

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

CITY OF COLUMBUS,

Plaintiff,

vs.

STATE OF OHIO,

Defendant.

Case No. 22CV002585

Judge Stephen McIntosh

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BRIEF OF AMICUS CURIAE EQUITAS HEALTH  
IN SUPPORT OF PLAINTIFF CITY OF COLUMBUS

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## **INTERESTS OF *AMICUS CURIAE***

Amicus Curiae Equitas Health is one of the largest community healthcare systems in the United States, providing quality healthcare and preventative services to all, including but not limited to the LGBTQ+ community, individuals living with or affected by HIV/AIDS, and others who experience medical disparities. It is headquartered in Columbus and has 22 offices in 13 cities throughout Ohio. Equitas Health also operates the Equitas Health Institute, which develops and delivers LGBTQ+ culturally competent healthcare education and training. These trainings, workshops, presentations, consulting services, and online webinars offer current and state of the art content to best educate healthcare providers and corporate clients, including content regarding best practices in delivering healthcare to marginalized communities and the legal landscape of LGBTQ+ healthcare in Ohio. Equitas Health employs over 600 people, including healthcare practitioners and administrative, organizational, programmatic, and educational staff.

Equitas Health's mission is to ensure that the individuals it serves have access to the highest quality healthcare and preventative services, both from Equitas Health itself and from its referral network of outside providers. This is accomplished by providing a broad range of culturally competent healthcare services for people who identify as part of the LGBTQ+ community, live with or are affected by HIV/AIDS, or who face other health disparities. The Equitas Health Institute further seeks to create a climate where the health outcomes of the LGBTQ+ community will be improved because of research and education and provides trainings to outside organizations and healthcare providers in pursuit of this goal.

Equitas Health has significant knowledge and experience regarding the issues presented in this case. Equitas Health's workload, patient base, and financial condition are directly impacted by the medical legal framework in Ohio, and whether patients are able to receive

culturally competent healthcare both from Equitas Health and outside healthcare providers. Ohio’s Medical Conscience Clause, or “Healthcare Denial Law” strips Equitas Health of an effective means to ensure the individuals it serves—who are already uniquely vulnerable in a healthcare setting, as discussed in more detail below—are treated with respect and dignity both from Equitas Health’s own staff and those to whom Equitas Health refers its patients for healthcare services elsewhere. The Healthcare Denial Law renders Ohio’s healthcare organizations effectively powerless to protect their patients from the humiliating and harmful effects of discrimination—and renders Equitas Health powerless to carry out its mission. The resolution of this case is therefore a matter of substantial concern to Equitas Health and the communities it serves.

## **INTRODUCTION**

This case presents the Court with the opportunity to hold Ohio’s elected officials accountable to the democratic process. The Healthcare Denial Law represents an enormous threat to healthcare organizations’ ability to protect their patients from the threat and humiliation of discrimination. Yet, despite the enormous potential impact of this law on healthcare in Ohio, it was not passed as a freestanding item subject to the usual scrutiny and public debate of legislation. Quite the opposite: at the eleventh hour, one Ohio Senator added the law’s language to the General Assembly’s \$74.1 billion 2022-2023 budget bill—two pages buried in a bill comprising over 2,400 pages—and members of the General Assembly were never offered the opportunity to vote either for or against it on its own independent merits. *See* Am. Sub. H.B. 110, Section 4743.10, 134th Gen. Assemb. (2021) (“HB 110”) (short titled, “Creates appropriations for FY 2022–2023”). Upon learning of the law’s sudden inclusion in the budget, the medical community acted quickly to broadly oppose its terms. But their concerns went largely unheard,

and certainly were not addressed—the Healthcare Denial Law was not the subject of a single public hearing.

The Healthcare Denial Law will have broad and long-lasting implications on the provision of healthcare services to Ohioans and the institutions responsible for their care. This brief addresses the importance of providing culturally competent healthcare services in a non-discriminatory manner to the LGBTQ+ community, individuals living with and/or affected by HIV/AIDS, and others who experience medical disparities. It further examines the confusing legal landscape healthcare organizations such as Equitas Health now face in light of this law, which subjects Equitas Health and others to potential civil liability merely for protecting their patients from discrimination. Lastly, this brief argues that the passage of the Healthcare Denial Law violates the single subject rule, and robbed stakeholders like Equitas Health of a full and fair opportunity to voice opposition to its passage.

For the reasons summarized above and explained more fully below, *amicus curiae* respectfully requests that this Court grant the City of Columbus’s Motion for Summary Judgment and deny the State’s Motion for Judgment on the Pleadings, declaring the Healthcare Denial Law to be void and without legal effect.

## **BACKGROUND**

### **I. An Ohio Senator Buried the Healthcare Denial Law in Ohio’s Biennial Budget Bill Late in the Process and Without Debate or a Stand-Alone Vote**

On February 16, 2021, a Representative first introduced HB 110, which would become the Ohio 2022-2023 biennial budget bill.<sup>1</sup> The 2,400-page budget bill addressed funding and

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<sup>1</sup> The Ohio Legislature, *House Bill 110: Status*, <https://www.legislature.ohio.gov/legislation/legislation-status?id=GA134-HB-110> (accessed Feb. 28, 2022).



other fiscal concerns for the state of Ohio.<sup>2</sup> Between February and April 2021, the Ohio House held at least 13 hearings and 25 subcommittee hearings on HB 110.<sup>3</sup> Stakeholders and interested parties from the public spoke at these hearings about the bill's text and related issues.<sup>4</sup> On April 13, 2021, the Ohio House reported a substitute version of the bill,<sup>5</sup> and further amended it on April 20, 2021.<sup>6</sup> On April 21, 2021, the Ohio House reported a new, substitute version of the bill's text.<sup>7</sup> Later that day, the Ohio House passed the then-current version of the bill.<sup>8</sup> At no point during the time that the bill was in the House did it contain language resembling the Healthcare Denial Law, and there was therefore no public discussion or debate on its language.

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<sup>2</sup> Governor of Ohio, *Governor DeWine Signs 2022-2023 Operating Budget* (July 1, 2021), <https://governor.ohio.gov/wps/portal/gov/governor/media/news-and-media/governor-dewine-signs-2022-2023-operating+budget> (accessed Feb. 23, 2022); Moberger and White, *Gov. DeWine signs Ohio budget into law*, ABC6 (July 1, 2021), <https://abc6onyourside.com/news/local/ohio-gov-mike-dewine-signs-2022-2023-state-operating-budget>.

<sup>3</sup> The Ohio Legislature, *House Bill 110: House Committees*, <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA134-HB-110> (accessed Jan. 26, 2022).

<sup>4</sup> *Id.*

<sup>5</sup> *Creates appropriations for FY 2022-2023: Meeting on H.B. 110 of the H. Finance Comm.*, 134th Gen. Assemb. (Apr. 13, 2021).

<sup>6</sup> *Creates appropriations for FY 2022-2023: Meeting on H.B. 110 of the H. Finance Comm.*, 134th Gen. Assemb. (Apr. 20, 2021).

<sup>7</sup> The Ohio Legislature, *House Bill 110: Status*, <https://www.legislature.ohio.gov/legislation/legislation-status?id=GA134-HB-110> (accessed Feb. 28, 2022).

<sup>8</sup> The Ohio Legislature, *House Bill 110: Votes*, <https://www.legislature.ohio.gov/legislation/legislation-votes?id=GA134-HB-110> (accessed Jan. 26, 2022).

On April 28, 2021, the Ohio Senate referred the budget bill to committee.<sup>9</sup> During April and May 2021, the Senate finance committee held at least nine hearings on the budget bill.<sup>10</sup> On June 1, 2021, another substitute bill was introduced in the Senate Finance Committee and accepted.<sup>11</sup> These hearings included public comment.<sup>12</sup>

On June 8, 2021, a Senator added a 695-page omnibus amendment to the budget bill.<sup>13</sup> Buried within this amendment were a mere two pages containing the Healthcare Denial Law.<sup>14</sup> This was the first time the language of the Healthcare Denial Law saw the light of day. The following day, the finance committee sent the entire budget bill to the Senate, and the Senate passed it without public debate.<sup>15</sup>

Upon learning of the Healthcare Denial Law's inclusion into the state budget, on June 17, 2021, The Ohio Hospital Association, Ohio Children's Hospital Association, Ohio State Medical Association, and Ohio Association of Health Plans issued a joint statement opposing the law,

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<sup>9</sup> The Ohio Legislature, *House Bill 110: Status*, <https://www.legislature.ohio.gov/legislation/legislation-status?id=GA134-HB-110> (accessed Feb. 28, 2022).

<sup>10</sup> The Ohio Legislature, *House Bill 110: Committee Activity*, <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA134-HB-110> (accessed Jan. 26, 2022).

<sup>11</sup> *Creates appropriations for FY 2022-2023: Meeting on H.B. 110 of the S. Finance Comm.*, 134th Gen. Assemb. (June 1, 2021).

<sup>12</sup> *Creates appropriations for FY 2022-2023: Meeting on H.B. 110 of the S. Finance Comm.*, 134th Gen. Assemb. (June 2, 2021); The Ohio Legislature, *House Bill 110: Committee Activity*, <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA134-HB-110> (accessed Jan. 26, 2022).

<sup>13</sup> *Creates appropriations for FY 2022-2023: Meeting on H.B. 110 of the S. Finance Comm.*, 134th Gen. Assemb. (June 8, 2021); Deng and Szilagy, *Conscience clause increases barriers to mental health care for LGBTQ youth, advocates say*, *The Columbus Dispatch* (Aug. 11, 2021), <https://www.dispatch.com/story/news/2021/08/11/conscience-clause-draws-concerns-mental-health-care-lgbtq-youth/5457262001/>.

<sup>14</sup> *Id.*

<sup>15</sup> The Ohio Legislature, *House Bill 110: Status*, <https://www.legislature.ohio.gov/legislation/legislation-status?id=GA134-HB-110> (accessed Feb. 28, 2022).

stating: “We are concerned that the medical practitioner conscience clause added to House Bill 110, the state budget bill, at the last minute would jeopardize [our fundamental goal of providing safe and effective care to all patients] and create confusion for healthcare payers, providers, and patients.”<sup>16</sup> The Associations stressed that “implications of this policy are immense” and that “[e]xamples of how this clause could interfere with patient care and the efficient provision of healthcare services are numerous.”<sup>17</sup>

There is no indication that their concerns were ever considered by the legislature, much less accounted for. By June 15, the legislature’s Conference Committee—made of members from the Ohio Senate and House— had already begun holding hearings to reconcile the House and Senate versions of the bill. During these reconciliation hearings, no one from the public was permitted to comment on the revised bill’s text.<sup>18</sup> On June 28, 2021, the Ohio legislature passed the \$74.1 billion budget bill,<sup>19</sup> and Governor DeWine signed it into law two days later.<sup>20</sup>

## **II. The Healthcare Denial Law Prohibits Healthcare Organizations from Taking any Adverse Employment Action Against an Employee who Discriminates Against a Patient**

The Healthcare Denial Law broadly authorizes any person involved in the provision of healthcare services the right to decline to provide a healthcare service to a patient if it conflicts

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<sup>16</sup> Ex. A, Ohio Hospital Association, Ohio Children’s Hospital Association, Ohio State Medical Association, and Ohio Association of Health Plans, *Re: OHA, OHCA, OSMA, and OAHP Comments on the Medical Practitioner Conscience Clause (MEDCD6)* (June 17, 2021).

<sup>17</sup> *Id.*

<sup>18</sup> *See Creates appropriations for FY 2022-2023: Meeting on H.B. 110 of the Conference Comm.*, 134th Gen. Assemb. (2021).

<sup>19</sup> The Ohio Legislature, *House Bill 110: Status*, <https://www.legislature.ohio.gov/legislation/legislation-status?id=GA134-HB-110> (accessed Feb. 28, 2022); The Ohio Legislature, *House Bill 110: Votes*, <https://www.legislature.ohio.gov/legislation/legislation-votes?id=GA134-HB-110> (accessed Feb. 28, 2022)

<sup>20</sup> Governor of Ohio, *Governor DeWine Signs 2022-2023 Operating Budget* (July 1, 2021), <https://governor.ohio.gov/wps/portal/gov/governor/media/news-and-media/governor-dewine-signs-2022-2023-operating+budget> (accessed Feb. 23, 2022).

with their personal beliefs. Specifically, the law provides that “a medical practitioner, health care institution, or health care payer has the freedom to decline to perform, participate in, or pay for any health care service which violates the practitioner’s, institution’s, or payer’s conscience as informed by the moral, ethical, or religious beliefs or principles held by the practitioner, institution, or payer.” R.C. 4743.10(B). It defines “medical practitioner” broadly, to include “any person who facilitates or participates in the provision of health care services[.]” R.C. 4743.10(A)(2). It similarly defines “health care services” to encompass any type of “medical care provided to any patient at any time over the entire course of the patient’s treatment,” ranging from testing, to research, to treatment, to recordkeeping. R.C. 4743.10(A)(1). In short, the law encompasses nearly any individual that Equitas Health might employ, and any healthcare service it might provide. An individual practitioner employed by any such organization who refuses to treat a patient under this law is also immune from adverse employment action and, under some circumstances, may bring a civil action for injunctive relief or damages, and attorney’s fees. *See* R.C. 4743.10(D)-(F).

Notably, the law does not define several of its key terms. Though it protects refusals of care based on any purported “moral, ethical, or religious belief or principles,” and permits any “conscience-based objection,” it does not explain these terms’ limitations—if indeed there are any. *See* R.C. 4743.10(B). For healthcare organizations like Equitas Health, the law’s vagueness has very real consequences. If one of its’ employees refuses to treat a patient for the employee’s own reasons, Equitas Health would be left guessing as to whether that employee’s reasons are protected by the law.

## ARGUMENT

### **I. The Healthcare Denial Law Will Lead to Worse Health Outcomes for Those Within Marginalized Communities Who Already Experience Unequal Access to Healthcare**

Individuals are often at their most vulnerable when seeking healthcare services, but that vulnerability is especially acute when a patient belongs to a group that routinely suffers discrimination, disrespect, and/or hate. LGBTQ+ people “still encounter outright refusals of care; hostility and lack of understanding from healthcare providers; and a system based on heterosexual, cisgender norms that disregards their needs. As a result, [these] populations suffer worse health compared to the general population.”<sup>21</sup> Those living with or affected by HIV/AIDS face similar barriers and health disparities.<sup>22</sup> Discrimination in healthcare has an especially severe impact on transgender and gender nonconforming individuals. These groups report facing barriers and discrimination “as much as two to three times more frequently than lesbian, gay, or bisexual respondents,”<sup>23</sup> and may have greater need for specific healthcare services, such as gender-affirming care.

A recent survey of over 27,000 transgender people found that 33% had at least one negative experience with a doctor or healthcare provider in the year before they took the survey. The negative experiences included “teach[ing] the provider about transgender people in order to

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<sup>21</sup> Fenway Health, et al., *Next Steps for Building Better LGBTQI Health* 1 (Feb. 17, 2021), <https://fenwayhealth.org/wp-content/uploads/Next-Steps-for-Building-Better-LGBTQI-Health-2.17.21.pdf>.

<sup>22</sup> National Institutes of Health, *To end HIV epidemic, we must address health disparities* (Feb. 19, 2021), <https://www.nih.gov/news-events/news-releases/end-hiv-epidemic-we-must-address-health-disparities>.

<sup>23</sup> *When Health Care Isn't Caring, Lambda Legal's Survey on Discrimination Against LGBT People and People Living with HIV* 6 (2010), [https://www.lambdalegal.org/sites/default/files/publications/downloads/whcic-report\\_when-health-care-isnt-caring.pdf](https://www.lambdalegal.org/sites/default/files/publications/downloads/whcic-report_when-health-care-isnt-caring.pdf).

receive appropriate care (24%), being asked invasive or unnecessary questions about being transgender not related to the reason for the visit (15%), or being refused transition-related healthcare (8%).”<sup>24</sup> In a previous survey, over a quarter of all transgender and gender-nonconforming respondents reported having been denied healthcare outright. Over 20% reported having been subjected to abusive language from a healthcare professional, and a similar number reported having been blamed for their own health conditions.<sup>25</sup>

Equitas Health exists, in large part, to remedy these disparities by ensuring that LGBTQ+, HIV/AIDS affected, and other minoritized or marginalized Ohioans have ready access to healthcare, in an environment free of discrimination or humiliation—the presence of which has very tangible adverse effects on patients. Many of the individuals turning to Equitas Health for their healthcare needs have faced significant barriers to access elsewhere, including discrimination and fear of judgment from other providers. When a patient has been discriminated against by a healthcare provider, that patient is more likely to become wary of seeking future medical care. In turn, a patient’s medical conditions go untreated, worsen, and eventually require more extensive and, often expensive, medical treatment. In part because of these medical disparities, LGBTQ+ individuals experience higher incidents of suicidality, depression, anxiety, substance abuse, malignancy, sexually transmitted disease, and victimization of violence.<sup>26</sup> In fact, cancer rates are even increased among LGBTQ+ adults.<sup>27</sup>

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<sup>24</sup> National Center for Transgender Equality, *2015 U.S. Transgender Survey* 96-97, <https://transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf>.

<sup>25</sup> *Id.* at 5-6.

<sup>26</sup> Nita Bhatt, et al., *Gender Affirming Care for Transgender Patients*, *Innov. Clin. Neurosci.* 2022 Apr.-Jun; 19 (4-6): 23-32, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9341318/>.

<sup>27</sup> *Id.*

The Healthcare Denial Law, which authorizes healthcare providers to deny patients access to culturally competent care, will only lead to an increase in the number of Ohioans who are unable to access quality healthcare. This strains healthcare organizations like Equitas Health, whose mission is to ensure that the individuals it serves have access to the highest quality healthcare and preventative services, thus increasing such individuals' overall health outcomes. Just as disturbing, it materially and adversely affects Equitas Health's ability to ensure, by way of adverse action where necessary, that its practitioners do not discriminate against vulnerable patients.

## **II. The Healthcare Denial Law Fails to Provide Healthcare Organizations Like Equitas Health Adequate Notice of What it Prohibits and Leaves them in a State of Confusion Regarding their Liability Under the Law**

Mission-driven healthcare organizations like Equitas Health must maintain the trust of the LGBTQ+ community by ensuring a safe, empathetic, and nondiscriminatory environment for patients, prospective patients, and the broader community. To achieve this end, healthcare providers are expected to commit to upholding and advancing the values, ethics, philosophy, and the mission of their organization. The Healthcare Denial Law, however, inhibits organizations like Equitas Health from maintaining a mission-driven environment by prohibiting it from taking any remedial action against an employee who has refused to perform healthcare services based on their "conscience," "moral, ethical, or religious beliefs or principles."

But the bounds of what a healthcare organization like Equitas Health can and cannot do in accordance with the Healthcare Denial Law are vague at best. The law does not define what constitutes a valid basis to refuse to participate in or perform a healthcare service. *See* R.C. 4743.10(C). It likewise fails to provide sufficient notice as to what type of "adverse action" is prohibited under the law. *See id.* The vague language of the law leaves Equitas Health and other healthcare organizations in a state of confusion. Can they decline to hire an individual whose

conscience is not in accordance with their mission without violating the law? Can a healthcare provider ask a potential employee about their personal beliefs and conscience without violating the law, if they thereafter do not hire them? Can a healthcare provider reassign an employee who objects to providing or performing certain healthcare services to a different department without violating the law? If an employee does refuse to provide care, can their employer require them to explain what “moral, ethical, or religious beliefs or principles” gave rise to that refusal? Must those principles be accepted at face value and treated as protected, regardless of basis or reasoning? Is an employee protected from discipline if they refuse to treat an entire category of people on the basis of conscience?

In sum, the law encourages arbitrariness or discrimination in its enforcement and application, and in practice, leaves healthcare organizations like Equitas Health unaware of what conduct is permissible or prohibited under the Law. What’s worse, a healthcare provider’s failure to conform to the Law’s arbitrary dictates subjects them to potential civil liability. Although the Healthcare Denial Law was passed in haste, its implications are immense and leaves healthcare providers with little to no guidance as to how to comply with its terms. The Healthcare Denial Law also strips Equitas Health of an effective means to ensure the individuals it serves—who are already uniquely vulnerable in a healthcare setting—are treated with respect and dignity from its own staff, and powerless to enforce its mission.

### **III. The Healthcare Denial Law Violates the Single Subject Rule of the Ohio Constitution and Should Have been Passed as a Stand-Alone Law**

The Conscience Clause creates new rights and liabilities and condones discrimination in the healthcare context. It violates the Ohio constitution and imputes civil liability on employers who take adverse action against an employee by allowing for treble damages, attorneys’ fees, and injunctive relief. It also leaves Ohioans unable to access quality healthcare. Despite the



enormous potential impact of this law on healthcare in Ohio, it was not passed as a freestanding bill and instead snuck into the state’s 2022-2023 biennial budget.

Fortunately, the single- or one-subject rule embodied in Article II, Section 15(D), of the Ohio Constitution prohibits just that, serving as “a constitutional limitation on the legislative power of the General Assembly.” *Rumpke Sanitary Landfill, Inc. v. State*, 128 Ohio St.3d 41, 2010-Ohio-6037, 941 N.E.2d 1161, ¶ 20. The purpose of this rule is to prevent “logrolling by disallowing unnatural combinations of provisions in acts, *i.e.*, those dealing with more than one subject, on the theory that the best explanation for the unnatural combination is a tactical one—logrolling.” *In re Nowak*, 104 Ohio St.3d 466, 2004-Ohio-6777, 820 N.E.2d 335, ¶ 71 (internal citations omitted). Although appropriations bills are more complicated, as such bills naturally include many subjects, an unnecessary rider provision will still violate the single subject rule. *State ex rel. Ohio Civ. Serv. Emps. Ass’n v. State Emp. Rel. Bd.*, 104 Ohio St. 3d 122, 2004-Ohio-6363, 818 N.E. 2d 688, ¶ 30; *Riverside v. State*, 190 Ohio App. 3d 765, 2010-Ohio-5868, 944 N.E. 2d 281, ¶ 40 (10th Dist.); *see also Simmons-Harris v. Goff*, 86 Ohio St.3d 1, 16, 711 N.E.2d 203 (1999) (“The danger of riders is particularly evident when a bill as important and likely of passage as an appropriations bill is at issue.”).

Although the budget bill provides for “up to \$5,000 in fiscal year 2022 [of state medical board funds to] be used to create a brochure or other educational materials regarding” the new Healthcare Denial Law,<sup>28</sup> such a miniscule amount does not negate the substantive nature of the law itself. *See Simmons-Harris*, 86 Ohio St.3d at 16, 711 N.E.2d 203; *see also Dublin v. State*, 118 Ohio Misc. 2d 18, 2002-Ohio-2431, 769 N.E.2d 436, ¶ 49 (C.P.) (“Given the very wide

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<sup>28</sup> *See* Am. Sub. H.B. 110, 134th Gen. Assemb. (2021) (as reported by committee) [https://search-prod.lis.state.oh.us/solarapi/v1/general\\_assembly\\_134/bills/hb110/CR/06/hb110\\_06\\_CR?format=pdf](https://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_134/bills/hb110/CR/06/hb110_06_CR?format=pdf).

variety of appropriations and potential appropriations in a biennial appropriations bill,” adding any substantive regulation or program to a biennial budget bill “so long as there is some appropriation in the bill that somehow relates to the program or regulation . . . would render the single-subject rule meaningless and useless as a means of preventing logrolling.”). To find otherwise would render “the one-subject rule meaningless in the context of appropriations bills because virtually any statute arguably impacts the state budget, even if only tenuously.” *State ex rel. Ohio Civ. Serv. Emps. Ass’n*, ¶ 33. The \$5,000 allocated to the State Medical Board is not related to “funding the operations of programs, agencies, and matters described elsewhere in the [appropriations] bill”, *Plain Loc. Sch. Dist. Bd. of Educ. v. DeWine*, 486 F. Supp. 3d 1173, 1198 (2020) (internal citations omitted), but rather is used to create a brochure to advertise the secretive passage of this new law. The Healthcare Denial Law itself bears “no relation to the utilization of governmental resources” and has no impact on the state budget. *See In re Holzer Consol. Health Sys.*, 10th Dist. Franklin No. 03AP-1020, 2004-Ohio-5533, at ¶ 37.

Here, the Healthcare Denial Law represents “a disunity of subject matter such that there is no discernible practical, rational or legitimate reason for combining the provisions” into the budget bill. *See State ex rel. Ohio Civ. Serv. Emps. Ass’n*, 104 Ohio St. 3d 122, 2004-Ohio-6363, 818 N.E. 2d 688, ¶ 28 (internal citations omitted). The Healthcare Denial Law is a “significant, substantial new [law]” that creates new rights, obligations, and liabilities, amounting to “leading-edge legislation.” *See Simmons-Harris v. Goff*, 86 Ohio St.3d at 16. It condones discrimination against already marginalized communities and leaves the healthcare providers tasked with their well-being powerless to enforce their mission. It even creates new civil liability against healthcare providers and institutions who take any action inconsistent with its terms. It also leaves healthcare providers like Equitas Health in a state of confusion over its legal obligations

under the law. Nevertheless, it occupies a mere 2 pages of the 2,400-page budget bill. *Id.* (noting that the challenged provision represents a significant, substantive program, yet comprised only ten pages within an appropriations bill consisting of over one-thousand pages); *State ex rel. Ohio AFL-CIO*, Franklin C.P. No. 04CVH02-1455, 2005 WL 3964730, at \* 7 (July 13, 2005) (finding the challenged amendments “are but two sentences” within a 402-page appropriations bill).

There is no rational reason for the Healthcare Denial Law’s inclusion in an appropriations bill. Clearly, the addition of the Healthcare Denial Law was “a significant, substantive, and controversial amendment” to the bill, and “a mere rider that was tactically inserted into the must-pass budget bill in order to secure its passage.” *Plain Loc. Sch. Dist. Bd. of Educ. v. DeWine*, 486 F. Supp. 3d at 1199.

The single subject rule exists to prohibit exactly what happened here in the clandestine passage of the Healthcare Denial Law. With such broad implications on patient care and the provision of healthcare services in Ohio, this clause should have been passed as a stand-alone law to receive sufficient public comment, clarification and debate. Instead, it was buried in the state’s 2022-2023 biennial budget, and leaves healthcare organizations like Equitas Health subject to potential civil liability and a state of confusion over what the law provides, prohibits, and entails. It also leaves individuals in already marginalized communities who have specialized healthcare needs at risk of inadequate care. The potential risks and implications of this law are immense – and the confusion it entails substantial.

**CONCLUSION**

For the foregoing reasons, amicus curiae respectfully request this Court grant the City of Columbus’s Motion for Summary Judgment and deny the State’s Motion for Judgment on the Pleadings, declaring the Healthcare Denial Law to violate the Ohio constitution and permanently enjoining it from taking effect.

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing Brief of Amicus Curiae was electronically filed on May 31, 2023. Notice of this filing will be sent to counsel for all parties via the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Amy Gilbert \_\_\_\_\_