

**IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO**

EQUITAS HEALTH )  
1105 Schrock Road, Suite 400 )  
Columbus, OH 43229, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
THE STATE OF OHIO )  
c/o Attorney General Dave Yost )  
30 East Broad Street, 14th Floor )  
Columbus, OH 43215, )  
 )  
MIKE DEWINE, in his official capacity )  
as Governor of the State of Ohio )  
Office of the Governor )  
77 South High Street, 30th Floor )  
Columbus, Ohio 43215, )  
 )  
Defendants. )  
 )

Case No. \_\_\_\_\_  
Judge \_\_\_\_\_

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Equitas Health brings this action for declaratory and injunctive relief against the State of Ohio and Governor Mike DeWine to declare Ohio Revised Code § 4743.10 void and without legal effect because the law violates Article II, Section 15(D) and Article I, Section 16 of the Ohio Constitution.

**INTRODUCTION**

1. Individuals are often at their most vulnerable when seeking health care services, but that vulnerability is especially acute when a patient belongs to a group that routinely suffers discrimination, disrespect, or hate. LGBTQ+ people “still encounter outright refusals of care; hostility and lack of understanding from health care providers; and a system based on heterosexual, cisgender norms that disregards their needs. As a result, LGBTQI populations

suffer worse health compared to the general population.”<sup>1</sup> Those living with HIV/AIDS face similar barriers and health disparities.<sup>2</sup>

2. Discrimination in healthcare has an especially severe impact on transgender and gender nonconforming individuals. Those groups report facing barriers and discrimination “as much as two to three times more frequently than lesbian, gay, or bisexual respondents,”<sup>3</sup> and also may have greater need of specific healthcare services, such as gender-affirming care.

3. 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 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 health care (8%).<sup>4</sup> In a previous survey, over a quarter of all transgender and gender-nonconforming respondents reported having been denied health care 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>5</sup>

4. Equitas Health is a regional, nonprofit community-healthcare system with a goal of providing quality healthcare and preventative services to the LGBTQ+ community,

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<sup>1</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>2</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>3</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).

<sup>4</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>5</sup> *Id.* at 5-6.

individuals living with HIV/AIDS, and others who experience healthcare disparities.<sup>6</sup> Its mission, in large part, is to counteract the types of healthcare disparities noted above, and to provide a safe environment for vulnerable individuals to obtain needed medical services.

5. In the summer of 2021, the General Assembly enacted a law that already has begun to exacerbate these healthcare disparities and to hamstring Equitas Health’s ability to serve its mission and care for its patients.

6. Revised Code Section 4743.10 (the “Healthcare Denial Law”) purports to allow healthcare providers—such as hospitals, doctors, nurses, and pharmacists—or insurers to refuse 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 [their] moral, ethical, or religious beliefs or principles.” R.C. § 4743.10(B).

7. 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 healthcare organizations like Equitas Health powerless to enforce their own mission. An individual practitioner employed by any such organization, who refuses to treat a patient under this law, is immune from adverse employment action and, under some circumstances, may bring a civil action to obtain reinstatement via injunction or for damages. *See* R.C. § 4743.10(D)-(F). But the ability to take an adverse employment action is a necessary tool for a mission-driven employer like Equitas Health to ensure that its employees do not undercut its mission, harm its patients, or shake the public’s confidence in Equitas Health’s provision of services.

8. By preventing such action and putting the community that Equitas Health serves in danger of further discrimination, the Healthcare Denial Law frustrates Equitas Health’s

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<sup>6</sup> *See generally* Equitas Health, *About Us*, <https://equitashealth.com/about-us/> (accessed Apr. 28, 2022).

purpose, rendering it unable to fulfill its mission. Equitas Health will continue to suffer this injury as long as the law is in effect.

9. When this law was passed, the medical community and its stakeholders immediately recognized the dangers it posed. 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, 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 health care payers, providers, and patients.”<sup>7</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 health care services are numerous.”<sup>8</sup>

10. Despite concerns like these, and despite the enormous potential impact of this law on healthcare in Ohio, the Healthcare Denial Law 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 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 merits. *See* 2021 Am.Sub.H.B. No. 110, Section 4743.10 (“HB 110”) (short titled, “Creates appropriations for FY 2022-2023”).

11. The Healthcare Denial Law was not the subject of a single public hearing.

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<sup>7</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>8</sup> *Id.*

12. Because an Ohio Senator tucked the Healthcare Denial Law into an unrelated budget bill, the law violates the single-subject rule of the Ohio Constitution and is void. Indeed, the single-subject rule exists to ensure exactly the opposite of what happened here. The Ohio Constitution requires bills to be limited to a single subject so that the issues can be better understood, discussed, and considered, and to prevent the logrolling of unnatural combination of provisions into a single bill.

13. Moreover, the Healthcare Denial Law is despairingly—and unconstitutionally—vague, leaving organizations like Equitas Health in a state of confusion. For example, the law does not specify what constitutes “a moral, ethical, or religious belief or principles” or a permissible “conscience-based objection.” As Equitas Health is unable to determine its rights, obligations, and potential liability under the law, the law is also void for vagueness under the due-course-of-law guarantee contained in Article I, Section 16 of the Ohio Constitution.

14. The Healthcare Denial Law has injured Equitas Health and will continue to do so in the future. In particular, Equitas Health has spent considerable time, money, and resources attempting to understand the limitations on its rights, its potential liability, and its obligations under the law; training its staff in response to the law; updating its policies and practices to conform with the law; and revising the content of its educational trainings in light of the law. It is likely that Equitas Health will be forced to continue to do so in the future. For an organization that is often at or past its capacity, this diversion of resources threatens to strain Equitas Health’s operations and frustrates its mission.

#### **PARTIES**

15. Plaintiff Equitas Health is a regional nonprofit community healthcare system, with its headquarters at 1105 Schrock Road, Suite 400, Columbus, OH 43229.

16. Defendant State of Ohio is the sovereign entity on whose behalf the Healthcare

Denial Law was enacted.

17. Defendant Mike DeWine is the Governor of the State of Ohio. He is being sued in his official capacity as Governor. Article III, Section 5 of the Ohio Constitution vests the supreme executive power of the state in the Governor, and Governor DeWine signed the bill into law.

### **JURISDICTION**

18. This Court has jurisdiction over this action, including under Article IV of the Ohio Constitution and R.C. § 2721.

19. Equitas Health has standing to bring this action for declaratory and injunctive relief because, as detailed herein, a real and justiciable controversy exists regarding the constitutionality of the Healthcare Denial Law; because the rights, status, and other legal obligations of Equitas Health and Defendants are uncertain and insecure; and because the requested relief will terminate the uncertainty and controversy that has given rise to this proceeding. As the premier Ohio provider of healthcare targeted to the LGBTQ+ community, individuals living with HIV/AIDS, and others who experience medical disparities, Equitas Health has been harmed by this law and there is a substantial likelihood that it will continue to suffer injury that is individualized beyond that borne by the general population of Ohio.

### **VENUE**

20. Venue in this Court is proper pursuant to Rule 3(C) of the Ohio Rules of Civil Procedure.

## FACTS

### I. Ohio Revised Code § 4743.10, The Healthcare Denial Law.

#### A. 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.

21. On February 16, 2021, a Representative first introduced HB 110, which would become the Ohio 2022-2023 biennial budget bill.<sup>9</sup> The 2,400-page budget bill addressed funding and other fiscal concerns for the state of Ohio.<sup>10</sup>

22. The original version of the bill did not include, mention, or even contemplate the language in the Healthcare Denial Law—nor did any other bill introduced during the legislative session.

23. Between February and April 2021, the Ohio House held at least 13 hearings and 25 subcommittee hearings on HB 110.<sup>11</sup> Stakeholders and interested parties from the public spoke at these hearings about the bill's text and related issues.<sup>12</sup>

24. During these public hearings, the Healthcare Denial Law's language was never mentioned or included in the proposed bill, and it therefore received no public comment or hearing.

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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 Apr. 28, 2022).

<sup>10</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 Apr. 28, 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>11</sup> The Ohio Legislature, *House Bill 110: House Committees*, <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA134-HB-110> (accessed Apr. 28, 2022).

<sup>12</sup> *Id.*

25. On April 13, 2021, the Ohio House reported a substitute version of the bill,<sup>13</sup> and further amended it on April 20, 2021.<sup>14</sup> On April 21, 2021, the Ohio House reported a new, substitute version of the bill's text.<sup>15</sup> The Healthcare Denial Law's language was not included in this substituted version of the bill.

26. On April 21, 2021, the Ohio House passed the then-current version of the bill.<sup>16</sup> The version of the bill that the Ohio House passed did not include any mention of the Healthcare Denial Law.

27. On April 28, 2021, the Ohio Senate referred the budget bill to committee.<sup>17</sup> During April and May 2021, the Senate finance committee held at least nine hearings on the budget bill.<sup>18</sup> On June 1, 2021, another substitute bill was introduced in the Senate Finance Committee and accepted.<sup>19</sup> These hearings included public comment.<sup>20</sup>

28. As with the House debate, during the Senate's public hearings, the Healthcare

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<sup>13</sup> The Ohio House of Representatives, *Finance Committee Meeting – April 13, 2021*, [https://ohiohouse.gov/committees/finance/meetings/cmte\\_h\\_finance\\_1\\_2021-04-13-0930\\_366](https://ohiohouse.gov/committees/finance/meetings/cmte_h_finance_1_2021-04-13-0930_366) (accessed Apr. 28, 2022).

<sup>14</sup> The Ohio House of Representatives, *Finance Committee Meeting – April 20, 2021*, [https://ohiohouse.gov/committees/finance/meetings/cmte\\_h\\_finance\\_1\\_2021-04-20-0930\\_403](https://ohiohouse.gov/committees/finance/meetings/cmte_h_finance_1_2021-04-20-0930_403) (accessed Apr. 28, 2022).

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

<sup>16</sup> The Ohio Legislature, *House Bill 110: Votes*, <https://www.legislature.ohio.gov/legislation/legislation-votes?id=GA134-HB-110> (accessed Apr. 28, 2022).

<sup>17</sup> The Ohio Legislature, *House Bill 110: Status*, <https://www.legislature.ohio.gov/legislation/legislation-status?id=GA134-HB-110> (accessed Apr. 28, 2022).

<sup>18</sup> The Ohio Legislature, *House Bill 110: Committee Activity*, <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA134-HB-110> (accessed Apr. 28, 2022).

<sup>19</sup> The Ohio Senate, *Finance Committee: June 1, 2021*, <https://www.ohiosenate.gov/committees/finance/document-archive> (accessed Apr. 28, 2022).

<sup>20</sup> The Ohio Senate, *Finance Committee: June 2, 2021*, <https://www.ohiosenate.gov/committees/finance/document-archive> (accessed Apr. 28, 2022); The Ohio Legislature, *House Bill 110: Committee Activity*, <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA134-HB-110> (accessed Apr. 28, 2022).



Denial Law’s language was not included in the proposed bill. Accordingly, the text of that proposal received no public comment.

29. The language of the Healthcare Denial Law was finally introduced on June 8, 2021, when a Senator added the language into 2 pages of a 695-page omnibus amendment to the budget bill.<sup>21</sup> This amendment occurred after the conclusion of dozens of public hearings in the Ohio House and Senate.

30. This version of the bill provides for a token appropriation, allocating “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>22</sup>

31. The following day, the finance committee sent the entire budget bill to the Senate, and the Senate passed it without further public debate.<sup>23</sup>

32. Then, on June 15, 17, and 22, 2021, the legislature’s Conference Committee—made of members from the Ohio Senate and House—held three hearings to reconcile the House and Senate versions of the bill.

33. During these reconciliation hearings, no one from the public was permitted to comment on the revised bill’s text.<sup>24</sup>

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<sup>21</sup> The Ohio Senate, *Finance Committee: June 8, 2021*, <https://www.ohiosenate.gov/committees/finance/document-archive> (accessed Apr. 28, 2022); 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>22</sup> See “As Reported By Committee” version of the legislation text, The Ohio Legislature, *House Bill 110: Documents*, <https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA134-HB-110> (accessed Apr. 28, 2022).

<sup>23</sup> The Ohio Legislature, *House Bill 110: Status*, <https://www.legislature.ohio.gov/legislation/legislation-status?id=GA134-HB-110> (accessed Apr. 28, 2022).

<sup>24</sup> See The Ohio House of Representatives, *Conference Committee on H.B. 110 Meetings*, <https://ohiohouse.gov/committees/conference-committee-on-hb-110/meetings> (accessed Apr. 28, 2022).

34. The Ohio legislature passed the 2,400-page budget bill on June 28, 2021,<sup>25</sup> and Governor DeWine signed it into law two days later.<sup>26</sup>

35. In sum, the Healthcare Denial Law’s two pages of language was slipped into the budget bill at the “last-minute, without any public hearings.”<sup>27</sup>

36. That language went into effect on September 30, 2021.<sup>28</sup>

**B. The Healthcare Denial Law allows healthcare practitioners to refuse to treat on the basis of personal bias, without employment consequence.**

37. The Healthcare Denial Law broadly authorizes any person involved in the provision of healthcare services the right to decline to provide a treatment to a patient based on 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).

38. The Healthcare Denial Law defines “medical practitioner” broadly: “any person who facilitates or participates in the provision of health care services, including nursing,

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<sup>25</sup> The Ohio Legislature, *House Bill 110: Status*, <https://www.legislature.ohio.gov/legislation/legislation-status?id=GA134-HB-110> (accessed Apr. 28, 2022); The Ohio Legislature, *House Bill 110: Votes*, <https://www.legislature.ohio.gov/legislation/legislation-votes?id=GA134-HB-110> (accessed Apr. 28, 2022)

<sup>26</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>.

<sup>27</sup> 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/>; Kasler, “*Medical Conscience Clause*” Added By Republicans to Ohio Senate Budget, Statehouse News Bureau (June 22, 2021), <https://www.statenews.org/government-politics/2021-06-22/medical-conscience-clause-added-by-republicans-to-ohio-senate-budget>.

<sup>28</sup> Carney, et al., *Ohio’s Medical Practitioner Conscience Clause Becomes Effective*, Epstein Becker & Green (Oct. 5, 2021), <https://www.ebglaw.com/insights/ohios-medical-practitioner-conscience-clause-becomes-effective/>; see also The Ohio Legislature, *House Bill 110: Status*, <https://www.legislature.ohio.gov/legislation/legislation-status?id=GA134-HB-110> (accessed Apr. 28, 2022).

physician services, counseling and social work, psychological and psychiatric services, research services, surgical services, laboratory services, and the provision of pharmaceuticals and may include any of the following: any student or faculty at a medical, nursing, mental health, or counseling institution of higher education or an allied health professional, paraprofessional, or employee or contractor of a health care institution.” R.C. § 4743.10(A)(2).

39. It defines “health care service” broadly: “medical care provided to any patient at any time over the entire course of the patient’s treatment and may include one or more of the following: testing; diagnosis; referral; dispensing or administering a drug, medication, or device; psychological therapy or counseling; research; prognosis; therapy; record making procedures and notes related to treatment; preparation for or performance of a surgery or procedure; or any other care or services performed or provided by any medical practitioner.” R.C. § 4743.10(A)(1).

40. And it defines “participation in a health care service” just as broadly: “to provide, perform, assist with, facilitate, refer for, counsel for, advise with regard to, admit for the purposes of providing, or take part in any way in providing, any health care service.” R.C. § 4743.10(A)(3).

41. These definitions encompass nearly any individual that Equitas Health might employ and any health care service it might provide.

42. Further, the Healthcare Denial Law prevents healthcare employers, like Equitas Health, from disciplining their employees for denying services to patients for reasons encompassed by the law. In the event that an employed “medical practitioner” suffers “adverse action as a result of declining to participate in [...] a particular health care service on the basis of conscience,” the law authorizes the practitioner to bring a legal claim against their employer. R.C. § 4743.10(D), (F).

43. In the event of such a claim, the Healthcare Denial Law provides for treble damages, attorneys' fees, and injunctive relief. The injunctive relief may even include requiring the employer to reinstate the employee. R.C. § 4743.10(F).

44. In effect, the Healthcare Denial Law makes it impossible for a healthcare employer, like Equitas Health, to require its employees to refrain from denying medical care to patients who need it.

## **II. The Healthcare Denial Law Prevents Equitas Health From Fulfilling Its Mission And Equitas Health Has Been Harmed As A Result.**

### **A. The Healthcare Denial Law harms Equitas Health by undercutting its ability to provide culturally competent care in a safe environment and maintain trust in the community it serves.**

45. Equitas Health is one of the largest healthcare organizations in the United States serving the LGBTQ+ community, individuals living with HIV/AIDS, and others who experience medical disparities. It is headquartered in Columbus and has 21 offices in 13 cities throughout Ohio. It employs over 500 people, including healthcare practitioners, and administrative, organizational, and educational staff.

46. Equitas Health is a mission-driven nonprofit. Its mission is to ensure that the LGBTQ+ community, people living with or affected by HIV/AIDS, and others who experience healthcare disparities have access to the highest quality healthcare and preventative services, both from Equitas Health itself and from its referral network of outside providers.

47. Through Equitas Health's Community Health Center, it provides a broad range of healthcare services to more than 12,700 individuals, including primary and specialized medical care, pharmacy, dentistry, mental health and recovery, HIV/STI treatment and prevention, PrEP/PEP treatment, Ryan White HIV case management, advocacy, and care navigation.

48. For those living with HIV/AIDS, Equitas Health receives federal grant funding to

offer a variety of community engagement programs, including prevention, case management, and housing. As a federally qualified community-health center, Equitas Health must provide outpatient healthcare services as a safety net provider and be able to refer patients to other providers as required by the patient's health conditions.

49. Equitas Health works to ensure that its referral providers (*e.g.*, providers in pediatrics, radiology, surgery) provide culturally competent care—that is, affirming and welcoming care for people who identify as part of the LGBTQ+ community, have HIV/AIDS, or who face other health disparities.

50. The educational arm of Equitas Health is the Equitas Health Institute, which develops and delivers LGBTQ+ culturally competent healthcare education and training. The mission of the Equitas Health Institute is to create a climate where the health outcomes of the LGBTQ+ community will be improved because of research and education.

51. Many of the individuals turning to Equitas Health for their healthcare or social service 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, they are 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 medical treatment. Thus, Equitas Health's workload, patient base, and financial condition are impacted by the legal framework and Ohio's attitudes toward the LGBTQ+ population—and the extent to which other healthcare providers provide or deny Equitas Health's potential patients access to that same care. In other words, if LGBTQ+ Ohioans are not able to access the highest quality healthcare elsewhere, they increasingly turn to Equitas for such services.

52. Equitas Health's providers already treat patients in this situation, and Equitas

Health's ability to pursue its mission relies on the public's trust that its providers will continue to do so.

53. In order to pursue its mission and maintain the trust of the LGBTQ+ community, it is therefore critical for Equitas Health to ensure a safe, empathetic, and nondiscriminatory environment for its patients, prospective patients, and broader community. To achieve this end, all of Equitas Health's employees are expected to commit to upholding and advancing the values, ethics, philosophy, and mission of the organization.

54. The Healthcare Denial Law interferes with Equitas's ability to maintain a mission-driven environment via its internal code of conduct. Indeed, the law prohibits Equitas Health from taking any remedial action against an employee who has refused to perform a service based on their conscience, beliefs, or principles.

55. In short, the 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—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, in direct contravention of Equitas Health's mission and purpose.

56. Because it employs hundreds of healthcare practitioners, Equitas Health faces a real and substantial risk that its employees will refuse to perform healthcare services based on their "conscience," "moral, ethical, or religious beliefs or principles." Equitas Health also faces the real and substantial risk of incurring harms that stem from an employee's refusal to perform healthcare services in the future.

57. Equitas Health relies on the trust of the LGBTQ+ community in order to serve its function. In turn, the LGBTQ+ community places its trust in Equitas Health, as a leader in

gender affirming healthcare and at the forefront of state of the art education, outreach, and research.

58. Should Equitas Health’s patients face refusals of care and other forms of discrimination, humiliation, and harm under the law, Equitas Health would be further harmed in its ability to provide gender affirming support and healthcare, and would tarnish its reputation in the community.

**B. Equitas Health Has Incurred Real And Concrete Injuries As A Result Of The Healthcare Denial Law By Forcing It To Devote Significant Time, Money, And Resources To Counteract The Effects Of The Law In The Communities It Serves.**

59. Given how this law uniquely impacts Equitas Health, Equitas Health has already experienced direct and concrete injury in its ability to pursue its mission. Equitas Health’s staff and board of directors have already expended, and will continue to expend, significant time, resources, and money to understand the legal ramifications of this law, the organization’s legal obligations as an employer and a healthcare provider, and in their efforts to counteract the impact of this law on the population served by Equitas Health. Equitas Health has spent and will continue to spend considerable time and resources on adapting its training and educational materials in light of the Healthcare Denial Law.

60. Equitas Health Institute’s mission is to reduce healthcare disparities in the LGBTQ+ community through education, research, and community engagement. To further this objective, the Equitas Health Institute offers trainings, assessments, and consulting for health and social service providers, businesses, and educational institutions that wish to create affirming and inclusive environments for LGBTQ+ patients, clients, employees, and customers.

61. These trainings, workshops, presentations, consulting services, and online webinars must offer current and state of the art content to best educate healthcare providers and

corporate clients of their legal obligations and risks.

62. As a result of the Healthcare Denial Law, Equitas Health has spent and will continue to spend a considerable amount of time and resources adapting the content of its trainings and workshops.

63. But for the Healthcare Denial Law, Equitas Health would not have diverted as much of its time and resources to revamp the Equitas Health Institute's trainings, workshops, and educational materials.

**1. Equitas Health has spent significant time, money, and resources on changing its hiring process and policies.**

64. Because the Healthcare Denial Law prohibits Equitas Health from enforcing its own code of conduct, Equitas Health's past methods for interviewing and selecting providers are insufficient in light of the Healthcare Denial Law—and the law risks creating significant disruption and confusion for the organization.

65. Equitas Health has already incurred a substantial amount of legal fees—and expects to incur additional legal fees on an ongoing basis—in its efforts to understand its general rights and obligations under the law, and to make necessary preparations in the event that any specific incident arises that implicates the law.

66. Because of the law's vague language, Equitas Health has spent significant time, resources, and money attempting to determine the bounds of what it can and cannot do under the Healthcare Denial Law in the context of ascertaining current and prospective employees' personal beliefs.

67. As a result of the Healthcare Denial Law, Equitas Health was forced to spend considerable time and resources to develop a new screening process to ascertain potential employees' commitment to Equitas Health's mission and to ensure that potential new hires are



willing to provide all services to all patients.

68. Equitas Health has also been forced to spend significant time and resources training and re-training those individuals who conduct hiring for the organization, and strategically managing those training efforts and related policies, to ensure their process both comports with the Healthcare Denial Law and ensures prospective employees are committed to the mission of Equitas Health.

69. In addition to these specific efforts, Equitas Health's board has been forced to spend a significant amount of time analyzing the communications, managerial, legal, personnel, and other ramifications of the Healthcare Denial Law, and planning the organization's strategic responses and necessary adjustments in policies and communications.

70. Were it not for the Healthcare Denial Law, Equitas Health would not have been forced to divert these resources to revamping its hiring, screening, and internal training and policies, nor would it have incurred the expenses that it has been forced to spend on legal advice to understand the strictures of this law.

**2. Equitas Health has spent and will continue to spend significant time, money, and resources on its internal and external communications surrounding the Healthcare Denial Law.**

71. As the premier Ohio provider of healthcare targeted to the LGBTQ+ community, individuals living with HIV/AIDS, and others who experience medical disparities, Equitas Health plays a pivotal role in assuring the safety and security of the communities it serves. The Healthcare Denial Law undercuts the purpose and mission of Equitas Health to do so. As a result, Equitas Health has incurred and expects to incur additional time, money, and resources in responding to this law.

72. For example, Equitas Health has made considerable expenditures on communications, including but not limited to social media, in response to this law. This includes

communications intended to reassure the LGBTQ+ and other impacted communities that Equitas Health is dedicated to providing them with health care in a safe environment.

73. As a result of the impact of the Healthcare Denial Law on the communities it serves, Equitas Health has engaged a public relations firm to assist with its communications strategy.

74. Equitas Health has also been forced to divert its own time and internal resources to public relations efforts, and anticipates continuing to do so, as a result of the Healthcare Denial Law.

75. Through a combination of its internal staff efforts and the work of its retained public relations firm, Equitas Health anticipates needing to make considerable expenditures of resources, including but not limited to preparing social media content, and otherwise publicly clarifying to the LGBTQ+ community and other impacted communities that Equitas Health remains dedicated to providing them with health care in a safe environment.

76. But for the Healthcare Denial Law, Equitas Health would not divert such resources, time, and money on this communications campaign to reassure the communities it serves that it will continue to provide safe, culturally competent healthcare.

## **CLAIMS FOR RELIEF**

### **I. Declaratory Judgment For Violation Of The Ohio Constitution's Single-Subject Rule, Article II, Section 15(D). (First Claim.)**

77. Equitas Health restates the allegations in the above paragraphs, as if fully rewritten herein.

78. The Ohio Constitution, Article II, Section 15(D), states: "No bill shall contain more than one subject, which shall be clearly expressed in its title."

79. Known as the single- or one-subject rule, this language "is 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.

80. “The one-subject provision attacks 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 (quoting *State ex rel. Dix v. Celeste*, 11 Ohio St.3d 141, 143, 464 N.E.2d 153 (1984)).

81. “The rule prevents extraneous matters from being introduced into consideration of the bill by disallowing amendments not germane to the subject under consideration.” *State ex rel. Dix v. Celeste*, 11 Ohio St.3d at 143, 464 N.E.2d at 156.

82. “The danger of riders is particularly evident when a bill as important and likely of passage as an appropriations bill is at issue.” *Simmons-Harris v. Goff*, 86 Ohio St.3d 1, 16, 711 N.E.2d 203 (1999).

83. The Ohio legislature unnaturally combined the Healthcare Denial Law—which created new purported rights for private citizens, new potential liability for healthcare providers and a new private cause of action—with the rest of HB 110, a two-year state operating budget for the government of Ohio.

84. By including the Healthcare Denial Law as part of a budget bill, HB 110 contains a disunity of subject matter.

85. The Healthcare Denial Law is a significant and controversial law that takes up just over two pages in HB 110, a 2,400-page budget bill, and was passed without public consideration or debate and no stand-alone vote on the provision. Like any biennial budget, HB 110 was a highly important bill and very likely to pass.

86. The de minimis \$5,000 allocation within a \$74.1 billion budget bill to create a brochure about the new law does not change the disunity of the Healthcare Denial Law with the rest of HB 110.

87. The General Assembly's violation of Article II, Section 15(D) of the Ohio Constitution by passing the Healthcare Denial Law harmed Equitas Health and will continue to harm Equitas Health in the future in the operation of its non-profit business, as well as the patients that its mission calls on it to serve.

88. There is a real and justiciable controversy regarding whether the Healthcare Denial Law complies with the single-subject rule of the Ohio Constitution.

89. The rights, status, and other legal obligations of Equitas Health and Defendants are uncertain and insecure, and the entry of a declaratory judgment by this Court will terminate the uncertainty and controversy which has given rise to this proceeding.

90. Equitas Health is entitled to a declaratory judgment that the enactment of the Healthcare Denial Law violates the Ohio Constitution, Article II, Section 15(D), and that it is void and without legal effect.

**II. Declaratory Judgment That The Healthcare Denial Law Is Void For Vagueness Under The Ohio Constitution's Due-Course-Of-Law Clause, Article I, Section 16. (Second Claim.)**

91. Equitas Health restates the allegations in the above paragraphs, as if fully rewritten herein.

92. Article I, Section 16 of the Ohio Constitution guarantees Ohioans "due course of law."

93. A vague statute violates the guarantee of due course of law and is unconstitutional.

94. The Healthcare Denial Law—through language that the General Assembly never

properly debated, vetted, or conducted hearings upon—does not fairly inform a person of ordinary intelligence whether they are in compliance with its terms.

95. The Healthcare Denial Law’s vague language authorizes or encourages arbitrariness or discrimination in its enforcement and application.

96. The Healthcare Denial Law provides that “[a] medical practitioner, health care institution, or health care payer shall not be discriminated against or suffer any other adverse action as a result of declining to participate in or pay for a particular health care service on the basis of conscience” as “informed by the moral, ethical, or religious beliefs or principles held by the practitioner, institution, or payer.”

97. The Healthcare Denial Law does not define what constitutes a conscience or a moral, ethical, or religious belief or principle, and does not provide persons of ordinary intelligence actual notice of what belief or principle is permitted under the law.

98. The Healthcare Denial Law does not define what constitutes an adverse action, fails to put Equitas Health on notice of what the law prohibits, and exposes Equitas Health to potential legal and monetary risk should it fail to comply with its terms.

99. Because of the unconstitutional vagueness of the Healthcare Denial Law, Equitas Health is unable determine its rights and obligations under the law, including as the law relates to its current and prospective employees.

100. The General Assembly’s violation of the Ohio Constitution’s guarantee of due course of law by passing the Healthcare Denial Law harmed Equitas Health and will continue to harm Equitas Health in the future in the operation of its non-profit business.

101. There is a real and justiciable controversy between the parties regarding whether the Healthcare Denial Law is void for vagueness under the Ohio Constitution’s Due Process

Clause.

102. The rights, status, and other legal obligations of Equitas Health and Defendants are uncertain and insecure, and the entry of a declaratory judgment by this Court will terminate the uncertainty and controversy which has given rise to this proceeding.

103. Equitas Health is entitled to a declaratory judgment declaring that the Healthcare Denial Law is void for vagueness under the Ohio Constitution's due process clause, and that the Healthcare Denial Law is without legal effect.

### **PRAYER FOR RELIEF**

Equitas Health requests that the Court:

a. Enter a declaration that the Ohio legislature enacted R.C. § 4743.10 in violation of the Ohio Constitution, Article II, Section 15(D), and that it is void and without legal effect.

b. Enter a declaration that R.C. § 4743.10 violates the Ohio Constitution's due process clause, Article I, Section 16, is void for vagueness, and that it is without legal effect.

c. Grant all necessary and proper relief to effectuate this declaration under R.C. § 2721.09.

d. Award Equitas Health its costs as the Court deems equitable and just under R.C. § 2721.11.

e. Award appropriate injunctive relief as may be just, proper, or necessary.

f. Award all other appropriate relief.

April 29, 2022

Respectfully submitted,

/s/ David J. Carey

David J. Carey (0088787)  
ACLU of Ohio Foundation  
1108 City Park Avenue, Ste. 203  
Columbus, OH 43206  
Phone: 614.586.1972  
Fax: 614.586.1974  
dcarey@acluohio.org

Amy Gilbert (0100887)  
Freda J. Levenson (0045916)  
ACLU of Ohio Foundation  
4506 Chester Avenue  
Cleveland, OH 44102  
Phone: 614.586.1972  
Fax: 614.586.1974  
agilbert@acluohio.org  
flevenson@acluohio.org

/s/ Karl Fanter

Karl Fanter (0075686)  
Dante A. Marinucci (0089402)  
Brittany N. Lockyer (0097923)  
Emily S. P. Baxter (101736)  
BAKER & HOSTETLER LLP  
Key Tower, 127 Public Square, Suite 2000  
Cleveland, OH 44114  
Phone: 216.621.0200  
Fax: 216.696.0740  
kfanter@bakerlaw.com  
dmarinucci@bakerlaw.com  
blockyer@bakerlaw.com  
ebaxter@bakerlaw.com

Albert G. Lin (0076888)  
BAKER & HOSTETLER LLP  
200 Civic Center Drive, Suite 1200  
Columbus, OH 43215  
Phone: 614.228.1541  
Fax: 614.462.2616  
alin@bakerlaw.com

*Attorneys for Plaintiff Equitas Health*

# Exhibit A





June 17, 2021

*Submitted via email*

Re: OHA, OHCA, OSMA, and OAHP Comments on the Medical Practitioner Conscience Clause (MEDCD6)

Dear Conference Committee Members:

As health care organizations, our fundamental goal is to provide safe and effective care to all patients. We are concerned that the medical practitioner conscience clause added to House Bill 110, the state budget bill, at the last minute would jeopardize this goal and create confusion for health care payers, providers, and patients.

This language would allow Ohio physicians, hospitals, and health insurance companies to refuse to provide or pay for a medical service if it violates their moral, ethical, or religious beliefs. The implications of this policy are immense and could lead to situations where patient care is unacceptably compromised.

It's important to note that conscience protections for health care professionals are long-standing under current law and hospitals have policies in place to accommodate differing religious and moral convictions of their workforce. There is not a systematic disregard for health care practitioners' religious or moral convictions in need of a legislative response. At the same time, hospitals, providers, and payers have obligations to their patients and are committed to ensuring they can access the care they need.

Examples of how this clause could interfere with patient care and the efficient provision of health care services are numerous. For instance, the language would allow a health care professional to refuse to deliver care to a patient based on the health care professional's religious beliefs or moral convictions and the bill only requires the transfer of a patient to another practitioner or facility "when possible" and if the practitioner is "willing" to make such a transfer. Hospitals take the responsibility to provide necessary care, including emergency care, seriously and are concerned that this clause would impede that paramount duty and leave patients unable to receive care if a practitioner is unwilling to transfer a patient in that situation.

Another example can be drawn from the health insurance company perspective. A beneficiary's benefits are established in contract and to allow the ability for individual employees or companies to make spur-of-the-moment decisions about coverage is impractical and unworkable. Imagine a scenario where a patient makes a decision about a health care procedure after carefully reviewing their plan and benefit package. Then, what if a claims processor or administrator at the insurance company could decide—after the procedure—not to pay for it based on a moral or religious belief? It is clear that this would be devastating to the patient and create administrative chaos for the health insurance company.

Hospitals, health care providers, and health insurance companies value every individual they have the opportunity to serve and urge the members of the committee to ensure their ability to do so. We respectfully request the removal of the medical practitioner conscience clause to protect the ability of Ohio's health care community to provide high quality care to all patients.

Thank you for your consideration,

Ohio Hospital Association, Ohio Children's Hospital Association, Ohio State Medical Association, and Ohio Association of Health Plans