

**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

ANDREW T. BAILEY,
Attorney General

/s/ Joshua M. Divine

Joshua M. Divine, 69875MO

Solicitor General

Maria A. Lanahan, 65956MO

Deputy Solicitor General

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Counsel for Defendant

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

John R. Ashcroft

Secretary of State
Administrative Rules
RULE TRANSMITTAL

Administrative Rules Stamp

Rule Number 15 CSR 60-17.010 Experimental Interventions to Treat Gender Dysphoria

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Todd A. Scott Phone (573) 751-8366 FAX _____

Email address Todd.Scott@ago.mo.gov

Data Entry _____ Phone _____ FAX _____

Email address _____

Interagency mailing address Office of the Attorney General, Supreme Court Building

TYPE OF RULEMAKING ACTION TO BE TAKEN

Emergency Rulemaking __ Rule __ Amendment __ Rescission X Termination
Effective Date for the Emergency Termination effective May 16, 2023

Proposed Rulemaking __ Rule __ Amendment __ Rescission

Rule Action Notice In Addition Rule Under Consideration

Request for Non-Substantive Change

Statement of Actual Cost

Order of Rulemaking __ Withdrawal __ Adopt __ Amendment __ Rescission

Effective Date for the Order _____

Statutory 30 days OR Specific date _____

Does the Order of Rulemaking contain changes to the rule text? NO

YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:



Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

EMERGENCY RULE
Title 15 – ELECTED OFFICIALS
Division 60 – Attorney General
Chapter 17 – Gender Transition Interventions

ORDER TERMINATING EMERGENCY RULE

By the authority vested in the Office of the Attorney General under sections 407.020, RSMo (Supp. 2022), 407.145, RSMo (2016), the Office of the Attorney General hereby terminates an emergency rule effective May 16, 2023, as follows:

**15 CSR 60-17.010 Experimental Interventions to Treat Gender Dysphoria
is terminated.**

A notice of emergency rulemaking containing the text of the emergency rule was published in the **Missouri Register** on May 15, 2023 (volume 48, Number 10, MoReg pp. 905-910).



ATTORNEY GENERAL OF MISSOURI
ANDREW BAILEY

May 16, 2023

Ms. Sarah Schappe
Director, Joint Committee on Administrative Rules
State Capitol, Room B8
Jefferson City, MO 65101

Re: *15 CSR 60-17.010 Experimental Interventions to Treat Gender Dysphoria*

Dear Director Schappe:


CERTIFICATION OF TERMINATION OF EMERGENCY ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the Order Terminating Emergency Rule lawfully submitted by the Office of the Attorney General.

Statutory Authority: sections 407.020, RSMo (Supp. 2022) and 407.145, RSMo (2016).

If there are any questions regarding the content of this proposed rulemaking, please contact:

Todd Scott
Supreme Court Building
207 W. High St.
P.O. Box 899
Jefferson City, MO 65102
573-751-8870



Rhonda Meyer
Dep. Chief of Staff
Missouri Attorney General



ATTORNEY GENERAL OF MISSOURI
ANDREW BAILEY

May 16, 2023

John R. Ashcroft
Secretary of State
Administrative Rules
600 West Main Street
Jefferson City, Missouri 65101

Re: *15 CSR 60-17.010 Experimental Interventions to Treat Gender Dysphoria*

Dear Secretary Ashcroft:

CERTIFICATION OF TERMINATION OF EMERGENCY ADMINISTRATIVE RULE

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A blue ink signature of Rhonda Meyer, written in a cursive style, positioned above a horizontal line.

Rhonda Meyer
Dep. Chief of Staff
Missouri Attorney General