

RECORD NO. 22-1721

In The
United States Court of Appeals
For The Fourth Circuit

**MAXWELL KADEL; JASON FLECK; CONNOR THONEN-FLECK;
JULIA MCKEOWN; MICHAEL D. BUNTING, JR.; C.B., by his next
friends and parents; SAM SILVAINE; DANA CARAWAY,**
Plaintiffs – Appellees,

v.

**DALE FOLWELL, in his official capacity as State Treasurer of North
Carolina; DEE JONES, in her official capacity as Executive Administrator
of the North Carolina State Health Plan for Teachers and State Employees,**
Defendants – Appellants,

and

**NORTH CAROLINA STATE HEALTH PLAN FOR TEACHERS
AND STATE EMPLOYEES; STATE OF NORTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY,**
Defendants.

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA AT GREENSBORO**

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE* THE AMERICAN
MEDICAL ASSOCIATION AND SEVEN ADDITIONAL HEALTH CARE
ORGANIZATIONS IN SUPPORT OF PLAINTIFFS-APPELLEES AND AFFIRMANCE**

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Counsel for Amici Curiae

Pursuant to Federal Rule of Appellate Procedure 29(a), the American Medical Association and Seven Additional Health Care Organizations move for leave to file an *amici curiae* brief in support of affirmance and Plaintiffs-Appellees. The proposed brief accompanies this Motion.

INTEREST AND IDENTITY OF *AMICI CURIAE*

Amici curiae are eight leading medical, mental health, and other health care organizations. Collectively, *amici* represent hundreds of thousands of physicians and mental-health professionals, including specialists in family medicine, mental health treatment, internal medicine, endocrinology, obstetrics and gynecology, and thousands of nurses.

Amicus the American Academy of Pediatrics (“AAP”) represents 67,000 primary care pediatricians, pediatric medical subspecialists, and surgical specialists who are committed to the attainment of optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults. In its dedication to the health of all children, the AAP strives to improve health care access and eliminate disparities for children and teenagers who identify as lesbian, gay, bisexual, transgender, or for those questioning their sexual or gender identity.

Amicus the American College of Obstetricians and Gynecologists (“ACOG”) is a national organization of more than 62,000 women’s health care physicians and medical professionals. ACOG’s membership represents more than 90% of all board-

certified obstetrician-gynecologists (ob-gyns) in the United States. ACOG advocates for quality health care for women, maintains the highest standards of clinical practice and continuing education of its members, promotes patient education, and increases awareness among its members and the public of the changing issues facing women's health care. ACOG has appeared as *amicus curiae* in courts throughout the country. ACOG's briefs and medical practice guidelines have been cited by numerous authorities, including the Supreme Court of the United States.

Amicus the American Medical Association ("AMA") is the largest professional association of physicians, residents, and medical students in the United States. Additionally, through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all physicians, residents, and medical students in the United States are represented in the AMA's policy-making process. The AMA was founded in 1847 to promote the art and science of medicine and the betterment of public health, and these remain its core purposes. AMA members practice in every medical specialty and in every state.

Amicus the American Psychiatric Association ("APA"), with more than 37,400 members, is the Nation's leading organization of physicians who specialize in psychiatry. The American Psychiatric Association has participated in numerous cases in the Supreme Court and in the United States Courts of Appeals. The American Psychiatric Association opposes all public and private discrimination

against transgender and gender-diverse individuals, including in health care. *See* Jack Drescher et al., Am. Psychiatric Ass'n, *Position Statement on Discrimination Against Transgender and Gender Diverse Individuals* 1 (2018), <https://www.psychiatry.org/File%20Library/About-APA/Organization-Documents-Policies/Policies/Position-2018-Discrimination-Against-Transgender-and-Gender-Diverse-Individuals.pdf>.

Amicus the Endocrine Society is the oldest and largest global professional membership organization representing the field of endocrinology. The Endocrine Society's more than 18,000 members care for patients and are dedicated to advancing hormone research and excellence in the clinical practice of endocrinology, focusing on diabetes, obesity, osteoporosis, infertility, rare cancers, and thyroid conditions.

Amicus the North American Society for Pediatric and Adolescent Gynecology ("NASPAG") is dedicated to providing multidisciplinary leadership in education, research and gynecologic care to improve the reproductive health of youth. Its focus is to serve and be recognized as the lead provider in PAG education, research and clinical care, conduct and encourage multidisciplinary and inter-professional programs of medical education and research in the field of PAG, and advocate for the reproductive well-being of children and adolescents and the provision of unrestricted, unbiased, and evidence-based practice of PAG.

Amicus the National Association of Nurse Practitioners in Women's Health ("NPWH") is a national professional membership organization. NPWH is the nation's leading voice for courageous conversations about women's health. NPWH gives voice to over 12,000 certified women's health nurse practitioners in the United States, as well as other advanced practice registered nurses (APRNs) providing women's health and gender related care. We set a standard of excellence by translating and promoting the latest research and evidence-based clinical guidance, providing high quality continuing education, and advocating for patients, providers, and the WHNP profession. Our mission includes protecting and promoting a woman's right to make her own choices regarding her health and well-being within the context of her lived experience and her personal, religious, cultural, and family beliefs. Women's health and gender related nurse practitioners champion state-of-the-science healthcare that holistically and inclusively addresses the unique needs of women across their lifetimes. Since its inception in 1980 NPWH has been a trusted source of information on nurse practitioner education, practice, and women's health issues.

Women's health and gender related nurse practitioners champion state-of-the-science healthcare that holistically and inclusively addresses the unique needs of women across their lifetimes. NPWH works with a wide range of individuals and

groups within nursing, medicine, the healthcare industry, and the women's health community.

Amicus the Society of OB/GYN Hospitalists (“SOGH”) is a national organization of more than 1,500 women's healthcare physicians and medical professionals and is the only national medical subspecialty organization whose members specialize in inpatient obstetrics and gynecologic care. The SOGH is committed to improving outcomes for hospitalized women and to patient safety and quality care for all women. As frontline, hospital-based providers of women's healthcare, the SOGH is uniquely positioned to advocate for justice and tolerance through evidence-based care, research, and policy development. The SOGH rejects discriminatory practices that jeopardize patient care.

All *amici* share a commitment to improving the physical and mental health of all Americans—regardless of gender identity—and to informing and educating lawmakers, the judiciary, and the public regarding the public-health impacts of laws and policies. *Amici* submit this brief to inform the Court of the medical consensus regarding what it means to be transgender; the protocols for the treatment of gender dysphoria, which include living in accordance with one's gender identity in all aspects of life; and the predictable harms to the health and well-being of transgender individuals who are denied access to necessary medical treatments to do so.

DESIRABILITY OF AN *AMICUS* BRIEF

Amici feel a responsibility to inform this Court about the nearly-universally agreed upon best practices when treating transgender individuals for gender dysphoria and providing gender-conforming care. *Amici*, as leading healthcare providers both within the State of North Carolina and beyond, are in a unique position to inform the Court about the proper treatments for people experiencing gender dysphoria, the negative health outcomes when gender dysphoria is left untreated, and other health concerns that could arise from lack of coverage by State health care plans. *Amici* believe that the information contained in their proposed brief will assist the Court in its deliberations on the present appeal by presenting a complete and accurate description of the medical conditions and treatments at issue in the pending appeal.

Proposed *Amici Curiae* therefore respectfully request that the Court grant them permission to file an *amicus curiae* brief in support of affirmance and Plaintiffs-Appellees.

Counsel for *Amici Curiae* reached out to the parties to seek consent to file this brief. Counsel for Plaintiffs consented to the filing of the *amicus* brief, and counsel for Defendants did not.

Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), no party's counsel authored this brief in whole or in part. No person other than *amici* and its counsel contributed any money intended to fund the preparation or submission of this brief.

WHEREFORE, for the foregoing reasons and those included in the brief of *amici curiae*, the American Medical Association and Seven Additional Health Care Organizations respectfully request leave to file the attached brief.

Respectfully submitted,

Date: October 7, 2022

/s/ Howard S. Suskin

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CERTIFICATE OF COMPLIANCE

1. This motion complies with type-volume limits because, excluding the parts of the document exempted by Fed. R. App. P. 32(f):

this motion contains [1,264] words.

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Date: October 7, 2022

/s/ Howard S. Suskin _____

Howard S. Suskin

CERTIFICATE OF FILING AND SERVICE

I hereby certify that I caused the foregoing Motion to be electronically filed with the Clerk of Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system on October 7, 2022. I further certify that all participants in this case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

Date: October 7, 2022

/s/ Howard S. Suskin

Howard S. Suskin