

**IN THE COURT OF COMMON PLEAS  
FOR HAMILTON COUNTY, OHIO**

<b>WOMEN’S MEDICAL GROUP</b>	:	
<b>PROFESSIONAL CORPORATION,</b>	:	<b>Case No. A 2200704</b>
<i>et al.,</i>	:	
	:	<b>Judge Alison Hatheway</b>
Plaintiffs,	:	
	:	
v.	:	
	:	
<b>BRUCE VANDERHOFF, et al.,</b>	:	
	:	
Defendants.	:	

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**ANSWER OF DEFENDANTS BRUCE VANDERHOFF AND OHIO  
DEPARTMENT OF HEALTH TO PLAINTIFFS’ COMPLAINT**

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By and through counsel, Defendants Bruce Vanderhoff and Ohio Department of Health, (together, the “State”) answer the Plaintiffs’ Amended Complaint (the “Complaint”) as follows:

1. In response to paragraph 1 of the Complaint, the allegations contained in this paragraph are legal conclusions and/or assertions to which no response is required at this stage of the litigation. To the extent that further response is required, the State denies any remaining allegations or characterizations of the same in this paragraph.

2. In response to paragraph 2 of the Complaint, the State admits that clinics that provide procedural abortions must maintain an ambulatory surgical facility (“ASF”) license. The remaining allegations are vague and assert legal conclusions or characterizations to which no response is required at this stage in the litigation.

3. In response to paragraph 3 of the Complaint, the text of R.C. 3702.303 speaks for

itself.

4. Paragraph 4 of the Complaint states a legal conclusion and/or assertions to which no response is required at this stage of the litigation. To the extent that further response is required, the State denies any remaining allegations or characterizations of the same in this paragraph.

5. In response to paragraph 5 of the Complaint, the State admits Plaintiffs do not have WTAs. The remaining allegations are vague and are legal conclusions and/or assertions to which no response is required at this stage in the litigation. To the extent that further response is required, the State denies any remaining allegations or characterizations of the same in this paragraph.

6. In response to paragraph 6 of the Complaint, the State denies for lack of knowledge the allegation in this paragraph.

7. In response to paragraph 7 of the Complaint, the State admits that on November 7, 2023, Ohioans approved Issue 1, (the “Amendment”) to the Ohio Constitution, which, as approved, is now Article I, § 22 of the Ohio Constitution, entitled “The Right to Reproductive Freedom with Protections for Health and Safety.” The State admits that the Amendment took effect on December 7, 2023. The language of the Amendment speaks for itself.

8. In response to paragraph 8 of the Complaint, the State admits that Plaintiffs challenge the WTA requirement, R.C. 3702.303, Ohio Adm.Code 3701-83-19(E), the State’s enforcement of variance requirements, R.C. 3702.304, R.C. 3727.60, R.C. 3702.09, and Substitute Senate Bill 157 (“S.B. 157”), and R.C. 3702.305. The text of the statutes, administrative rule, and S.B. 157 speak for themselves.

9. In response to paragraph 9 of the Complaint, this paragraph contains legal conclusions and/or assertions to which no response is required at this stage in the litigation.

10. In response to paragraph 10 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein which contain alleged facts known only to third parties and generalizations, characterizations, or conclusions unsupported by more specific allegations. To the extent that further response is required, the State denies any remaining allegations or characterizations of the same in this paragraph.

11. In response to paragraph 11 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations contained therein, which contain alleged facts known only to third parties and generalizations, characterizations, or conclusions unsupported by more specific allegations. To the extent that further response is required, the State denies any remaining allegations or characterizations of the same in this paragraph.

12. In response to paragraph 12 of the Complaint, the Center for Reproductive Rights Report speaks for itself, but the State denies any generalizations or characterizations of the same. In response to the remaining allegations in paragraph 12, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations contained therein. To the extent that further response is required, the State denies any remaining allegations or characterizations of the same in this paragraph.

13. Paragraph 13 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, the State denies that Plaintiffs are entitled to relief from this Court. To the extent that further response is required, the State denies any remaining allegations or characterizations of the same in this paragraph.

## **PARTIES**

14. In response to paragraph 14 of the Complaint, the State admits that Plaintiff Women's Med Group Professional Corporation d/b/a Women's Med Dayton ("WMD") owns and

operates an Ambulatory Surgical Facility in Kettering that provides abortions. The State denies for lack of knowledge the remainder of the allegations or characterizations of the same in this paragraph.

15. Paragraph 15 of the Complaint states a legal conclusion and/or assertions to which no response is required. By way of further response, the State denies for lack of knowledge any remaining allegations or characterizations of the same contained in this paragraph.

16. In response to paragraph 16 of the Complaint, the State admits only that an ASF must have a license in order to provide surgical services in the State of Ohio. The remaining allegations assert legal conclusions and/or characterizations to which no response is necessary at this stage of the litigation. To the extent that further response is required, the State denies for lack of knowledge any remaining allegations or characterizations of the same in this paragraph.

17. In response to paragraph 17 of the Complaint, the State admits that WMD purports to sue on behalf of itself, its current and future staff, and agents, and its patients.

18. In response to paragraph 18 of the Complaint, the State admits that Plaintiff Planned Parenthood Southwest Ohio Region (“PPSWO”) is a nonprofit corporation organized under the laws of the State of Ohio and that PPSWO operates an Ambulatory Surgical Facility in Cincinnati that provides abortions. The State denies for lack of knowledge any remaining allegations or characterizations of the same in this paragraph.

19. In response to paragraph 19 of the Complaint, the State admits that PPSWO applied for a variance from the WTA requirement on January 19, 2024. The remaining allegations assert legal conclusion and/or characterizations to which no response is necessary at this stage of the litigation. To the extent that further response is required, the State denies for lack of knowledge

any remaining allegations or characterizations of the same in this paragraph.

20. In response to paragraph 20 of the Complaint, the State admits only that an ASF must have a license to provide surgical services in the State of Ohio. The remaining allegations assert legal conclusion and/or characterizations to which no response is necessary at this stage of the litigation. To the extent that further response is required, the State denies for lack of knowledge any remaining allegations or characterizations of the same in this paragraph.

21. In response to paragraph 21 of the Complaint, the State admits that PPSWO purports to sue on behalf of itself, its current and future staff, agents, and its patients.

22. In response to paragraph 22 of the Complaint, the State admits that Bruce T. Vanderhoff, M.D., M.B.A., is the director of the Ohio Department of Health and is sued in his official capacity. The remainder of the paragraph asserts legal conclusions to which no response is required.

23. Paragraph 23 asserts legal conclusions to which no response is required.

### **JURISDICTION AND VENUE**

24. Paragraph 24 asserts a legal conclusion to which no response is required at this stage in the litigation.

25. In response to paragraph 25 of the Complaint, the State admits that venue is proper in Hamilton County.

### **FACTUAL ALLEGATIONS**

26. In response to paragraph 26 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein.

27. In response to paragraph 27 of the Complaint, the State admits that is aware of two types of abortions: medication abortion and surgical abortion. To the extent that further response

is required, the State denies any remaining allegations or characterizations of the same in this paragraph.

28. In response to paragraph 28 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein.

29. In response to paragraph 29 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein.

30. In response to paragraph 30 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein, by way of further response, R.C. 2919.201 speaks for itself.

31. In response to paragraph 30 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein.

32. In response to paragraph 31 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein, which contain alleged facts known only to third parties and generalizations, characterizations, or conclusions unsupported by more specific allegations. By way of further response, R.C. 2929.123 speaks for itself.

33. In response to paragraph 33 of the Complaint, the State admits only that surgical abortion can be provided in licensed ASFs in Ohio. By way of further response, *Induced Abortions in Ohio, 2022 Report*, speaks for itself. To the extent that further response is required, the State denies for lack of knowledge any remaining allegations in this paragraph.

34. In response to paragraph 34 of the Complaint, the State denies for lack of knowledge any remaining allegations in this paragraph.

35. In response to paragraph 35 of the Complaint, the State denies for lack of knowledge

the allegation in this paragraph.

36. Paragraph 36 of the Complaint is a legal conclusion to which no response is required. By way of further response, 42 U.S.C. 1395dd(b) speaks for itself. Regarding the last sentence of the paragraph, the State denies for lack of knowledge the allegation in this paragraph.

37. The State denies the allegations in Paragraph 37.

38. In response to paragraph 38 of the Complaint, the State the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein, which contain vague and undefined assertions related to the nature, quantity, and prevalence of pregnancy and abortion and contain generalizations, characterizations, or conclusions of the same. To the extent that further response is required, the State denies any remaining allegations or characterizations of the same in this paragraph.

39. The State denies the allegations in Paragraph 39.

40. In response to paragraph 40 of the Complaint, the State admits the allegations in this paragraph.

41. Paragraph 41 of the Complaint states a legal conclusion to which no response is required. By way of further response, R.C. 3702.303(A) speaks for itself.

42. Paragraph 42 of the Complaint states a legal conclusion to which no response is required. By way of further response, R.C. 3702.303 and R.C. 3702.3010 speak for themselves.

43. Paragraph 43 of the Complaint states a legal conclusion to which no response is required. By way of further response, Ohio Adm.Code 3701-83-19(E) speaks for itself.

44. In response to paragraph 44 of the Complaint, the State denies for lack of knowledge the allegation in this paragraph.

45. In response to paragraph 45 of the Complaint, the State denies for lack of knowledge the allegations in this paragraph.

46. In response to paragraph 46 of the Complaint, the State admits that WMD and PPSWO are the only Ohio ASFs to formally request a variance from the WTA requirement but denies any remaining factual allegations or characterizations of the same in this paragraph.

47. Paragraph 47 of the Complaint states a legal conclusion to which no response is required, but the State denies any conclusions, generalizations, or characterizations of the same. By way of further response, Ohio Adm. Code 3701-83-14(C) speaks for itself.

48. The State admits the allegations in paragraph 48.

49. Paragraph 49 of the Complaint states a legal conclusion to which no response is required. By way of further response, Ohio Adm. Code 3701-83-14(C) speaks for itself.

50. In response to paragraph 50 of the Complaint, the State admits that in 2008, ODH granted WMD's request for a variance or waiver of the WTA requirement.

51. In response to paragraph 51 of the Complaint, the State admits that WMD and PPSWO are the only Ohio ASFs to formally request a variance from the WTA requirement but denies any remaining factual allegations or characterizations of the same in this paragraph.

52. Paragraph 52 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, House Bill 59 speaks for itself.

53. Paragraph 53 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

54. Paragraph 54 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, R.C. 3702.303(A) speaks for



itself.

55. Paragraph 55 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, R.C. 3727.60(B)(1) speaks for itself.

56. Paragraph 56 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, R.C. 3727.60(B)(2) speaks for itself.

57. Paragraph 57 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, the State denies for lack of knowledge at this stage of the litigation.

58. Paragraph 58 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

59. The State admits the allegations in paragraph 59.

60. Paragraph 60 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, Ohio Adm. Code 3701-83-14(C) speaks for itself.

61. Paragraph 61 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, R.C. 3702.304 speaks for itself.

62. Paragraph 62 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, R.C. 3727.60(B)(2) speaks for itself.

63. Paragraph 63 of the Complaint states legal conclusions to which no response is

required at this stage of the litigation. By way of further response, the State denies the allegations.

64. Paragraph 64 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, Chapter 119, Ohio Adm.Code 3701-83-14(F) and R.C. 3702.304(A), and *Women's Med Ctr of Dayton v. Dept. of Health*, 2019-Ohio-1146, 133 N.E.3d 1047, ¶ 3 (2d Dist.) speak for themselves.

65. In response to paragraph 65 of the Complaint, the State admits that House Bill 64 was passed in 2015, but the remaining allegations are legal conclusions to which no response is required. To the extent that further response is required, the State denies any remaining allegations or characterizations of the same in this paragraph.

66. Paragraph 66 states a legal conclusion to which no response is required at this stage of the litigation. By way of further response, R.C. 3702.309(A), R.C. 3702.30(E)(1), and Ohio Adm. Code 3701-83-03(A) speak for themselves.

67. Paragraph 67 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, R.C. 3702.304 speaks for itself.

68. Paragraph 68 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, R.C. 3702.309(A)(3), Ohio Adm. Code 3701-83-14(F), R.C. 3702.304(A), (C), R.C. 119.06, and R.C. 119.01(D) speak for themselves.

69. In response to paragraph 69 of the Complaint, the State admits that R.C. 3727.60 was scheduled to take effect on September 29, 2015, and a federal court issued a temporary restraining order on September 30, 2015, preventing R.C. 3727.60 from taking effect. The State also admits that a federal court issues a preliminary injunction on October 13, 2015.

70. In response to paragraph 70 of the Complaint, the State admits that in December

2021, the Ohio General Assembly passed Senate Bill 157. The remaining allegations in the paragraph are legal conclusions to which no response is required at this stage of the litigation.

71. Paragraph 71 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response R.C. 3702.305 speaks for itself.

72. Paragraph 72 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

73. Paragraph 73 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

74. Paragraph 74 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

75. In response to paragraph 75 of the Complaint, the State admits that in this litigation Plaintiffs purport to challenge SB 157. The State further admits that this Court issued a temporary restraining order and preliminary injunctions in this litigation on the dates alleged. The Court's orders speak for themselves.

76. Paragraph 76 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. To the extent that further response is required, the State denies any remaining allegations and characterizations of the same in this paragraph.

77. In response to paragraph 77 of the Complaint, the State denies for lack of knowledge the allegations in the first sentence of this paragraph at this stage in the litigation. The second sentence contains legal conclusion to which no response is required at this stage of the litigation. By way of further response, R.C. 3702.304(B) speaks for itself.

78. In response to paragraph 78 of the Complaint, the State lacks first-hand knowledge

at this stage of the litigation to admit the factual allegations therein.

79. In response to paragraph 79 of the Complaint, the State admits that ODH required at least four backup doctors to obtain a variance. Exhibit B: *PPSWO: Denial of Variance Request* (Sept. 25, 2015), speaks for itself. R.C. 3702.304 speaks for itself. To the extent that this paragraph contains vague factual allegations, no response is required. The State denies any remaining allegations or characterization of the same in this paragraph.

80. In response to the first two sentences of paragraph 80, the State denies for lack of knowledge. The State admits that ODH granted PPSWO a variance request on November 27, 2015. To the extent that further response is required, the State denies any remaining allegations and characterizations of the same in this paragraph.

81. In response to paragraph 81 of the Complaint, the State admits that WMD was open and operating from 2015 to October 2019. The text of the decision in *Women's Med. Ctr. Of Dayton*, 2019-Ohio-1146, 133 N.E.3d 1047 speaks for itself.

82. In response to the first two sentences of paragraph 82, the State denies for lack of knowledge. The State admits that WMD applied for license renewal on July 25, 2019. To the extent that further response is required, the State denies any remaining allegations and characterizations of the same in this paragraph.

83. In response to paragraph 83 of the Complaint, the State admits that WMD submitted a license application to ODH on August 27, 2019, but denies the remaining allegations for lack of knowledge.

84. In response to paragraph 84 of the Complaint, the State admits that ODH rejected WMD's application on September 23, 2019. The text of the denial letter speaks for itself. To the

extent that further response is required, the State denies any remaining allegations and characterizations of the same in this paragraph.

85. In response to paragraph 85 of the Complaint, the State admits that on October 25, 2019, ODH approved WMD's variance request.

86. In response to paragraph 86 of the Complaint, the State admits the allegation in this paragraph.

87. In response to paragraph 87 of the Complaint, the State admits that WMD had its license revoked, but denies for lack of first-hand knowledge the factual allegations contained in this paragraph. To the extent that further response is required, the State denies any remaining allegations and characterizations of the same in this paragraph.

88. In response to paragraph 88 of the Complaint, the State denies the factual allegations and characterizations of the same in this paragraph.

89. In response to paragraph 89 of the Complaint, the State admits that ODH issued WMD a new license effective November 5, 2019. To the extent that further response is required, the State denies any remaining allegations and characterizations of the same in this paragraph.

90. In response to paragraph 90 of the Complaint, the State admits that both Plaintiffs had ASF licenses in January of 2020 and that from March 25, 2020, through July 1, 2021, ODH suspended all licensing action due to the COVID-19 health emergency. To the extent that further response is required, the State denies any remaining allegations and characterizations of the same in this paragraph.

91. The State denies the allegations in paragraph 91.

92. The State admits only that ODH does require that a variance be supported by

doctors that are OBGYNs and who have staff voting privileges at the hospital at which they have admitting privileges. The State denies the remaining allegations and characterizations of the same in paragraph 92.

93. In response to the first sentence contained in paragraph 93 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein. The second sentence contains legal conclusion to which no response is necessary.

94. In response to paragraph 94 of the Complaint, the State admits that ODH granted PPSWO's variance request on August 30, 2021, and denied WMD's variance request on August 30, 2021. This paragraph contains legal conclusions and characterizations of the same to which no response is required. The denial letter speaks for itself. The State denies the remaining allegation and characterization of the same in this paragraph.

95. In response to paragraph 95 of the Complaint, the State admits that Director Vanderhoff proposed to revoke and not renew WMD's ASF license because of the denial of its variance application. The State denies the remaining allegation and characterization of the same in this paragraph.

96. In response to paragraph 96 of the Complaint, the State admits that WMD submitted a request for a variance on November 30, 2021. The remaining allegations are legal conclusions and characterizations of the same to which no response is necessary. Further answering, the State denies any remaining allegation in this paragraph.

97. In response to paragraph 97 of the Complaint, the State admits that SB 157 was signed into law on December 22, 2021, and went into effect on March 23, 2022.

98. Paragraph 98 of the Complaint states a legal conclusion to which no response is

required. By way of further response SB 157 speaks for itself.

99. In response to paragraph 99 of the Complaint, the State admits that ODH denied WMD's November 30, 2021, application on January 28, 2022, and that SB 157 was signed into law on December 22, 2021, and went into effect on March 23, 2022. Exhibits C and D speak for themselves. To the extent that further response is required, the State denies any remaining allegations or characterizations of the same in this paragraph.

100. In response to paragraph 100 of the Complaint, the State admits that SB 157 was signed into law on December 22, 2021, and went into effect on March 23, 2022. To the extent that this paragraph contains legal conclusions and characterizations of the same, no response is necessary. Further answering, Exhibits C and D speak for themselves, but the State denies any conclusions, generalizations, or characterizations of the same.

101. In response to paragraph 101 of the Complaint, the State admits that SB 157 went into effect on March 23, 2022. To the extent that this paragraph contains legal conclusions and characterizations of the same, no response is necessary. Further answering, the State denies any remaining allegations or characterizations of the same in this paragraph.

102. Paragraph 102 states a legal conclusion to which no response is required at this stage in the litigation.

103. In response to paragraph 103 of the Complaint, the State denies the allegation contained first sentence of this paragraph. The second sentence contains legal conclusions and characterizations of the same to which no response is necessary. ODH admits that it sent a letter to PPSWO on February 23, 2022, Plaintiffs' Ex. E, which speaks for itself. The State denied the remaining allegations and characterizations of the same in this paragraph.

104. In response to paragraph 104 of the Complaint, the text of PPSWO's communication, Plaintiffs' Ex. F, speaks for itself.

105. In response to paragraph 105 of the Complaint, this paragraph contains vague allegations that the State denies for lack of knowledge at this stage of the litigation.

106. The State admits the allegations in paragraph 106.

107. In response to paragraph 107 of the Complaint, the State admits only that without ASF licenses, PPSWO and WMD cannot perform surgical abortions in the ASFs. The remaining allegations contain legal conclusions and characterizations of the same to which no response is required. To the extent that any further answer is required, the State denies any remaining allegations or characterizations of the same in this paragraph.

108. Paragraph 108 of the Complaint states legal conclusions, and characterizations of the same, to which no response is required at this state of the litigations. To the extent further response is required, the State denies the allegations or characterizations of the same in this paragraph.

109. Paragraph 109 of the Complaint states legal conclusions and characterizations of the same to which no response is required at this stage of the litigation. To the extent further response is required, the State denies the allegations or characterizations of the same in this paragraph.

110. The State denies the allegations in paragraph 110 of the Complaint.

111. Paragraph 111 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

112. The first sentence of paragraph 112 is a legal conclusion to which no response is required. The State lacks first-hand knowledge at this stage of the litigation to admit the factual



allegations therein, which contain alleged facts known only to third parties and generalizations, characterizations, or conclusions unsupported by more specific allegations. By way of further response, the State admits that this law is being challenged in *Preterm-Cleveland v. Yost*, Franklin C.P. No. 24 CV 002634 (Mar. 29, 2024).

113. Paragraph 113 of the Complaint states legal conclusions and characterizations of the same to which no response is required at this stage of the litigation. To the extent further response is required, the State denies the allegations.

114. Paragraph 114 of the Complaint states legal conclusions and characterizations of the same to which no response is required at this stage of the litigation. The allegations also contain factual assertions related to hypothetical future events and alleged outcomes to which no response is required. To the extent further response is required, the State denies the allegations.

115. Paragraph 114 of the Complaint states legal conclusions and characterizations of the same to which no response is required at this stage of the litigation. The allegations also contain factual assertions related to hypothetical future events and alleged outcomes to which no response is required. To the extent further response is required, the State denies the allegations.

116. In response to paragraph 116 of the Complaint, the State admits that the statistics are accurately reflected as published by the U.S. Census Bureau and the Ohio Health Department Report, which speak for themselves. In response to the remaining allegations in paragraph 116 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein.

117. In response to paragraph 117 of the Complaint, the Center for Reproductive Rights Report speaks for itself, but the State denies any characterizations or generalizations of the same.

## CLAIMS FOR RELIEF

### **COUNT I—The Right to Reproductive Freedom—WTA and Variance Requirements**

118. The State realleges and incorporates by reference all answers to preceding paragraphs as if fully written here.

119. Paragraph 119 of the Complaint states a legal conclusion to which no response is required at this stage of the litigation. By way of further response, Article I, Section 22(A)(5) of the Ohio Constitution speaks for itself.

120. Paragraph 120 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, Article I, Section 22(B) of the Ohio Constitution speaks for itself.

121. Paragraph 121 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

122. Paragraph 122 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

123. Paragraph 123 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

### **COUNT II—Substantive Due Process—WTA and Variance Requirements—Plaintiffs' Patients**

124. The State realleges and incorporates by reference all answers to preceding paragraphs as if fully written here.

125. Paragraph 125 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

126. Paragraph 126 of the Complaint states legal conclusions to which no response is

required at this stage of the litigation.

**COUNT III—Substantive Due Process—WTA and Variance Requirements-Plaintiffs**

127. The State realleges and incorporates by reference all answers to preceding paragraphs as if fully written here.

128. Paragraph 128 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

129. Paragraph 129 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

**COUNT IV—Procedural Due Process—Automatic Suspension Provision—Plaintiffs**

130. The State realleges and incorporates by reference all answers to preceding paragraphs as if fully written here.

131. Paragraph 131 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

**COUNT V—Declaratory Judgment**

132. The State realleges and incorporates by reference all answers to preceding paragraphs as if fully written here.

133. Paragraph 133 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

134. Paragraph 135 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, the State denies that Plaintiffs are entitled to declaratory relief.

135. In response to paragraph 135 of the Complaint, the State denies that Plaintiffs are entitled to declaratory relief specified therein.

## **REQUEST FOR RELIEF**

In response to Plaintiffs' Request for Relief, the State denies that it is entitled to maintain the existing preliminary injunction, a permanent injunction, declaratory relief, fees and costs, or any other relief specified therein.

### **FIRST DEFENSE**

Plaintiffs failed to state any claim upon which relief can be granted.

### **SECOND DEFENSE**

Plaintiffs lack standing.

### **THIRD DEFENSE**

Plaintiffs cannot assert the standing or claims of others.

### **FOURTH DEFENSE**

Plaintiffs have failed to join necessary parties.

### **FIFTH DEFENSE**

Neither Plaintiffs nor the persons they claim to represent have been deprived of any state or federal constitutional or statutory right.

### **SIXTH DEFENSE**

The challenged law does not violate any provision of the Ohio Constitution or the United States Constitution.

#### **SEVENTH DEFENSE**

Plaintiffs do not allege a cognizable injury.

#### **EIGHTH DEFENSE**

The challenged law is supported by sufficient state interests.

#### **NINTH DEFENSE**

The challenged law is sufficiently tailored to meet constitutional scrutiny.

#### **TENTH DEFENSE**

Plaintiffs are unable to establish the elements required for injunctive relief.

#### **ELEVENTH DEFENSE**

To the extent that Plaintiffs' claims for relief could be construed as claims for legal relief (money damages), those must be dismissed because such claims cannot be asserted against the State of Ohio outside of the Ohio Court of Claims.

#### **RESERVATION OF ADDITIONAL DEFENSES**

The State Defendants reserve the right to supplement their Answer with additional defenses, including affirmative defenses, as litigation in this matter proceeds.

Thus, having fully answered Plaintiffs' First Amended Complaint, the State requests that the Court dismiss Plaintiffs' Complaint, with prejudice, and that the State receive reasonable costs and fees in defending this suit, and all other relief the Court deems just and equitable.

Respectfully submitted,

DAVE YOST (0056290)  
ATTORNEY GENERAL OF OHIO

*/s/ Amanda L. Narog*

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*Counsel for Defendants Director Vanderhoff  
and ODH*

**CERTIFICATE OF SERVICE**

Pursuant to Civ.R. 5(B)(2)(f), I certify that, on May 29, 2024, a copy of the Answer was electronically filed and served via email upon the following:

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