

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

KADENCE KREI, legally known as)	
KALEM KREI,)	
Plaintiff,)	Case No. 4:19-cv-3068
)	
vs.)	
)	
STATE OF NEBRASKA,)	AMENDED COMPLAINT
)	
and)	
)	
DANNETTE R. SMITH, in her official)	
Capacity as CEO of the Nebraska)	
Department of Health and Human Services)	
)	
and)	
)	
JASON JACKSON,)	
in his official capacity as Director of the)	
Nebraska Department of Administrative)	
Services,)	
)	
Defendants.)	

1. Plaintiff, Kadence Krei, is a woman who is transgender.
2. Ms. Krei worked as a Development Technician II in the Developmental Disabilities department for the State of Nebraska in the Nebraska Department of Health and Human Services from May of 2018 to February of 2019.
3. The State of Nebraska provides healthcare coverage to State employees through the WellNebraska Health Plan ("Nebraska Plan").
4. The Nebraska Plan was created by the Nebraska Department of Administrative Service for the benefit of employees of the State of Nebraska.
5. Ms. Krei was a Covered Person under the Nebraska Plan while employed by the State of Nebraska.

6. Ms. Krei has a long standing and well documented diagnosis of Gender Dysphoria (DSM-5, 302.85) from multiple treating physicians and psychologists. She has been living as a woman and has been on hormones since 2016.
7. Ms. Krei has met the WPATH Soc7 criteria for gender reassignment surgery and her treating physicians and psychologists have determined that gender reassignment surgery is Medically Necessary to treat her Gender Dysphoria.
8. United Health Care is the plan administrator for the Nebraska Plan and universally recognizes treatment of Gender Dysphoria as Medically Necessary. However, according to the United Health Care, " while [the surgery] may be medically necessary" the Nebraska Plan has customized for its employees "specifically excludes coverage for Services or drugs related to gender transformations." Jennifer Norris, a representative of Administrative Services for the State of Nebraska further clarified that "The decision to include transgendered related surgeries will come by legal requirements or by decisions made by top officials in the state of Nebraska."
9. Under the Nebraska Plan, all State employees are "entitled to Medically Necessary services and supplies". The Nebraska Plan defines "Medically Necessary" as "Health care services provided for the purpose of preventing, evaluating, diagnosing or treating a Sickness, Injury, Mental Illness, substance-related and addictive disorders, condition, disease or its symptoms, that are all of the following as determined by the Claims Administrator or its designee, within the Claims Administrator's sole discretion." The services must be in accordance with Generally Accepted

Standards of Medical Practice; clinically appropriate, not mainly for patient's or doctor's convenience, and not more costly than an alternative.

10. Under the Nebraska Plan, "Covered Health Service" is defined as those services which the Claims Administrator determines to be Medically Necessary, described as a Covered Health Service in the Sections 5 and 6, and not otherwise excluded under Section 8, Exclusions. Sections 5 and 6 of the Nebraska Plan covers hormone replacement, breast construction, vaginoplasty, and related services, but under Section 8, Exclusions, the Nebraska Plan specifically excludes coverage of "sex transformation operations and related services".
11. Despite the broad healthcare coverage provided to every other employee, the Nebraska Plan singles out transgender employees for unequal treatment by categorically depriving them of all coverage of treatment for Gender Dysphoria, even when those treatments are Medically Necessary under Generally Accepted Standards of Care.
12. As a result of the Nebraska Plan's discriminatory exclusion, all medical services that would be necessary to reassign Ms. Krei's gender are specifically covered by the Nebraska Plan for a person who was born a female, but not for a person who was born male. Therefore, Defendants have categorically deprived Ms. Krei coverage for Medically Necessary treatments offered by the plan to other employees but not to Ms. Krei, based on her sex.
13. Defendants have prevented Ms. Krei from receiving Medically Necessary treatment that is prescribed by her physician under the Generally Accepted Standards of

Medical Practice to treat her diagnosis of Gender Dysphoria, including a vaginoplasty and all services related to gender reassignment.

14. Notably, when designing the Nebraska Plan for their state employees, Defendants actively and knowingly customized a plan that would deprive transgender employees of insurance coverage for Medically Necessary treatments on the basis of their sex.
15. As a result of the Nebraska Plan's discriminatory exclusion, Ms. Krei has been forced to pay out of pocket for Medically Necessary treatments prescribed by her physician in accordance with the widely accepted standards of care for treating Gender Dysphoria.
16. The Nebraska Plan's discriminatory exclusion subjected Ms. Krei, as an employee who is transgender, to unequal treatment and denied her a valuable employee benefit that is currently provided to every other State employee who is not transgender.
17. There is no legitimate medical justification for the Nebraska Plan's discriminatory exclusion.
18. In the past, some public and private insurance companies excluded coverage for treatment of gender dysphoria (or "transition-related care") based on the erroneous assumption that such treatments were cosmetic or experimental. Today, however, every major medical organization recognizes that such exclusions have no basis in medical science and that transition-related care is effective, safe, and Medically Necessary for treatment of Gender Dysphoria.

19. The Nebraska Plan's discriminatory exclusion lacks any rational basis and is grounded in sex stereotypes, discomfort with gender nonconformity, and moral disapproval of people who are transgender.
20. On its face and as applied to Ms. Krei, the Nebraska Plan discriminates against employees on the basis of sex in violation of the Title VII of the Civil Rights Act of 1964 and deprives transgender employees of equal treatment under the Equal Protection Clause of the Fourteenth Amendment.
21. While working for the state of Nebraska, Ms. Kadence experienced additional discrimination when her Development Technical Shift Supervisor and supervisors in the Human Resources Department refused to call her by her female name and refused to refer to her with female pronouns even in informal conversations or holiday greetings. When she requested that her supervisors and the people working in Human Resources use her female name on informal correspondence, they stated they would not recognize her as female, would not use her female name, and they continued to misgender her with male pronouns.
22. "Deadnaming" is referring to a transgender person by their old name after they identify as their non-natal gender, refusing to address a transgender person by their new name, or using pronouns that are inappropriate to the gender to which they identify. This is also known as "misgendering".
23. Defendants discriminated against Ms. Krei by deadnaming and misgendering her because of her identification as female, her gender non-conforming appearance and behavior, and for being a transgender individual.

24. Defendants discriminated against Ms. Krei by categorically denying her insurance coverage based on her sex.
25. Defendants acted with malice and reckless indifference to Ms. Krei by deadnaming and misgendering her. Ms. Krei eventually resigned from her job with the State of Nebraska due to Defendants' discrimination against her.
26. Ms. Krei brings this Complaint for declaratory and injunctive relief, as well as compensatory and punitive damages.

JURISDICTION

27. This action arises under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 et seq. ("Title VII"), the Constitution of the United States, and 42 U.S.C. § 1983.
28. This Court has jurisdiction pursuant to Article III of the United States Constitution; 28 U.S.C. §§ 1331, 1343; and 42 U.S.C. § 2000e-5(f)(3).
29. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.
30. Compensatory and Punitive Damages are authorized by Title VII and 42 U.S.C. §§1981a(b) and 1983.

PARTIES

31. Plaintiff Kadence Krei resided in Lincoln, Nebraska, the District of Nebraska, until 2019. She moved from Nebraska to South Carolina in 2019 as a result of the discrimination described herein.
32. Ms. Krei was a Nebraska State employee working at the Department of Health and Human Services in Lincoln, Nebraska from May of 2018 to February of 2019.
33. Defendant Jason Jackson is sued in his official capacity as Director of the Department of Administrative Services, located in Lincoln, Nebraska.

34. The Department of Administrative Service is the State agency responsible for designing and administering the plan the State of Nebraska offers its employees, including selection of exclusions, administration of the plan, and payment or denial of claims.

VENUE

35. Venue lies with this Court pursuant to 42 U.S.C. § 2000e-5(f)(3) because Defendants committed the unlawful employment practice at Ms. Krei's place of employment in this District, in Lincoln, Nebraska.
36. Venue also lies with this Court pursuant to 28 U.S.C. 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in this District in Lincoln, Nebraska.

EXHAUSTION OF ADMINISTRATIVE REQUIREMENTS

37. On March 21, 2019, Plaintiff timely filed two charges with the Nebraska Equal Employment Opportunity Commission against the Nebraska Department of Health and Human Services (**Exhibit A**), and against the Nebraska Administrative Services Department (**Exhibit B**) for employment discrimination based on sex.
38. On March 28, 2019, the NEOC sent a letter to Plaintiff informing her that the United States Equal Employment Opportunity Commission (EEOC) would conduct the initial investigation of both charges.
39. On April 19, 2019, Ms. Krei received two letters from the EEOC informing her that her charges against the Nebraska Department of Health and Human Services (**Exhibit C**) and against the Nebraska Department of Administrative Services (**Exhibit D**) were being assigned to an Investigator.

37. On April 30, 2019, Ms. Krei, through her attorney, filed a Request for Letter of Right to Sue on both charges with the EEOC. **(Exhibit E)**
38. On June 10, 2019, the United States EEOC issued a Right-to-Sue letter to Ms. Krei on her charge against the Nebraska Department of Health and Human Services. **(Exhibit F)**
39. On June 10, 2019, the United States EEOC issued a Right-to-Sue letter to Ms. Krei on her charge against the Nebraska Department of Administrative Services. **(Exhibit G)**

FACTUAL ALLEGATIONS

Transgender Individuals and Gender Dysphoria

40. "Gender identity" is a well-established medical concept, referring to one's sense of oneself as belonging to a particular gender. Typically, people who are designated female at birth based on their external anatomy identify as girls or women, and people who are designated male at birth identify as boys or men. For transgender individuals, however, the sense of one's gender identity differs from the sex assigned to them at birth.
41. Transgender men are men who were assigned "female" at birth but have a male gender identity. Transgender women are women who were assigned "male" at birth but have a female gender identity.
42. Experts agree that gender identity has a biological component, meaning that each person's gender identity (transgender and non-transgender individuals alike) is the result of biological factors, and not just social, cultural, and behavioral factors.
43. Regardless of the precise origins of a person's gender identity, there is a medical consensus that gender identity is deep-seated, set early in life, and impervious to external influences.

44. Gender Dysphoria is the diagnostic term for the clinically significant emotional and psychological distress experienced as a result of the incongruence of one's gender with their assigned sex and the physiological developments associated with that sex.
45. Gender Dysphoria is a serious medical condition codified in the Diagnostic and Statistical Manual of Mental Disorders (DSM-V) and International Classification of Diseases (ICD-10). The criteria for diagnosing Gender Dysphoria are set forth in the DSM-V (302.85).
46. The widely accepted standards of care for treating Gender Dysphoria are published by the World Professional Association for Transgender Health ("WPATH"). The WPATH Standards of Care have been recognized as the authoritative standards of care by the leading medical organizations, including the American Medical Association, the American Psychological Association, and the American Academy of Pediatrics.
47. Under the WPATH standards, Medically Necessary treatment for Gender Dysphoria may require medical steps to affirm one's gender identity and transition from living as one gender to another. This treatment, often referred to as transition-related care, may include hormone therapy, surgery (sometimes called "sex reassignment surgery" or "gender confirmation surgery"), and other medical services that align individuals' bodies with their gender identities. The exact medical treatment varies based on the individualized needs of the person.
48. According to every major medical organization and the overwhelming consensus among medical experts, the protocol for treating Gender Dysphoria, including

surgical procedures, are effective, safe, and Medically Necessary when clinically indicated to alleviate Gender Dysphoria.

49. In the past, public and private insurance companies excluded coverage for transition-related care based on the erroneous assumption that such treatments were cosmetic or experimental. Today, however, the medical consensus is that exclusions of transition-related healthcare have no basis in medical science.
50. For example, in 2008 the American Medical Association ("AMA") passed Resolution 122 recognizing Gender Dysphoria (then known as Gender Identity Disorder, or GID) as a "serious medical condition" which, "if left untreated, can result in clinically significant psychological distress, dysfunction, debilitating depression and, for some people without access to appropriate medical care and treatment, suicidality and death." AMA, Resolution 122, Removing Financial Barriers to Care for Transgender Patients (June 16, 2008). The AMA emphatically asserts that "[h]ealth experts in GID, including [WPATH], have rejected the myth that such treatments are 'cosmetic' or 'experimental' and have recognized that these treatments can provide safe and effective treatment for a serious health condition." *Id.*
51. In Resolution 122, the AMA also opposes categorical exclusions of coverage for treatment of Gender Dysphoria when prescribed by a physician, noting that "many of these same treatments are often covered for other medical conditions" and that "the denial of these otherwise covered benefits for patients suffering from GID represents discrimination based solely on a patient's gender identity." *Id.*

52. The American Psychiatric Association, the American Psychological Association, and the Endocrine Society have all issued similar resolutions.
53. Applying contemporary standards of care, Medicare, state Medicaid programs, and private insurers routinely cover transition-related surgery as Medically Necessary treatment for Gender Dysphoria.

The Nebraska Plan and its Exclusion of Coverage for "Gender Transformation

54. The State of Nebraska provided and paid for Ms. Krei's healthcare coverage through the Nebraska State Employee Health Plan while she was an employee of the State of Nebraska.
55. The Department of Administrative Services is the State agency responsible for selecting, designing, and administering the Nebraska Plan, including the administration and payment of claims and the insertion of exclusions to coverage.
56. The managed care review company contracted to review claims under the Nebraska Plan is United Health Care, which has taken the position that treatment of Gender Dysphoria is Medically Necessary.
57. In general, the Nebraska Plan states that "[m]embers shall be entitled to Medically Necessary services and supplies, if provided by or under the direction of a Physician." The Nebraska Plan defines "Medically Necessary" as "Health care services or supplies needed to prevent, diagnose or treat an illness, injury, condition, disease or its symptoms and that meet accepted standards of medicine."
58. Despite this general provision, the Nebraska Plan categorically excludes all "[s]ervices or drugs related to gender transformations" regardless of Medical Necessity.

Ms. Krei's Medically Necessary Treatment for Gender Dysphoria

59. Ms. Krei is a woman who is transgender. Since 2016, she has been on hormones and presenting as a female.
60. In 2018, Ms. Krei, with referrals from her primary care physician, her surgeon, and her psychologist, sought pre-authorization from the Nebraska Plan's plan administrator (United Health Care) before scheduling a vaginoplasty as part of her Medically Necessary treatment for Gender Dysphoria.
61. United Health Care denied preauthorization in a letter, stating that " while it may be medically necessary" [the employee health plan] " specifically excludes coverage for Services (sic) or drugs related to gender transformations."
62. Ms. Krei timely filed and then lost a first-level appeal with United Health Care because of the categorical exclusion in the Defendant's health plan for "Services (sic) or drugs related to gender transformations."
63. In February of 2019, Ms. Krei resigned from her position with the State of Nebraska, finding the discrimination to be overwhelming, intolerable, and damaging to her mental and physical health.

LEGAL CLAIMS

FIRST CLAIM—VIOLATION OF TITLE VII

64. Plaintiff re-alleges and incorporates by reference as if fully set forth herein the allegations in all preceding paragraphs.
65. Title VII of the Civil Rights Act of 1964 provides that employers may not "discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's sex." 42 U.S.C. § 2000e-2(a)(1).

66. The State of Nebraska is an employer as that term is defined in Title VII, 42 U.S.C. § 2000e-(a) and (b).
67. An employer-sponsored health plan is part of the "compensation, terms, conditions, or privileges of employment." 42 U.S.C. § 2000e-2(a)(1).
68. Discrimination on the basis of transgender status or gender nonconformity is discrimination on the basis of "sex" under Title VII.
69. By categorically excluding coverage for all "transgender services" or services related to "gender transformation," the State of Nebraska has drawn a classification that discriminates based on transgender sex status and gender nonconformity. This is discrimination based on sex.
70. As a result of the exclusion in the Nebraska Plan, non-transgender employees receive coverage for all their Medically Necessary healthcare, but transgender employees do not receive coverage for the health care their doctors deem Medically Necessary.
71. Because medical transition from one sex to another inherently violates gender stereotypes, denying Medically Necessary coverage for such healthcare constitutes impermissible discrimination based on gender nonconformity.
72. The State of Nebraska's exclusion of Medically Necessary care for Ms. Krei's Gender Dysphoria is not based on standards of medical care. It is based on moral disapproval of, discomfort with, and ignorance of transgender people and gender transition.
73. By excluding all healthcare related to "gender transformation" from the only available health plan it provides to employees, the State of Nebraska has unlawfully discriminated against Ms. Krei on the basis of sex in violation of Title VII.

SECOND CLAIM—VIOLATION OF THE EQUAL PROTECTION CLAUSE

74. Plaintiff re-alleges and incorporates by reference as if fully set forth herein the allegations in all preceding paragraphs.
75. At all relevant times, Defendants have acted under color of state law.
76. The Equal Protection Clause of the Fourteenth Amendment provides: "No State shall deny to any person within its jurisdiction the equal protection of the laws." State employees are protected by the Equal Protection Clause.
77. By categorically excluding all Medically Necessary "transgender services" or services related to "gender transformation" the State of Nebraska has unlawfully discriminated against Ms. Krei on the basis of sex, which is subject to heightened scrutiny under the Equal Protection Clause.
78. By excluding all healthcare related to "gender transformation" from the only available health plan it provides to employees, the State of Nebraska has unlawfully discriminated on the basis of transgender status, which is independently subject to heightened scrutiny under the Equal Protection Clause.
79. Men and women who are transgender, as a class, have historically been subject to discrimination.
80. Men and women who are transgender, as a class, have a defining characteristic that frequently bears no relation to an ability to perform in or contribute to society.
81. Men and women who are transgender, as a class, exhibit immutable or distinguishing characteristics that define them as a discrete group.
82. Men and women who are transgender, as a class, are a minority with relatively little political power.

83. The Nebraska Plan's discriminatory exclusion is not narrowly tailored to serve a compelling governmental interest.
84. The Nebraska Plan's discriminatory exclusion is not substantially related to an important governmental interest.
85. The Nebraska Plan's discriminatory exclusion lacks any rational basis and is grounded in sex stereotypes, discomfort with gender nonconformity, ignorance of science, and moral disapproval of people who are transgender.

RELIEF REQUESTED

86. For the foregoing reasons, Plaintiff respectfully requests that the Court grant the following relief:
87. Declaratory relief, including but not limited to a declaration that Defendants violated Title VII and the Equal Protection Clause;
88. Injunctive relief with respect to all Defendants;
89. Compensatory, consequential, and punitive damages with respect to Defendants in an amount to be determined at trial for violation of Title VII and the Equal Protection Clause, including back pay and all remedies available to her under law and in equity;
90. Pre-judgment and post-judgment interest;
91. Plaintiffs reasonable costs and attorneys' fees pursuant to Title VII and 42 U.S.C. §§ 1988; 1983, and 1981.
92. Such other relief as the Court deems just and proper.

Dated: July 10, 2019.



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NSBA #23437
Attorney at Law Berry Law Firm
6940 O Street, Suite 400
Lincoln, Nebraska 68510
402-466-8444



State of Nebraska
NEBRASKA EQUAL OPPORTUNITY COMMISSION

Ms. Susan Napolitano
Berry Law Firm
6940 O St Ste 400
Lincoln, NE 68510

March 28, 2019

BERRY LAW FIRM

APR 01 2019

EEOC

RE: NEB 1-18/19-3-50340-RS
EEOC 32E-2019-00355
Krei vs. NE/Health and Human Services, Department of
Nebraska Fair Employment Practice Act

Dear Ms. Napolitano:

This letter is to acknowledge your client's charge filed in our office on March 21, 2019. The Nebraska Equal Opportunity Commission (NEOC) has served a copy of your client's charge on the Respondent.

The EEOC is conducting the initial investigation into the above referenced charge. The EEOC will forward to the NEOC its decision when the investigation is concluded and the NEOC will adopt their decision. Please forward any inquiries regarding the investigation to the EEOC at 1222 Spruce St., Rm. 8.100, St. Louis, Missouri, 63103. Their phone number is 314-539-7800.

On behalf of the Commission,

Andrea Berry
EOC Investigator III
Enclosures

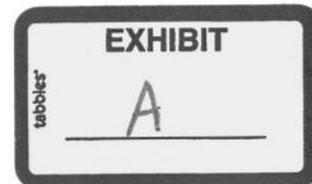
MAIN OFFICE:

301 Centennial Mall, South ☐
PO Box 94934
Lincoln, NE 68509-4934
Phone: 402-471-2024
Fax: 402-471-4059
800-642-6112
www.NEOC.nebraska.gov

BRANCH OFFICES:

1313 Farnam-on-the-Mall ☐
Omaha, NE 68102-1836
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Fax: 402-595-1205
800-382-7820

505A Broadway Suite 600 ☐
Scottsbluff, NE 69361-3515
Phone: 308-632-1340
Fax: 308-632-1341
800-830-8633



CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER	
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	NEB 1-18/19-3-50340-RS 32E-2019-00355	
<u>Nebraska Equal Opportunity Commission and EEOC</u>			DATE RECEIVED BY NEOC RECEIVED NEOC MAR 21 2019 LINCOLN OFFICE	
NAME (indicate Mr., Ms., Mrs.) Ms. Kadence W. Krei a/k/a Kalem W. Krei		HOME TELEPHONE (402) 466-0770		
STREET ADDRESS 1011 K Street Apt #202 Fairbury NE 68532		CITY, STATE AND ZIP CODE Fairbury NE 68532		DATE OF BIRTH 4/20/1995
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)				
NAME NE/Health and Human Services, Department of		NUMBER OF EMPLOYEES, MEMBERS More than 500 Employees		TELEPHONE (402) 471-3121
STREET ADDRESS PO Box 95026 Lincoln NE 68509-5026		CITY, STATE AND ZIP CODE Lincoln NE 68509-5026		COUNTY Gage
NAME		NUMBER OF EMPLOYEES, MEMBERS		TELEPHONE
STREET ADDRESS		CITY, STATE AND ZIP CODE		COUNTY
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))			DATE DISCRIMINATION TOOK PLACE	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN			EARLIEST 5/1/2018	LATEST 2/2/2019
<input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION			<input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):				
<p>I. I am Female. I was hired by Respondent in May 2018, and worked at the Beatrice State Developmental Center, most recently as a Developmental Technician II. Due to my sex and gender non-conforming appearance and behavior, and/or for transitioning from one gender to another and/or for being a transgender individual, I was harassed and denied insurance benefits. Due to this treatment, I felt compelled to resign.</p> <p>II. I believe that I have been discriminated against on the basis of sex, female, and gender non-conforming appearance and behavior, and/or for transitioning from one gender to another and/or for being a transgender individual, in violation of Title VII of the Civil Rights Act of 1964, as amended, and Section 48-1104 of the Nebraska Fair Employment Practice Act, in that:</p> <ol style="list-style-type: none"> The Respondent was aware that I am transgender. From the start of my employment, I was harassed by the Developmental Technical Shift Supervisor (Name Unknown-NUK, Female) and other coworkers when they would misgender me, by calling me 'he' and 'him.' This occurred constantly until June 2018, when I complained about this treatment to Human Resources. Beginning in or about July 2018, I was denied insurance benefits. My doctor approved me for a procedure necessary to treat my diagnosed gender dysphoria and submitted the procedure to my insurance carrier, and the procedure was denied. I asked Human Resources how to appeal the decision, and was directed to the Department of Administrative Services. I appealed the decision directly to United Health Care. In October 2018, my appeal was denied, and United Health Care informed me my appeal was denied because Respondent and the State of Nebraska specifically excluded all treatment related to sex transformation operations and related services from their healthcare plan. 				

Continued on Page 2

Kadence W. Krei a/k/a Kalem W. Krei vs. NE/Health and Human Services, Department of
 Page 2

3. In December 2018, Human Resources did an employee appreciation activity wherein the printed out employee names on candy canes. For mine, instead of using my preferred female name on it, they instead dead named me, by putting my male name on the candy cane. In January 2019, I met with Beth (Last Name Unknown-LNUK, Female) and Carrie (LNUK, Female) in Human Resources, and requested that for events/activities like this in the future, Respondent use my female name. Beth denied this request, and told me my name was on some kind of seniority list, and so they couldn't change it because it would affect my medication signing abilities. While I did sign for medication using my male name, I only did so because I was required by statute to use my legal name, and I believe Respondent should have been able to use my preferred name for internal employee appreciation activities. In the same meeting, Beth asking me how to pronounce my legal name. I told her she didn't need to know that because I didn't go by that name, and Beth stated that the Respondent was going to use my male name on anything Respondent would be sending out to me. Respondent then continued to call me by my male name, despite my request for them not to do so.

4. Due to this treatment, I felt compelled to resign my employment on February 2, 2019. When I turned in my resignation to my direct Supervisor, Karen Engleman, I told her I was resigning due to the discrimination that had been occurring.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

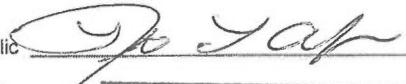
I swear or affirm that I have read the above and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

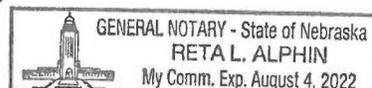
x 

State of Nebraska County of Lancaster

On this, the 21st day of March, 2019.
 The Complainant appeared before me, known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument, and acknowledged that they executed the same for the purposes therein contained.

Notary Public 

Notary Seal



EEOC FORM 131-A (11/09)

U.S. Equal Employment Opportunity Commission

<p>NE/Health and Human Services, Department of PO Box 95026 Lincoln, NE 68509-5026</p>	<p>PERSON FILING CHARGE</p> <p>Kadence W. Krei a/k/a Kalem W. Krei</p> <p>THIS PERSON <i>(check one or both)</i></p> <p><input checked="" type="checkbox"/> Claims To Be Aggrieved</p> <p><input type="checkbox"/> Is Filing on Behalf of Other(s)</p> <hr/> <p>EEOC CHARGE NO. 32E-2019-00355</p> <hr/> <p>FEPA CHARGE NO. 1-18/19-3-50340-RS</p>
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NOTICE OF CHARGE OF DISCRIMINATION IN JURISDICTION WHERE A FEP AGENCY WILL INITIALLY PROCESS
(See the enclosed for additional information)

THIS IS NOTICE THAT A CHARGE OF EMPLOYMENT DISCRIMINATION UNDER

- Title VII of the Civil Rights Act (Title VII)
 The Equal Pay Act (EPA)
 The Americans with Disabilities Act (ADA)
- The Age Discrimination in Employment Act (ADEA)
 The Genetic Information Nondiscrimination Act (GINA)

HAS BEEN RECEIVED BY

- The EEOC and sent for initial processing to _____
(FEP Agency)
- The **Nebraska Equal Opportunity Commission** _____ and sent to EEOC for dual filing purposes.
(FEP Agency)

While EEOC has jurisdiction (upon expiration of any deferral requirement if this is a Title VII, ADA or GINA charge) to investigate this charge, EEOC may suspend its investigation and await the issuance of the Agency's final findings and orders. These findings and orders will be given weight by EEOC in making its own determination as to whether reasonable cause exists to believe that discrimination has occurred.

You are therefore encouraged to cooperate fully with the Agency. All facts and evidence provided by you to the Agency will be considered by EEOC when it reviews the Agency's final findings and orders. In many cases EEOC will take no further action, thereby avoiding the necessity of an investigation by both the Agency and EEOC. This likelihood is increased by your active cooperation with the Agency.

As a party to the charge, you may request that EEOC review the final findings and orders of the above-named Agency. For such a request to be honored, you must notify EEOC in writing within 15 days of your receipt of the Agency's final decision and order. If the Agency terminates its proceedings without issuing a final finding and order, you will be contacted further by EEOC. Regardless of whether the Agency or EEOC processes the charge, the Recordkeeping and Non-Retaliation provisions of the statutes as explained in the enclosed information sheet apply.

For further correspondence on this matter, please use the charge number(s) shown above.

Enclosure(s): Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

- Race
 Color
 Sex
 Religion
 National Origin
 Age
 Disability
 Retaliation
 Genetic Information
 Other

See enclosed copy of charge of discrimination.

Date	Name / Title of Authorized Official	Signature
March 28, 2019	Lloyd Jack Vazquez, Acting District Director	



State of Nebraska
NEBRASKA EQUAL OPPORTUNITY COMMISSION

Ms. Susan Napolitano
Berry Law Firm
6940 O St Ste 400
Lincoln, NE 68510

March 28, 2019

BERRY LAW FIRM

APR 01 2019

CO
OO
EE
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RE: NEB 1-18/19-3-50341-RS
EEOC 32E-2019-00356
Krei vs. NE/Administrative Services, Dept. of, Personnel, Division of State
Nebraska Fair Employment Practice Act

Dear Ms. Napolitano:

This letter is to acknowledge your client's charge filed in our office on March 21, 2019. The Nebraska Equal Opportunity Commission (NEOC) has served a copy of your client's charge on the Respondent.

The EEOC is conducting the initial investigation into the above referenced charge. The EEOC will forward to the NEOC its decision when the investigation is concluded and the NEOC will adopt their decision. Please forward any inquiries regarding the investigation to the EEOC at 1222 Spruce St., Rm. 8.100, St. Louis, Missouri, 63103. Their phone number is 314-539-7800.

On behalf of the Commission,

Andrea Berry
EOC Investigator III
Enclosures

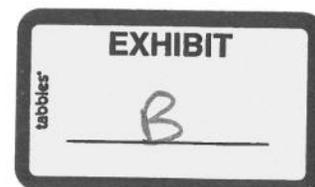
MAIN OFFICE:

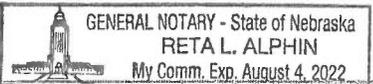
301 Centennial Mall, South
PO Box 94934
Lincoln, NE 68509-4934
Phone: 402-471-2024
Fax: 402-471-4059
800-642-6112
www.NEOC.nebraska.gov

BRANCH OFFICES:

1313 Farnam-on-the-Mall
Omaha, NE 68102-1836
Phone: 402-595-2028
Fax: 402-595-1205
800-382-7820

505A Broadway Suite 600
Scottsbluff, NE 68361-3515
Phone: 308-632-1340
Fax: 308-632-1341
800-830-8633



CHARGE OF DISCRIMINATION		AGENCY	NEB-1-18/19-3-50341-RS <small>CHARGE NUMBER</small> 32E-2019-00356	
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC		
<u>Nebraska Equal Opportunity Commission and EEOC</u>			DATE RECEIVED BY NEOC RECEIVED NEOC March 21, 2019 LINCOLN OFFICE	
NAME (indicate Mr., Ms., Mrs.) Ms. Kadence W. Krei a/k/a Kalem W. Krei		HOME TELEPHONE (402) 466-0770		
STREET ADDRESS 1011 K Street Apt #202 Fairbury NE 68532		CITY, STATE AND ZIP CODE	DATE OF BIRTH 4/20/1995	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)				
NAME NE/Administrative Services, Dept. of, Personnel, Division of State		NUMBER OF EMPLOYEES, MEMBERS More than 500 Employees	TELEPHONE (402) 471-2075	
STREET ADDRESS PO Box 94847 Lincoln NE 68509-4847		CITY, STATE AND ZIP CODE	COUNTY Gage	
NAME		NUMBER OF EMPLOYEES, MEMBERS	TELEPHONE	
STREET ADDRESS		CITY, STATE AND ZIP CODE	COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))			DATE DISCRIMINATION TOOK PLACE	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION			EARLIEST LATEST 7/1/2018 10/31/2018 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):				
I. I am Female. I worked for DHHS as a Developmental Technician II at the Beatrice State Developmental Center, and was therefore subjected to Respondent's authority. Due to my sex and gender non-conforming appearance and behavior, and/or for transitioning from one gender to another and/or for being a transgender individual, I was denied insurance benefits.				
II. I believe that I have been discriminated against on the basis of sex, female, and gender non-conforming appearance and behavior, and/or for transitioning from one gender to another and/or for being a transgender individual, in violation of Title VII of the Civil Rights Act of 1964, as amended, and Section 48-1104 of the Nebraska Fair Employment Practice Act, in that:				
1. Beginning in or about July 2018, I was denied insurance benefits. My doctor approved me for a procedure necessary to treat my diagnosed gender dysphoria and submitted the procedure to my insurance carrier, and the procedure was denied. I asked Human Resources how to appeal the decision, and was directed to the Department of Administrative Services. I appealed the decision directly to United Health Care. In October 2018, my appeal was denied, and United Health Care informed me my appeal was denied because Respondent and the State of Nebraska specifically excluded all treatment related to sex transformation operations and related services from their healthcare plan.				
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		State of <u>Nebraska</u> County of <u>Lancaster</u>		
I swear or affirm that I have read the above and that it is true to the best of my knowledge, information and belief.		On this, the <u>21st</u> day of <u>March</u> , 20 <u>19</u> , The Complainant appeared before me, known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument, and acknowledged that they executed the same for the purposes therein contained.		
SIGNATURE OF COMPLAINANT		Notary Public <u>[Signature]</u>		
x <u>[Signature]</u>		Notary Seal		
				

EEOC FORM 131-A (11/09)

U.S. Equal Employment Opportunity Commission

<p>NE/Administrative Services, Dept. of, Personnel, Division of State PO Box 94847 Lincoln, NE 68509-4847</p>	<p>PERSON FILING CHARGE</p> <p>Kadence W. Krei a/k/a Kalem W. Krei</p> <p>THIS PERSON (check one or both)</p> <p><input checked="" type="checkbox"/> Claims To Be Aggrieved</p> <p><input type="checkbox"/> Is Filing on Behalf of Other(s)</p> <hr/> <p>EEOC CHARGE NO. 32E-2019-00356</p> <hr/> <p>FEPA CHARGE NO. 1-18/19-3-50341-RS</p>
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NOTICE OF CHARGE OF DISCRIMINATION IN JURISDICTION WHERE A FEP AGENCY WILL INITIALLY PROCESS
(See the enclosed for additional information)

THIS IS NOTICE THAT A CHARGE OF EMPLOYMENT DISCRIMINATION UNDER

- Title VII of the Civil Rights Act (Title VII)
 The Equal Pay Act (EPA)
 The Americans with Disabilities Act (ADA)
 The Age Discrimination in Employment Act (ADEA)
 The Genetic Information Nondiscrimination Act (GINA)

HAS BEEN RECEIVED BY

- The EEOC and sent for initial processing to _____
(FEP Agency)
- The **Nebraska Equal Opportunity Commission** and sent to EEOC for dual filing purposes.
(FEP Agency)

While EEOC has jurisdiction (upon expiration of any deferral requirement if this is a Title VII, ADA or GINA charge) to investigate this charge, EEOC may suspend its investigation and await the issuance of the Agency's final findings and orders. These findings and orders will be given weight by EEOC in making its own determination as to whether reasonable cause exists to believe that discrimination has occurred.

You are therefore encouraged to cooperate fully with the Agency. All facts and evidence provided by you to the Agency will be considered by EEOC when it reviews the Agency's final findings and orders. In many cases EEOC will take no further action, thereby avoiding the necessity of an investigation by both the Agency and EEOC. This likelihood is increased by your active cooperation with the Agency.

As a party to the charge, you may request that EEOC review the final findings and orders of the above-named Agency. For such a request to be honored, you must notify EEOC in writing within 15 days of your receipt of the Agency's final decision and order. If the Agency terminates its proceedings without issuing a final finding and order, you will be contacted further by EEOC. Regardless of whether the Agency or EEOC processes the charge, the Recordkeeping and Non-Retaliation provisions of the statutes as explained in the enclosed information sheet apply.

For further correspondence on this matter, please use the charge number(s) shown above.

Enclosure(s): Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

- Race
 Color
 Sex
 Religion
 National Origin
 Age
 Disability
 Retaliation
 Genetic Information
 Other

See enclosed copy of charge of discrimination.

Date	Name / Title of Authorized Official	Signature
March 28, 2019	Lloyd Jack Vazquez, Acting District Director	



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Oklahoma City Area Office

APR 22 2019

215 Dean A. McGee Avenue, Suite 524
Oklahoma City, OK 73102
Intake Information Group: (800) 669-4000
Intake Information Group TTY: (800) 669-6820
Oklahoma City Direct Dial: (405) 231-4911
FAX (405) 231-4140
Website: www.eeoc.gov

April 19, 2019

Susan Napolitano, Attorney
Berry Law Firm
6940 O Street, Suite 400
Lincoln, NE 68510

Via E-mail: susan@jsberrylaw.com

EEOC Number: 32E-2019-00355
Kadence Krei vs. Nebraska Department of Health & Human Services

To Whom It May Concern:

The above charge of employment discrimination has been assigned to Federal Investigator Michael Talton for processing. Please direct your questions regarding this claim to him by telephone at (405) 231-5623, e-mail at Michael.Talton@eeoc.gov, or by mail at the address above.

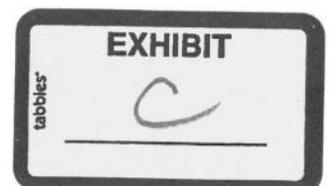
Sincerely,

Christina Crews

Investigator Support Assistant

Office Hours: Monday – Friday, 8:00 a.m. – 4:30 p.m.
Walk-in Hours without Appointment: Mon., Tues., Thurs., & Fri. 1:00p.m.-3:00p.m.
Wednesdays-8:30a.m.-3:00p.m. (Please note, if you do not make an appointment, we cannot guarantee that you will be seen on that day.)

www.eeoc.gov – Check out our website’s Public Portal to file a complaint and schedule an interview with an investigator, or check on the status of a claim. If you would like to file a charge of discrimination, you may also call 1-800-669-4000, or visit the office in person at the hours listed above to begin the process.





U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Oklahoma City Area Office

215 Dean A. McGee Avenue, Suite 524
Oklahoma City, OK 73102
Intake Information Group: (800) 669-4000
Intake Information Group TTY: (800) 669-6820
Oklahoma City Direct Dial: (405) 231-4911
FAX (405) 231-4140
Website: www.eeoc.gov

April 19, 2019

Susan Napolitano, Attorney
Berry Law Firm
6940 O Street, Suite 400
Lincoln, NE 68510

Via E-mail: susan@jsberrylaw.com

EEOC Number: 32E-2019-00356
Kadence Krei vs. Nebraska Department of Administrative Services

To Whom It May Concern:

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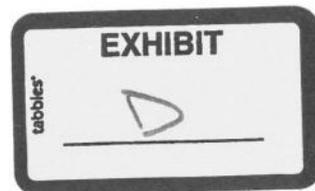
Sincerely,

Christina Crews

Investigator Support Assistant

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Walk-in Hours without Appointment: Mon., Tues., Thurs., & Fri. 1:00p.m.-3:00p.m.
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www.eeoc.gov – Check out our website’s Public Portal to file a complaint and schedule an interview with an investigator, or check on the status of a claim. If you would like to file a charge of discrimination, you may also call 1-800-669-4000, or visit the office in person at the hours listed above to begin the process.



John S. Berry, P.C., L.L.C.
Andrew D. Strotman
Christopher M. Ferdico
Kathleen S. Pallesen
Chad J. Wythers
William Harris
Susan M. Napolitano
David Tarrell
F. Matthew Aerni
Suzanne D. McNamara
Justin B. Kalemkarian
Jerusha L. Hancock



BERRY LAW FIRM

6940 O Street, Suite 400 • Lincoln, Nebraska 68510
Phone (402) 466-8444 • Fax (402) 466-1793
jsberrylaw.com

With offices in Omaha and Seward

Neely Fedde
Joseph J. Donnelly
Erik Fern
Cameron Kroeger
Stephani M. Bennett
Patricia Wenzl
Seth W. Morris
R. Joseph Pilgrim
Hannah Carroll-Altman

John Stevens Berry Sr.
- Of Counsel -

REQUEST FOR LETTER OF RIGHT TO SUE

Federal Investigator
Micheal Talton
Michael.talton@eeoc.gov

RE:

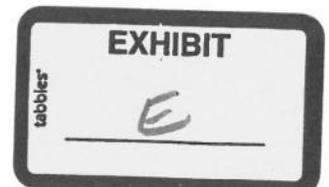
Charge No. 32E-2019-00356, Kadence Krei vs Nebraska Department of Administrative Services
Charge No. 32E-2019-00355, Kadence Krei vs. Nebraska Department of Health & Human Services

Mr. Talton,
Comes now, Kadence Krei (aka Kalem) by and through her attorney, Susan M. Napolitano, and requests that the EEOC issue her a LETTER OF RIGHT TO SUE for both of the above stated charges so that she may file a civil lawsuit against Respondents in Federal Court.

Attorney who will be filing a lawsuit on behalf of Ms. Krei:
Susan M. Napolitano
Berry Law Firm
6940 O Street, Suite 400
Lincoln, Nebraska 68510
402-466-8444
susan@jsberrylaw.com

Sincerely,

Susan M. Napolitano, NSBA 23437



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Kadence/Kalem W. Krei
115 W 19th St
York, NE 68467

BERRY LAW FIRM

From: Oklahoma City Area Office
215 Dean A. McGee Avenue
Suite 524
Oklahoma City, OK 73102

JUN 10 2019

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No. 32E-2019-00356
EEOC Representative Michael L. Talton, Investigator
Telephone No. (405) 231-5623

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
[X] Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
[X] The EEOC is terminating its processing of this charge.
The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

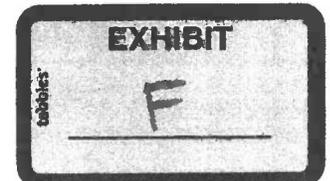
Holly Waldron Cole, Area Office Director

6-6-19 (Date Mailed)

Enclosures(s)

CC: Dale Shotkoski, General Counsel & Compliance
NEBRASKA DEPARTMENT OF ADMINISTRATIVE SERVICES
1526 K Street, Suite 140
Lincoln, NE 68508

Susan M. Napolitano
BERRY LAW FIRM
6940 O Street, Suite 400
Lincoln, NE 68510



**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

~~Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.~~

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10 – not 12/1/10** -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Kadence/Kalem W. Krei
1011 K St Apt #202
Lincoln, NE 68532

From: Oklahoma City Area Office
215 Dean A. McGee Avenue
Suite 524
Oklahoma City, OK 73102

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No. 32E-2019-00355
EEOC Representative Michael L. Talton, Investigator
Telephone No. (405) 231-5623

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

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- More than 180 days have passed since the filing of this charge.
[X] Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
[X] The EEOC is terminating its processing of this charge.
The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

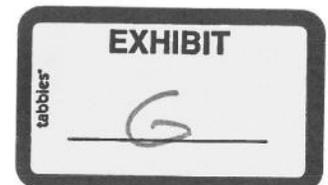
Holly Waldron Cole, Area Office Director

6-6-19 (Date Mailed)

Enclosures(s)

Bo Botelho, COO & General Counsel
NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
P.O. Box 95026
Lincoln, NE 68509

Susan Napolitano
BERRY LAW FIRM
6940 O Street, Suite 400
Lincoln, NE 68510



**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
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In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

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If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

Enclosures(s)

cc:

CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER	
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	NEB 1-18/19-3-50340-RS 32E-2019-00355	
<u>Nebraska Equal Opportunity Commission and EEOC</u>			DATE RECEIVED BY NEOC RECEIVED NEOC MAR 21 2019 LINCOLN OFFICE	
NAME (indicate Mr., Ms., Mrs.) Ms. Kadence W. Krei a/k/a Kalem W. Krei		HOME TELEPHONE (402) 466-0770		
STREET ADDRESS 1011 K Street Apt #202 Fairbury NE 68532		CITY, STATE AND ZIP CODE NE 68532		DATE OF BIRTH 4/20/1995
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)				
NAME NE/Health and Human Services, Department of		NUMBER OF EMPLOYEES, MEMBERS More than 500 Employees		TELEPHONE (402) 471-3121
STREET ADDRESS PO Box 95026 Lincoln NE 68509-5026		CITY, STATE AND ZIP CODE NE 68509-5026		COUNTY Gage
NAME		NUMBER OF EMPLOYEES, MEMBERS		TELEPHONE
STREET ADDRESS		CITY, STATE AND ZIP CODE		COUNTY
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))			DATE DISCRIMINATION TOOK PLACE	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN			EARLIEST 5/1/2018	LATEST 2/2/2019
<input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION			<input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):				
<p>I. I am Female. I was hired by Respondent in May 2018, and worked at the Beatrice State Developmental Center, most recently as a Developmental Technician II. Due to my sex and gender non-conforming appearance and behavior, and/or for transitioning from one gender to another and/or for being a transgender individual, I was harassed and denied insurance benefits. Due to this treatment, I felt compelled to resign.</p> <p>II. I believe that I have been discriminated against on the basis of sex, female, and gender non-conforming appearance and behavior, and/or for transitioning from one gender to another and/or for being a transgender individual, in violation of Title VII of the Civil Rights Act of 1964, as amended, and Section 48-1104 of the Nebraska Fair Employment Practice Act, in that:</p> <ol style="list-style-type: none"> The Respondent was aware that I am transgender. From the start of my employment, I was harassed by the Developmental Technical Shift Supervisor (Name Unknown-NUK, Female) and other coworkers when they would misgender me, by calling me 'he' and 'him.' This occurred constantly until June 2018, when I complained about this treatment to Human Resources. Beginning in or about July 2018, I was denied insurance benefits. My doctor approved me for a procedure necessary to treat my diagnosed gender dysphoria and submitted the procedure to my insurance carrier, and the procedure was denied. I asked Human Resources how to appeal the decision, and was directed to the Department of Administrative Services. I appealed the decision directly to United Health Care. In October 2018, my appeal was denied, and United Health Care informed me my appeal was denied because Respondent and the State of Nebraska specifically excluded all treatment related to sex transformation operations and related services from their healthcare plan. 				
BERRY LAW FIRM JUN 10 2019				

Kadence W. Krei a/k/a Kalem W. Krei vs. NE/Health and Human Services, Department of
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3. In December 2018, Human Resources did an employee appreciation activity wherein the printed out employee names on candy canes. For mine, instead of using my preferred female name on it, they instead dead named me, by putting my male name on the candy cane. In January 2019, I met with Beth (Last Name Unknown-LNUK, Female) and Carrie (LNUK, Female) in Human Resources, and requested that for events/activities like this in the future, Respondent use my female name. Beth denied this request, and told me my name was on some kind of seniority list, and so they couldn't change it because it would affect my medication signing abilities. While I did sign for medication using my male name, I only did so because I was required by statute to use my legal name, and I believe Respondent should have been able to use my preferred name for internal employee appreciation activities. In the same meeting, Beth asking me how to pronounce my legal name. I told her she didn't need to know that because I didn't go by that name, and Beth stated that the Respondent was going to use my male name on anything Respondent would be sending out to me. Respondent then continued to call me by my male name, despite my request for them not to do so.

4. Due to this treatment, I felt compelled to resign my employment on February 2, 2019. When I turned in my resignation to my direct Supervisor, Karen Engleman, I told her I was resigning due to the discrimination that had been occurring.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

State of Nebraska County of Lancaster

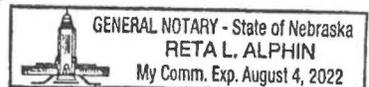
On this, the 21st day of March, 2019.
The Complainant appeared before me, known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument, and acknowledged that they executed the same for the purposes therein contained.

I swear or affirm that I have read the above and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Notary Public

Notary Seal



X [Handwritten Signature]