

No. 23-12155

**IN THE UNITED STATES DISTRICT COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

AUGUST DEKKER, et al.,
Plaintiffs-Appellees,

v.

SECRETARY, FLORIDA AGENCY FOR HEALTH CARE
ADMINISTRATION, et al.,
Defendants-Appellants.

On Appeal from the United States District Court for the
Northern District of Florida
Case No: 4:22-cv-00325-RH-MA

**UNOPPOSED MOTION OF *AMICI CURIAE* HUSSEIN ABDUL-LATIF,
REBECCA KAMODY, LAURA KUPER, MEREDITH MCNAMARA,
NATHALIE SZILAGYI, AND ANNE ALSTOTT FOR LEAVE TO FILE
BRIEF AS *AMICI CURIAE* IN SUPPORT OF AFFIRMING THE
DISTRICT COURT'S ORDER**

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CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Local Rule 26.1–1, the undersigned counsel for *amici curiae* Hussein Abdul-Latif, Rebecca Kamody, Laura Kuper, Meredith McNamara, Nathalie Szilagyi, and Anne Alstott certify that:

- None of the above-referenced individuals is a corporate entity or has issued stock.
- The following persons and parties, in addition to the above-named amici, may have an interest in the outcome of this case:
 1. Academic Pediatric Association – Amicus
 2. Alstott, Anne – Amicus
 3. Altman, Jennifer – Counsel for Plaintiffs
 4. American Academy of Child and Adolescent Psychiatry – Amicus
 5. American Academy of Family Physicians – Amicus
 6. American Academy of Nursing – Amicus
 7. American Academy of Pediatrics – Amicus
 8. American College of Obstetricians and Gynecologists – Amicus
 9. American College of Osteopathic Pediatricians – Amicus
 10. American College of Pediatricians – Amicus

11. American College of Physicians – Amicus
12. American Medical Association – Amicus
13. American Pediatric Society – Amicus
14. American Psychiatric Association – Amicus
15. Andersen, Alison – Counsel for Amicus
16. Anderson, Barrett – Counsel for Amicus
17. Antommaria, Armand – Witness
18. Association of American Medical Colleges – Amicus
19. Bailey, Andrew – Counsel for Amicus
20. Baker, Kellan – Witness
21. Bardos, Andy – Counsel for Amicus
22. Barnes, Brian – Counsel for Amicus
23. Beato, Michael – Counsel for Defendants
24. Biggs, Michael – Defendant Witness
25. Blickenstaff, David – Counsel for Amicus
26. Biomedical Ethics and Public Health Scholars – Amicus
27. Bird, Brenna – Counsel for Amicus
28. Boergers, Kathleen – Counsel for Amicus
29. Boulware, Susan – Amicus
30. Bowdre, Alexander Barrett – Counsel for Amicus

31. Brackett, John Matthew – Witness
32. Bronni, Nicholas J. – Counsel for Amicus
33. Brown, Louis, Jr. –Amicus
34. Burleigh, Clifton Francis, Jr. – Amicus
35. Cameron, Daniel – Counsel for Amicus
36. Cantor, James – Witness
37. Carr, Chris – Counsel for Amicus
38. Charles, Carl – Counsel for Plaintiffs
39. Chriss, Simone – Counsel for Plaintiffs
40. Chuang, Ming – Counsel for Amicus
41. Clark, Kaila – Counsel for Amicus
42. Commonwealth of Kentucky – Amicus
43. Commonwealth of Massachusetts – Amicus
44. Commonwealth of Virginia – Amicus
45. Cory, Alyssa L. – Counsel for Amicus
46. Coursolle, Abigail – Counsel for Plaintiffs
47. Dalton, Ann – Witness
48. DeBriere, Katherine – Counsel for Plaintiffs
49. Dekker, August – Plaintiff

50. Ding, Michael – Counsel for Plaintiff/Third-Party Miriam Grossman
51. District of Columbia – Amicus
52. Do No Harm – Amicus
53. Doe, Jane – Plaintiff
54. Doe, John – Plaintiff
55. Doe, Susan – Plaintiff
56. Donovan, Kevin – Witness
57. Dunn, Chelsea – Counsel for Plaintiffs
58. Edmiston, E. Kale –Witness
59. Endocrine Society – Amicus
60. English, Jeffrey – Witness
61. Ethics and Public Policy Center – Amicus
62. Figlio, Erik – Counsel for Amicus
63. Fitch, Lynn – Counsel for Amicus
64. Florida Agency for Healthcare Administration – Defendant
65. Florida Chapter of the American Academy of Pediatrics – Amicus
66. Florida Policy Institute – Amicus
67. Florida Voices for Health – Amicus

68. Gibson, Benjamin J. – Counsel for Amicus
69. Gonzalez-Pagan, Omar – Counsel for Plaintiffs
70. Griffin, Steven J. – Counsel for Amicus
71. Griffin, Tim – Counsel for Amicus
72. Grossman, Miriam – Witness/Third-Party Discovery Producer
73. Halley, Ted – Amicus
74. Hartnett, Kathleen – Counsel for Amicus
75. Hasson, Mary Rice – Counsel for Amicus
76. Helstrom, Zoe – Counsel for Amicus
77. Heyer, Walt – Amicus
78. Hilgers, Michael T. – Counsel for Amicus
79. Hinkle, Robert – U.S. District Court Judge
80. Hruz, Paul William – Witness
81. Hussein, Abdul-Latif – Amicus
82. Hutton, Kim – Witness
83. Isasi, William – Counsel for Amicus
84. Jacobs, Dylan L. – Counsel for Amicus
85. Janssen, Aron Christopher – Witness
86. Jazil, Mohammad – Counsel for Defendants
87. K.F. – Plaintiff

88. Kaliebe, Kristopher Edward – Witness
89. Kamody, Rebecca – Amicus
90. Kang, Katelyn – Counsel for Amicus
91. Karasic, Dan – Witness
92. Kiefel, Camille – Witness
93. Kline, Robert – Counsel for Amicus
94. Kniffin, Eric Nieuwenhuis – Counsel for Amicus
95. Knudsen, Austin – Counsel for Amicus
96. Kobach, Kris W. – Counsel for Amicus
97. Krasovec, Joseph – Former Counsel for Amicus
98. Kuper, Laura – Amicus
99. Labrador, Raúl R. – Counsel for Amicus
100. LaCour, Edmund G. Jr. – Counsel for Amicus
101. Lannin, Cortlin – Counsel for Amicus
102. Laidlaw, Michael – Witness
103. Lannin, Cortlin – Counsel for Amicus
104. Lappert, Patrick – Witness
105. Ladue, Jade – Plaintiff
106. Levine, Stephen – Witness
107. Little, Joseph – Counsel for Plaintiffs

108. Loewy, Karen L. – Counsel for Plaintiffs
109. Marshall, Steve – Counsel for Amicus
110. Marsteller, Simone – Former Defendant
111. Mauler, Daniel – Counsel for Amicus
112. McCotter, R. Trent – Counsel for Amicus
113. McKee, Catherine – Counsel for Plaintiffs
114. McNamara, Meredith – Amicus
115. Meszaros, Marie Connelly – Amicus
116. Miller, William – Counsel for Plaintiffs
117. Miyares, Jason – Counsel for Amicus
118. Mondry, Emily – Counsel for Amicus
119. Morrissey, Patrick – Counsel for Amicus
120. Morrison, Rachel N. – Amicus
121. Nangia, Geeta – Witness
122. National Association of Pediatric Nurse Practitioners – Amicus
123. Nordby, Daniel E. – Counsel for Plaintiff/Third-Party Miriam Grossman and Counsel for Amicus
124. Norohna, Maya – Amicus
125. Olezeski, Christy – Former Amicus
126. Olson-Kennedy, Johanna – Witness

127. Paxton, Ken – Counsel for Amicus
128. Pediatric Endocrine Society – Amicus
129. Perko, Gary – Counsel for Defendants
130. Polston, Ricky L. – Counsel for Amicus
131. Pratt, Christine – Amicus
132. Pratt, Joshua E. – Counsel for Defendants
133. Ramer, John – Counsel for Amicus
134. Reinhardt, Elizabeth – Counsel for Amicus
135. Reyes, Sean – Counsel for Amicus
136. Richards, Jay W. – Amicus
137. Rivaux, Shani – Counsel for Plaintiffs
138. Rokita, Theodore E. – Counsel for Amicus
139. Rothstein, Brit – Plaintiff
140. Schechter, Loren – Witness
141. Scott, Sophie – Witness
142. Severino, Roger – Amicus
143. Shaw, Gary – Counsel for Plaintiffs
144. Sheeran, Andrew – General Counsel for Defendant AHCA
145. Shumer, Daniel – Witness
146. Skrmetti, Jonathan – Counsel for Amicus

147. Societies for Pediatric Urology – Amicus
148. Society for Adolescent Health and Medicine – Amicus
149. Society for Pediatric Research – Amicus
150. Society of Pediatric Nurses – Amicus
151. State of Alabama – Amicus
152. State of Arkansas – Amicus
153. State of California – Amicus
154. State of Delaware – Amicus
155. State of Georgia – Amicus
156. State of Idaho – Amicus
157. State of Illinois – Amicus
158. State of Indiana – Amicus
159. State of Iowa – Amicus
160. State of Kansas – Amicus
161. State of Louisiana – Amicus
162. State of Maryland – Amicus
163. State of Mississippi – Amicus
164. State of Missouri – Amicus
165. State of Montana – Amicus
166. State of Nebraska – Amicus

167. State of New York – Amicus
168. State of North Dakota – Amicus
169. State of Oregon – Amicus
170. State of Rhode Island – Amicus
171. State of South Carolina – Amicus
172. State of Tennessee – Amicus
173. State of Texas – Amicus
174. State of Utah – Amicus
175. State of West Virginia – Amicus
176. Szilagyi, Nathalie – Amicus
177. Thompson, David – Counsel for Amicus
178. Veroff, Julie – Counsel for Amicus
179. Veta, D. Jean – Counsel for Amicus
180. Van Meter, Quentin – Witness
181. Van Mol, Andre – Witness
182. Weida, Jason – Defendant
183. Wilson, Alan – Counsel for Amicus
184. World Professional Association for Transgender Health –
Amicus
185. Zanga, Joseph – Witness

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Amici curiae hereby respectfully move this Honorable Court for leave to file the attached brief of *amici curiae*. In support of this motion, *amici curiae* state as follows:

1. *Amici curiae* are Hussein Abdul-Latif, Rebecca Kamody, Laura Kuper, Meredith McNamara, Nathalie Szilagyi, and Anne Alstott (collectively, “*amici*”).

2. *Amici* respectfully move for leave to file their amicus brief in support of the district court’s decision that the State of Florida’s statute and rule prohibiting Medicaid payment for treatment of gender dysphoria violates the federal Medicaid statute, the Equal Protection Clause, and the Affordable Care Act’s prohibition of sex discrimination. *See* Florida Statutes § 286.31(2) (2023) and Florida Administrative Code Rule 59G-1.050(7). *Amici* have met and conferred with the parties in good faith as required by the Local Rules, and both Plaintiffs and Defendants have indicated that they do not object to the filing of *amici*’s brief.

3. The *amici* submitting this brief are a well-respected group of two Ph.D. child and adolescent psychologists, an M.D. child and adolescent psychiatrist, two M.D. physicians with specialties in pediatric endocrinology and adolescent medicine, and a law professor holding a tenured position at Yale Law School. All five scientists are also clinicians who treat transgender patients daily. Collectively, *amici* have over 40 years of clinical practice and have treated thousands of transgender individuals. All *amici* share an interest in the integrity of

medicine and science, and all are concerned that Florida’s newly adopted statute and rule set a harmful, national precedent for denying standard medical care to transgender people who suffer from gender dysphoria.¹ *Amici* seek to offer this Court their professional insights regarding the life-saving benefits of gender-affirming care and the consequences that result from the denial of Medicaid benefits for such care, as would be required by Florida Statutes § 286.31(2) (2023) and Florida Administrative Code Rule 59G-1.050(7) (collectively, the “Florida Medicaid Bans”). *Amici*’s brief demonstrates that the Florida Medicaid Bans strip patients of long-established, effective, and evidence-based medical care. *Amici* have a strong interest in ensuring that this Court has sound scientific information at hand regarding the medical treatment of gender dysphoria, and their perspective will aid the Court in its consideration of the case.

WHEREFORE, *amici* respectfully request that the Court grant them leave to file their brief of *amici curiae*.

¹ Gender dysphoria is “the distress that may accompany the incongruence between one’s experienced or expressed gender and one’s assigned gender.” *Keohane v. Fla. Dep’t of Corr. Sec’y*, 952 F.3d 1257, 1262 (11th Cir. 2020), *cert. denied sub nom. Keohane v. Inch*, 142 S. Ct. 81 (2021) (quoting Am. Psych. Ass’n, Diagnostic and Statistical Manual of Mental Disorders 451 (5th ed. 2013)).

MEMORANDUM OF LAW IN SUPPORT OF MOTION

Amici seek to assist this Court in an area that is within their core expertise. Consistent with their clinical training and experience, *amici* focus on medical and psychological care for gender dysphoria. *Amici*'s proposed brief provides this Court with insight into the safety and effectiveness of gender-affirming care and demonstrates that the Florida Medicaid Bans lack scientific justification.

Federal courts have broad discretion to allow participation as *amicus curiae*. See, e.g., *New Mexico Oncology & Hematology Consultants, Ltd. v. Presbyterian Healthcare Servs.*, 994 F.3d 1166, 1175 (10th Cir. 2021); *Richardson v. Flores*, 979 F.3d 1102, 1106 (5th Cir. 2020). Indeed, federal courts “possess the inherent authority to appoint ‘friends of the court’ to assist in their proceedings.” *Bayshore Ford Trucks Sales, Inc. v. Ford Motor Co. (In re Ford Motor Co.)*, 471 F.3d 1233, 1249 n.34 (11th Cir. 2006). “The purpose of an amicus brief is to serve the court, so its acceptance is within the discretion of a court based on its view of the brief’s utility in helping to resolve the issues before it.” *Straw v. Utah*, No. 23-4036, 2023 WL 4197651, at *5 (10th Cir. June 27, 2023). In exercising their discretion, courts may consider whether the brief would aid their understanding of the issues, as well as the interests of those who are not represented in the litigation. Indeed, “[c]ourts have recognized that permitting friends of the court may be advisable where the third parties can contribute to the court’s understanding of the matter in question.”

Conservancy of Sw. Fla. v. United States Fish & Wildlife Serv., 2010 U.S. Dist. LEXIS 94003 at *3 (M.D. Fla. Sept. 9, 2010). Particularly relevant for courts considering whether to accept *amicus curiae* submissions is whether “the amicus has a special interest.” *News & Sun-Sentinel Co. v. Cox*, 700 F. Supp. 30, 32 (S.D. Fla. 1988). As commentators have stressed, *amici* are often in a superior position to focus the court’s attention on the broad implications of various possible rulings. R. Stern, E. Greggman & S. Shapiro, *Supreme Court Practice*, 570-71 (1986) (quoting Ennis, *Effective Amicus Briefs*, 33 CATH. U. L. REV. 603, 608 (1984)); *see also Miller-Wohl Co., Inc. v. Comm’r of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982) (“[A]mici fulfill[] the classic role of amicus curiae by assisting in a case of general public interest, supplementing the efforts of counsel, and drawing the court’s attention to law that escaped consideration.”).

That is precisely the assistance *amici* offer the Court here. Their perspectives as clinicians are unique. *Amici* have seen firsthand the importance of patients having access to gender-affirming care. Transgender individuals, as well as the parents and guardians of transgender minors, regularly seek the advice of *amici*, in a professional capacity, and *amici* offer advice concerning the proper course of treatment upon a diagnosis of gender dysphoria, in accordance with well-established standards of care. *Amici* have a special interest in the outcome of this litigation because the disposition will have a direct impact on the health outcomes for Florida patients,

specifically doctor-patient decision-making as it relates to gender-affirming medical care. For these reasons, federal courts have permitted *amici* to file briefs in matters concerning similar laws targeting gender-affirming care. *See, e.g., Eknes-Tucker v. Marshall*, 2022 WL 1521889, at *2 (M.D. Ala. May 13, 2022) and *Dekker et al v. Weida et al*, 4:22CV00325 (N.D. Fla. Apr. 25, 2023) (allowing this group of *amici*, among others, to file briefs).

Because *amici* have special expertise that can aid the Court and the parties in resolving this case of great public interest, the Court should grant *amici*'s unopposed motion for leave to file their amicus brief.

CONCLUSION

For the foregoing reasons, *amici* respectfully request that this Court grant their motion for leave to file their proposed *amicus curiae* brief in support of the district court's decision that the Medicaid Bans violate the Fourteenth Amendment's Equal Protection Clause and the Affordable Care Act.

Respectfully submitted,

Hussein Abdul-Latif, Rebecca
Kamody, Laura Kuper, Meredith
McNamara, Nathalie Szilagyi, and
Anne Alstott

By and through their counsel,

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CERTIFICATE OF SERVICE

I hereby certify that, on December 1, 2023, this notice was filed through the Court's CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ David C. Blickenstaff _____

David C. Blickenstaff