, Carr provided or assisted in providing gender transition interventions to minors in Missouri, such as puberty blockers or cross-sex hormones for the purpose of gender transition.

5. In their underlying petition, Counterclaim-Defendants seek facial relief against a duly enacted Missouri statute.

6. “A facial challenge to a legislative Act is, of course, the most difficult challenge to mount successfully, since the challenger must establish that *no set of circumstances* exists under which the Act would be valid.” *State v. Kerr*, 905 S.W.2d 514, 515 (Mo. banc 1995) (quoting

*United States v. Salerno*, 481 U.S. 739, 745 (1987)) (emphasis added); *see also Donaldson v. Missouri State Bd. of Registration for the Healing Arts*, 615 S.W.3d 57, 66 (Mo. banc 2020) (reaffirming “no set of circumstances” test and stating, “[i]t is not enough to show that, under some conceivable circumstances, ‘the statute might operate unconstitutionally’”) (citation omitted)).

7. Thus, one way for the Attorney General to prevail in the underlying suit is by establishing at least one set of circumstances where the challenged statute can be enforced.

8. This Court maintains original subject-matter jurisdiction over this counterclaim under Article V, section 14 of the Missouri Constitution and has authority to enter the requested relief under §§ 407.100, 478.220, 526.030, and 527.010, and Rules 55.32, 87.01, and 92.01.

9. Venue is proper in this Court because Missouri Supreme Court Rule 55.32 authorizes a defendant to assert a compulsory or permissive counterclaim against a plaintiff.

### **General Factual Allegations**

10. Gender transition interventions are highly controversial. More than 20 states have enacted statutes or other regulations banning or restricting these procedures, and several European countries have similarly restricted these procedures, including Sweden, the United Kingdom, Norway, Denmark, and Finland.

11. These states and countries have done so after comparing the known serious side effects of these interventions with the sparse evidence of their safety or efficacy.

#### **A. Gender transition interventions pose serious harms.**

12. Nearly all individuals placed on puberty blockers (about 98%) are later placed on cross-sex hormones.

13. Individuals who are placed on puberty blockers followed by cross-sex hormones are infertile.

14. These drugs also interfere with normal brain development. Puberty is known to have substantial maturing effects on the brain, and puberty blockers inhibit that normal process.

15. It is unknown whether a child who is placed on puberty blockers and thus prevented from going through natal puberty at the standard age ever experiences the maturing effects of puberty on the brain after stopping puberty blockers. The Endocrine Society has acknowledged that “animal data suggests there may be an effect of GnRH analogs [puberty blockers] on cognitive function” and has thus stated “we need more rigorous evaluations of . . . the effects of prolonged delay of puberty in adolescents on . . . the brain (including effects on cognitive, emotional, social, and sexual development).” Hembree, et al., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons* 102(11) *J. Clinical Endocrinology & Metabolism* 3869, 3874, 3882–83 (Nov. 2017), <https://academic.oup.com/jcem/article/102/11/3869/4157558>. To date, no such rigorous evaluation has been conducted.

16. These interventions also interfere with bone development, increase rates of cardiovascular disease and cancer, and may decrease life expectancy. The premature mortality rate for individuals who have received these interventions in 10-20 years.

17. Because individuals receiving cross-sex hormones cannot naturally produce hormones in the same levels as members of the opposite sex, individuals taking cross-sex hormones must be medicalized for life to maintain those hormonal levels.

18. Surgeries also have substantial side effects. In the 2011 de Vries study, the death rate from surgery—to say nothing of the non-fatal complications—was nearly 1.5%.

19. Increasingly, individuals who have gone through these interventions have detransitioned and started identifying with their natal gender. Some studies show detransition rates may be around 30%. These rates are extremely difficult to measure because of high loss to follow

up. Because detransitioners often have come to regret these interventions, detransitioners often do not inform the clinics that they have detransitioned. Clinics are thus unaware of the detransition rate among their former patients.

**B. The benefits of these interventions are speculative.**

20. As for the benefits, many countries and medical authorities have determined that there is no rigorous evidence supporting the safety or efficacy of these interventions.

21. In evidence-based medicine, evidence is ranked according to a hierarchy. One commonly used system is called the Grading of Recommendations, Assessment, Development, and Evaluations system or “GRADE.” That system ranks the quality of evidence from studies into four categories: high quality, moderate quality, low quality, and very low quality.

22. In 2017, the Endocrine Society promulgated a document it stated was a Clinical Practice Guideline. But every one of the Endocrine Society’s recommendations with respect to treating adolescents with puberty blockers or cross-sex hormones is based on data that the Endocrine Society conceded is “low” quality or “very low” quality.

23. In recent years, several medical authorities in Europe have conducted rigorous assessments of the current body of knowledge and have concluded that there is not sufficient evidence to support the use of these interventions.

24. The United Kingdom commissioned a review by the former President of the Royal College of Paediatrics and Child Health, Dr. Hilary Cass. Dr. Cass was chosen specifically because she could provide an independent perspective. *NICE Evidence Reviews*, National Health Service (last visited Aug. 24, 2023), <https://cass.independent-review.uk/nice-evidence-reviews> (“Given the increasingly evident polarisation among clinical professionals, Dr Cass was asked to chair the group as a senior clinician with no prior involvement or fixed views in this area.”).

25. Dr. Cass's assessment included two systematic reviews of the evidence. Systematic reviews are considered the gold standard in evidence-based medicine. They are "studies of studies" that are methodologically rigorous and report on the quality of evidence of all relevant studies. Her assessment involved systematic reviews of the evidence on both puberty blockers and cross-sex hormones.

26. The systematic review on puberty blockers determined that every study that assessed the effect of puberty blockers on gender dysphoria and mental health was of "very low certainty." The systematic review also stated that those studies may not be reliable and may be affected by biases. *Evidence Review: Gonadotrophin Releasing Hormone Analogues for Children and Adolescents with Gender Dysphoria*, Nat'l Inst. for Health & Care Excellence, <https://perma.cc/93NB-BGAN>.

27. The systematic review of the evidence on cross-sex hormones made similar findings. *Evidence Review: Gender-Affirming Hormones for Children and Adolescents with Gender Dysphoria*, Nat'l Inst. for Health & Care Excellence, <https://perma.cc/M8J5-MXVG>.

28. Proponents of these interventions often cite a number of studies, including studies by de Lara, Achille, Kaltiala, Allen, and Kuper to justify their conclusions. Counterclaim-Defendants' suggested expert witnesses have relied on these studies in affidavits submitted in this case. The United Kingdom's systematic review of evidence on cross-sex hormones, however, concluded that all these studies were of "very low" quality. *Evidence Review: Gender-Affirming Hormones for Children and Adolescents with Gender Dysphoria*, NICE at 21–27, [https://cass.independent-review.uk/wp-content/uploads/2022/09/20220726\\_Evidence-review\\_Gender-affirming-hormones\\_For-upload\\_Final.pdf](https://cass.independent-review.uk/wp-content/uploads/2022/09/20220726_Evidence-review_Gender-affirming-hormones_For-upload_Final.pdf).

29. These studies were assessed as “very low” quality for a number of reasons, including “high risk of bias.” *E.g., id.* at 117 (“the cohort study by Lopez de Lara (2020) was assessed at high risk of bias (poor quality; lack of blinding and no control group)”); *id.* (making similar findings about Achille, Kuper, Kaltiala, and Allen).

30. Even the authors of these studies have cautioned against relying on them. Dr. Thomas Steensma—coauthor of Dutch studies cited by proponents of gender transition interventions—recently said, “The rest of the world is blindly adopting our research.” Frieda Klotz, *A Teen Gender-Care Debate Is Spreading Across Europe*, *The Atlantic* (April 28, 2023), <https://archive.ph/n8wOz>.

31. Other countries besides the United Kingdom have similarly determined that there is no sufficient evidence of safety and efficacy for these interventions. After a peer-reviewed, systematic review of the evidence was published in Sweden, the Swedish health authority determined in February 2022 that “the risks of puberty suppressing treatment with GnRH-analogues [puberty blockers] and gender-affirming hormonal treatment currently outweigh the possible benefits.” *Care of Children and Adolescents with Gender Dysphoria: Summary*, Socialstyrelsen: The National Board of Health and Welfare 3 (Feb. 2022).

32. Similarly, the health authority in Finland, concluded that the use of these interventions “is an experimental practice” and cannot “be considered evidence-based.” *Recommendation of the Council for Choices in Health Care in Finland: Medical Treatment Methods for Dysphoria Related to Gender Variance in Minors*, *Palveluvalikoima* 6, 8 (2020) (emphasis added), <https://perma.cc/VN38-67WT>.

33. Just two years ago, the U.S. Agency for Healthcare Research and Quality similarly agreed that these interventions lack evidentiary support: “There is a lack of current evidence-based



guidance for the care of children and adolescents who identify as transgender, particularly regarding the benefits and harms of pubertal suppression, medical affirmation with hormone therapy, and surgical affirmation.” *Topic Brief: Treatments for Gender Dysphoria in Transgender Youth*, AHRQ, Nom. No. 0928, at 2 (2021), <https://effectivehealthcare.ahrq.gov/system/files/docs/topic-brief-gender-dysphoria.pdf>.

34. In light of these findings, countries in Europe have greatly restricted the use of puberty blockers and cross-sex hormones for the purpose of gender transition. Although some of the health authorities in theory allow use of these interventions in formal research protocols, they do not allow those interventions as a matter of general medicine, and no research protocols in Europe have yet been established or begun.

**C. At the very least, gender transition interventions are inappropriate where a minor has not received a comprehensive psychological or psychiatric mental health assessment.**

35. In light of the facts above, there is an international medical dispute about whether these gender transition interventions should be allowed at all as a matter of general medicine.

36. But even among practitioners who support providing these interventions, there is widespread agreement that it is inappropriate to provide these interventions in certain circumstances—most relevant here, where a minor patient has not received a comprehensive psychiatric or psychological mental health assessment.

37. Not all individuals who identify as transgender seek or receive these procedures. Indeed, not all individuals who have gender dysphoria are eligible for these procedures under purported clinical guidelines.

38. No widely recognized medical authority supports routine use of puberty blockers or cross-sex hormones for individuals who have not received a mental health assessment.

39. The World Professional Association of Transgender Health says, “There are no

studies of the long-term outcomes of gender-related medical treatments for youth who have not undergone a comprehensive assessment.” WPATH, *Standard of Care* 8, at S51 (2022), <https://www.tandfonline.com/doi/pdf/10.1080/26895269.2022.2100644>.

40. Counterclaim-Defendants’ witness Dr. Olson-Kennedy similarly stated in an affidavit that chemical and surgical gender transition procedures for minors can only be conducted “after a comprehensive psychological evaluation of the patient.” Olson-Kennedy aff. ¶ 41. Counterclaim-Defendants’ witness Dr. Shumer similarly stated that the Endocrine Society’s guidelines and WPATH’s guidelines require that “mental health concerns” be assessed and “addressed” before hormones are administered for the purpose of gender transition. Shumer aff. ¶ 73. And Counterclaim-Defendants’ witness Dr. Janssen testified in an affidavit that puberty blockers and cross-sex hormones “are prescribed only after a comprehensive psychosocial assessment by a qualified mental health professional.” Janssen aff. ¶ 68.

41. At a preliminary injunction hearing held in August, Counterclaim-Defendants’ witnesses also acknowledged in open court that providing these interventions without a comprehensive mental health assessment is contrary to the medical standard of care.

42. One reason a comprehensive mental health assessment is needed is because gender dysphoria is often caused by other issues. Resolving those other issues can necessarily also resolve gender dysphoria without irreversible or life-altering chemical intervention.

43. WPATH has put it this way: gender dysphoria can be “secondary to, or better accounted for, by other diagnoses,” WPATH, *Standard of Care* 7, at 23–24 (2012); counseling can “greatly facilitate the resolution of gender dysphoria,” and through this therapy, many “individuals integrate their trans- or cross-gender feelings into the gender role they were assigned at birth and do not feel the need to feminize or masculinize their body,” *id.* at 8, 25.

44. Even setting aside the dispute about whether gender transition interventions should be provided at all, at the very least it is neither necessary medical treatment nor appropriate medical treatment to provide gender transition interventions to minors who have not received a comprehensive mental health assessment.

45. Unfortunately, some clinics across the United States and in Missouri are doing just that. A recent study of “pediatric gender clinics” discovered “that half do not require psychological assessment before initiating puberty blockers or hormones.” Dr. Laura Edwards-Leeper and Erica Anderson, *The Mental Health Establishment is Failing Trans Kids* (Nov. 24, 2021), <https://www.washingtonpost.com/outlook/2021/11/24/trans-kids-therapy-psychologist>.

## COUNT I

### *Violations of the Missouri Merchandising Practices Act*

46. The Attorney General incorporates by reference all counterclaim paragraphs set herein.

47. Section 407.020 of the Missouri Revised Statutes prohibits

- a. “[t]he act, use or employment by any person of any deception, fraud, false pretense, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact”
- b. “in connection with the sale or advertisement of any merchandise in trade or commerce”
- c. “in or from the state of Missouri.”

48. The term “merchandise” under the MMPA is broadly defined to include “any ... goods ... or services.” § 407.101. “Medical goods and services meet the statutory definition of merchandise.” *Freeman Health System v. Wass*, 124 S.W.3d 504, 507 (Mo. App. S.D. 2004).

49. Under binding regulations, 15 C.S.R. § 60-8.020(1), the Merchandising Practices Act also applies to any practice that

- a. “Offends any public policy as it has been established by the Constitution, statutes or common law of this state, or by the Federal Trade Commission, or its interpretive decisions”; or
- b. “Is unethical, oppressive or unscrupulous”; and
- c. “Presents a risk of, or causes, substantial injury to consumers.”

50. Missouri law thus prohibits, among other things, providing gender transition interventions without first ensuring that the patient has received any necessary screening, assessment, or examination.

51. Counterclaim-Defendants have provided gender transition interventions to minors in the State of Missouri, such as providing minors with puberty blockers or cross-sex hormones for the purpose of gender transition.

52. Since 2018, Counterclaim-Defendants have failed to adopt and consistently apply a policy of ensuring that each minor patient in Missouri receives a comprehensive mental health assessment before receiving gender transition interventions.

53. Instead Counterclaim-Defendants have provided these interventions to minor patients in Missouri who have no documented, adequate, comprehensive mental health assessment.

54. The provision of such services constitutes providing “merchandise” to minors in the State of Missouri under the MMPA.

55. Providing gender transition interventions without first ensuring that each minor patient in Missouri receives a comprehensive mental health assessment exposes minors to high levels of risk, including the risk of unnecessary, life-altering medicalization.

56. Providing gender transition interventions without first ensuring that each minor patient in Missouri receives a comprehensive mental health assessment robs those minors of the opportunity to receive counseling that can “greatly facilitate the resolution of gender dysphoria”

and enable “individuals [to] integrate their trans- or cross-gender feelings into the gender role they were assigned at birth [without] the need to feminize or masculinize their body” through life-altering chemicals. WPATH, *Standard of Care* 7, at 8, 25.

57. Providing gender transition interventions without first ensuring that each minor patient in Missouri receives a comprehensive mental health assessment is both unfair and deceptive under Missouri law.

58. Providing gender transition interventions without first ensuring that each minor patient in Missouri receives a comprehensive mental health assessment is “unethical, oppressive, [and] unscrupulous” under Missouri regulations enacted pursuant to Missouri law.

59. Providing gender transition interventions without first ensuring that each minor patient in Missouri receives a comprehensive mental health assessment “[p]resents a risk of, or causes, substantial injury to consumers” under Missouri regulations enacted pursuant to Missouri law.

### **PRAYER FOR RELIEF**

WHEREFORE, Counterclaim-Plaintiffs ask this Court to grant relief as follows:

- A. Entering a judgment declaring that Counterclaim-Defendants have violated the Missouri Merchandising Practices Act, § 407.020, RSMo, *et seq.*;
- B. Entering an order of restitution payable to victims who have experienced harm from violations of the MMPA by Counterclaim-Defendants, § 407.100.4;
- C. Entering a judgment imposing a civil penalty of \$1,000 against Counterclaim-Defendants for each violation of the MMPA, § 407.040.6;
- D. Issuing injunctive relief prohibiting Counterclaim-Defendants from engaging in this activity in the future; and
- E. Granting such other relief the Court deems just and proper.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 22, 2023, the foregoing was electronically filed on Case.net, which will send notice to all parties of record.

/s/ Samuel Freedlund