

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
21ST JUDICIAL CIRCUIT OF MISSOURI**

SOUTHAMPTON COMMUNITY)	
HEALTHCARE, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 23SL-CC01673
)	
)	
ANDREW BAILEY, in his official capacity)	
as Attorney General,)	
)	
Defendant.)	

**NOTICE OF TERMINATION OF CHALLENGED RULE
AND SUGGESTION OF MOOTNESS**

Defendant Andrew Bailey, in his official capacity as Attorney General, requests this Court dismiss this case as moot for lack of a continuing judiciable controversy. In support thereof, Defendant states as follows:

1. In early 2023, a whistleblower approached Defendant’s office with a sworn affidavit and supporting documentation, raising serious allegations about a center in St. Louis that provides gender transition interventions;
2. The allegations included misrepresentations by the Center to patients and parents regarding the safety and efficacy of puberty blockers and cross-sex hormones being provided to children;
3. Defendant initiated an investigation, which is still ongoing, and which has revealed that certain organizations in Missouri have provided gender transition interventions to an exponentially increasing number of people in recent years, on some

occasions without any individualized assessment or diagnosis, and in spite of the emerging international consensus from many health authorities across the world that these interventions lack evidence and remain experimental;

4. It revealed that the practices of at least some of these Missouri organizations are contrary even to the guidelines produced by advocacy organizations like the World Professional Association of Transgender Health (WPATH);

5. To respond to this growing emergency, Defendant announced, on March 20, 2023, his intention to promulgate an emergency rule under the Missouri Merchandising Practices Act (MMPA);

6. Three weeks later, having conducted medical and legal research consisting of thousands of pages of authoritative materials, Defendant produced two documents: (1) the official text of the rule, which was filed with the Secretary of State as 15 CSR 60-17.010 (the “Rule”) on April 13, 2023, and (2) an identical public version, which included, in addition to the five pages of regulatory text, another six pages of endnotes setting forth substantial medical authorities in support of each provision in the Rule;

7. The Rule, filed on April 13, 2023, was scheduled to go into effect on April 27, 2023. Although the Attorney General was not required to do so, he publicly announced the Rule on April 13, providing a full two-week period for the public to review and be aware of the Rule before it went into effect;

8. On April 24, 2023, Plaintiffs filed a Petition for a Temporary Restraining Order (TRO), Injunctive Relief, and Declaratory Relief;

9. A hearing was held before this Court on April 26, 2023, and this Court issued a temporary Administrative Stay of the Rule until May 1, 2023;

10. On May 1, 2023, this Court issued a TRO preventing enforcement of the Rule, with an expiration date of May 15, 2023, and a tentative Preliminary Injunction hearing was set for May 11, 2023;

11. In this Court's opinion issued May 1, 2023, this Court did not reach the merits of the scientific evidence supporting the Rule but instead expressed a preliminary view that the Rule touches on a topic reserved for the Legislature (*see* ¶¶ 2, 13, 34);

12. Rather than simply repeat the TRO arguments on May 11 without any development of the record, the parties met and conferred, seeking to schedule a Preliminary Injunction hearing for the end of May or early June 2023, to allow sufficient time for any necessary discovery or testimony by expert witnesses;

13. However, no Court date was available in late May or early June. The earliest available date was in July, and the hearing is presently set for July 20, 2023;

14. The TRO remains in effect until July 24, 2023, or until this Court rules on the request for Preliminary Injunction;

15. The Rule as promulgated was set to expire on February 6, 2024, leaving little or no sufficient time after the July 20, 2023 hearing for any appeals that might prove necessary;

16. Under RSMo § 536.025.9, the Rule “may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination”;

17. On Wednesday, May 10, 2023, the Legislature passed a temporary, four-year moratorium on certain gender transition interventions on minors (*see* S.B. 49, 102nd General Assembly (establishing the “Missouri Save Adolescents from Experimentation (SAFE) Act,” effective date August 28, 2023, which prohibits entities from prescribing or administering cross-sex hormones or puberty-blocking drugs to a minor for a gender transition until August 28, 2027); full text: <https://senate.mo.gov/23info/pdf-bill/perf/SB49.pdf>; bill summary: https://www.senate.mo.gov/23info/BTS_Web/Bill.aspx?SessionType=R&BillID=44407);

18. In light of this development, and considering the current Preliminary Injunction schedule, Defendant filed an order on May 16, 2023, with the Secretary of State terminating the Rule with a fixed termination date of May 16, 2023, pursuant to RSMo § 536.025.9. A copy of Defendant’s order, which by law automatically terminates the Rule, is attached as Exhibit A;

19. Because the rule that Plaintiffs were challenging no longer exists, there remains no controversy between the parties and thus no jurisdiction for this Court. *See* Mo. Const. Art. V, §14 (limiting jurisdiction of circuit courts to “cases and matters, civil and criminal”); *State ex rel. Missouri Coalition for the Env. v. Jt. Comm. on Admin. R.*, 519 S.W.3d 805, 811 (Mo. banc 2017) (holding that a challenge to a regulation “is moot” when the regulation “is no longer in effect”);

20. Consequently, this case is moot and should be dismissed. *See McKenna v. Poelker*, 582 S.W.2d 691, 691 (Mo. banc 1979) (“This case is now moot and is therefore dismissed.”).

WHEREFORE, for the forgoing reasons, Defendant respectfully requests this Court dismiss this case as moot.

Dated May 16, 2023

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CERTIFICATE OF SERVICE

I hereby certify that, on May 16, 2023, the foregoing was filed electronically through the Court's electronic filing system to be served electronically on all parties of record.

/s/ Joshua M. Divine