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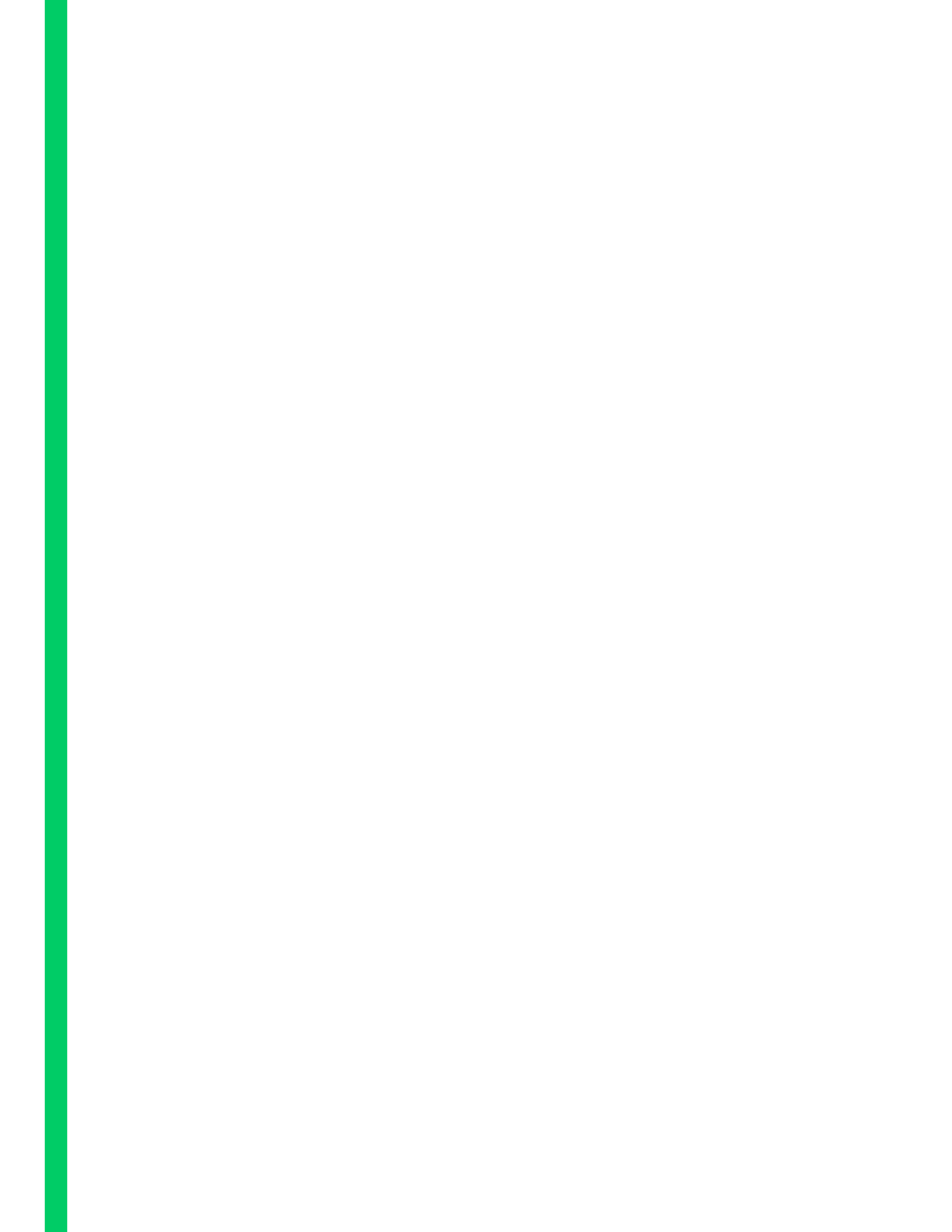
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STATEMENT REQUIRED BY IOWA R. APP. P. 6.906(4)(D)

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**STATEMENT OF INTERESTS OF *AMICI CURIAE* REQUIRED BY
IOWA R. APP. P. 6.906(4)(c)**

Amici Curiae represent the interests of leading medical and mental-health professionals dedicated to providing the proper healthcare and treatment for all individuals in need—across Iowa and all of the United States. *Amici* represent well-recognized organizations that promulgate the leading standards of care and clinical guidelines in their fields. *Amici* share a commitment to improving the physical and mental health of all Iowans and 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. *Amici* offer to explain that the exclusion of medically necessary transition-related surgeries from Iowa’s Medicaid coverage impinges upon medical and mental-health professionals’ ability to provide medically necessary care to

Amicus the American Medical Association (“AMA”) is the largest professional association of physicians, residents, and medical students in the

the AMA and the medical societies of each state and the District of Columbia. Its purpose is to represent the viewpoint of organized medicine in the courts.

Amicus the American College of Obstetricians and Gynecologists (ACOG) is a national organization of more than 60,000 women's health care physicians and medical professionals. ACOG's membership represents more than 90 percent of all board-certified obstetrician-gynecologists (ob-gyns) in the United States. As the premiere national medical specialty organization of women's health care physicians, ACOG supports the goals of expanding access to continuous and meaningful health insurance coverage and rejecting discriminatory practices that jeopardize patient care. ACOG is committed to improving the physical and mental health of all Americans and to informing and educating lawmakers, the judiciary, and the public through science regarding the public health impacts of laws and policies.

Amicus the American Psychiatric Association (APA) is a nonprofit organization representing over 38,800 physicians who specialize in the practice of psychiatry. APA members engage in research into and education about diagnosis and treatment of mental health and substance use disorders, and are front-line physicians treating patients who experience mental health and/or substance use disorders.

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 GLMA: Health Professionals Advancing LGBTQ Equality ("GLMA") is the largest and oldest association of LGBTQ healthcare professionals. GLMA's mission is to ensure equality in healthcare for LGBTQ individuals and healthcare professionals, using the medical and health expertise of GLMA members in public policy and advocacy, professional education, patient education and referrals, and the promotion of research. GLMA (formerly known as the Gay & Lesbian Medical Association) was founded in 1981 in part as a response to the call to advocate for policy and

services to address the growing health crisis that would become the HIV/AIDS epidemic. Since then, GLMA's mission has broadened to address the full range of health issues affecting LGBTQ people, and GLMA has become a leader in public policy advocacy related to LGBTQ health. To advance its mission, GLMA provides cultural competency courses for medical providers, including in transgender health.

Amicus Mental Health America ("MHA") is the nation's leading community-based nonprofit dedicated to addressing the needs of those living with mental illness and promoting the overall mental health of all. MHA is committed to the principle that people with mental health and substance use conditions are entitled to those healthcare and other services and legal protections which will enable them to maximize their abilities and be fully integrated into all aspects of life. More specifically, this includes the preservation of liberty and personal autonomy, presumption of competency, freedom from seclusion and restraints, protection of privacy, as well as specific consumer needs for employment, housing, benefits, consumer-driven mental health systems, self-help and peer support services, and ending discrimination. This also includes adherence to the Americans with Disabilities Act, the Individuals with Disabilities Education Act (IDEA), the Rehabilitation Services Act, the Fair Housing Act, and other legislation that

reproductive well-being of children and adolescents and the provision of unrestricted, unbiased, and evidence-based practice of PAG.

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.

SUMMARY OF ARGUMENT

Amici feel a responsibility to inform this Court about the medical community’s consensus regarding best practices when treating transgender individuals for gender dysphoria and providing gender-affirming care. *Amici*, as leading healthcare providers both within the State of Iowa 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 Medicaid plans for the medically appropriate and evidence-based treatments for gender dysphoria. *Amici* believe that this information will assist the Court by presenting a complete and accurate description of the medical conditions and treatments at issue in the pending case.

Transgender individuals have a gender identity that is incongruent with the sex they were assigned at birth. The healthcare community's understanding of what it means to be transgender has advanced greatly over the past century. It is now understood that being transgender implies no impairment in a person's judgment, stability, or general social or vocational capabilities.

According to a 2016 report, approximately 1.4 million adults identify as transgender in the United States and 7,400 in Iowa. Andrew R. Flores *et al.*, The Williams Institute, How Many Adults Identify as Transgender in the United States? 3 (June 2016), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Adults-US-Aug-2016.pdf>.

Many transgender individuals experience a condition called gender dysphoria, which is characterized by clinically significant psychological and

consensus among healthcare professionals regarding treatment for gender dysphoria is to assist the patient to live in accordance with the patient's gender identity, thus alleviating the distress or impairment. Treatment may include any or all of the following: counseling, social transition (such as use of a new name and pronouns, new clothes and grooming consonant with social expectations and norms associated with his or her identity), hormone therapy, and/or gender-affirming surgeries. Such treatment for gender dysphoria, tailored to the individual's own circumstances, is highly effective in reducing or eliminating the incongruence and associated distress between a person's gender identity and assigned sex at birth.

Barring coverage of gender-affirming care for individuals in Iowa who rely on Medicaid would effectively place such care out of reach for these Iowans. Lack of treatment, in turn, increases the rate of negative mental health outcomes, substance abuse, and suicide. Beyond exacerbating gender dysphoria and interfering with treatment, discrimination—including discrimination in health coverage—reinforces the stigma associated with

ARGUMENT

I. What It Means To Be Transgender And To Experience Gender Dysphoria.

All people have a “gender identity”—a “deeply felt, inherent sense” of their gender. Am. Psychol. Ass’n, *Guidelines for Psychological Practice with Transgender and Gender Nonconforming People*, 70 Am. Psychologist 832, 832 (2015), <https://www.apa.org/practice/guidelines/transgender.pdf> [hereinafter “Am. Psychol. Ass’n *Guidelines*”]; see also David A. Levine & Comm. on Adolescence, Am. Acad. Of Pediatrics, *Technical Report: Office-Based Care for Lesbian, Gay, Bisexual, Transgender, and Questioning Youth*, 132 Pediatrics e297, e298 (July 2013), <https://publications.aap.org/pediatrics/article/132/1/e297/31402/Office-Based-Care-for-Lesbian-Gay-Bisexual> [hereinafter “AAP Technical Report”]. Transgender individuals have a gender identity that is not aligned with the sex assigned to them at birth.¹ Transgender people differ from cisgender (*i.e.*, non-transgender) individuals, whose gender identity aligns with the sex they were assigned at birth. Am. Psychol. Ass’n *Guidelines, supra*, at 861. A transgender man is someone who is assigned the sex of female at birth, but has a male

¹ Although most people have a gender identity that is male or female, some individuals have a gender identity that is “a blend of male or female[,] or an alternative gender.” Am. Psychol. Ass’n *Guidelines, supra*, at 834.

gender identity. A transgender woman is an individual who is assigned the sex

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>.

A. Definitions of “Gender Identity” and “Gender Expression”

“[G]ender identity” refers to a “person’s internal sense” of being male, female, or another gender. Am. Psychol. Ass’n, *Answers to Your Questions About Transgender People, Gender Identity, and Gender Expression* 1 (2014), <http://www.apa.org/topics/lgbt/transgender.pdf> [hereinafter “Am. Psychol. Ass’n *Answers*”]. Every person has a gender identity. Caitlin Ryan, Family Acceptance Project, San Francisco State University, *Supportive Families, Healthy Children: Helping Families with Lesbian, Gay, Bisexual, & Transgender Children* 17 (2009), https://familyproject.sfsu.edu/sites/default/files/FAP_English%20Booklet_pst.pdf. A person’s gender identity cannot be altered by external intervention. Colt Meier & Julie Harris, Am. Psychol. Ass’n, *Fact Sheet: Gender Diversity and Transgender Identity in Children* 1, <http://www.apadivisions.org/division-44/resources/advocacy/transgender-children.pdf>; *see also* Jason Rafferty, Am. Acad. Of Pediatrics, *Gender Identity Development in Children*, HealthyChildren.org (Sept. 18,

20of%20Care%20V7%20-%202011%20WPATH.pdf [hereinafter “WPATH *Standards of Care*”]. In contrast, a transgender person “consistently, persistently, and insistentlly” identifies as a gender different from the sex they were assigned at birth. See Meier & Harris, *supra*, at 1; see also Cicero & Wesp, *supra*, at 5-6.

While psychologists, psychiatrists, and neuroscientists have not pinpointed why some people are transgender, research suggests there may be biological influences, including, for example, in utero hormone exposure. See Jason Rafferty, Am. Acad. Of Pediatrics, *Gender Diverse & Transgender Children*, HealthyChildren.org (June 7, 2021), <https://healthychildren.org/English/ages-stages/gradeschool/Pages/Gender-Non-Conforming-Transgender-Children.aspx>; Peggy T. Cohen-Kettenis *et al.*, *The Treatment of Adolescent Transsexuals: Changing Insights*, 5 J. Sexual Med. 1892, 1895 (2008); Arianne B. Dessens *et al.*, *Gender Dysphoria and Gender Change in Chromosomal Females with Congenital Adrenal Hyperplasia*

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Child: A Handbook for Families and Professionals 202 (2008) (discussing risk of self-mutilation). Like other minority groups, transgender individuals also are frequently subjected to prejudice and discrimination in multiple areas of their lives (*e.g.*, school, employment, housing, healthcare), which exacerbates these negative health outcomes and makes access to appropriate medical care all the more important. Michael L. Hendricks & Rylan J. Testa, *A Conceptual Framework for Clinical Work with Transgender and Gender Nonconforming Clients: An Adaptation of the Minority Stress Model*

generally accepted treatment protocols for gender dysphoria³ have aimed at alleviating the distress associated with the incongruence between gender identity and birth-assigned sex. Am. Med. Ass’n, Comm. on Human Sexuality, *Human Sexuality* 38 (1972). These protocols are laid out in the *Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People (Version 7)* developed by the World Professional Association for Transgender Health (“WPATH”). WPATH *Standards of Care, supra*. The major medical groups in the United States recognize that the WPATH Standards of Care represent the consensus of the medical and mental health community regarding the appropriate treatment for gender dysphoria. See Am. Med. Ass’n, *Health Insurance Coverage for Gender-Affirming Care of Transgender Patients* (2019), <https://www.ama-assn.org/system/files/2019-03/transgender-coverage-issue-brief.pdf>; AAP Technical Report, *supra*, at e307-08. /Tc 0.002 T((/Tc wex [1t :8..75 23n)8298 (dee829 -)Tj 0.,6.2 0 Tc 0 j 0.004 T

The recommended treatment for gender dysphoria includes assessment, counseling, and, as appropriate, social transition, hormone therapy, and surgical interventions to bring the body into alignment with one's gender identity.⁴ Am. Psychol. Ass'n *Task Force Report*, *supra*, at 32-39; William Byne *et al.*, Am. Psychiatric Ass'n Workgroup on Treatment of Gender Dysphoria, *Assessment and Treatment of Gender Dysphoria and Gender Variant Patients: A Primer for Psychiatrists*, 175 Am. J. Psychiatry 1046 (2018); AAP Technical Report, *supra*, at e307-09. However, each patient

⁴ Some clinicians still offer versions of “reparative” or “conversion” therapy based on the idea that being transgender is a mental disorder. However, all leading medical professional organizations that have considered the issue have explicitly rejected such treatments, considering it ineffective, harmful to patients, and contrary to medical ethics. *See* Am. Med. Ass'n, Issue Brief: LGBTQ Change Efforts (2019), <https://www.ama-assn.org/system/files/2019-12/conversion-therapy-issue-brief.pdf>; Am. Med. Ass'n, Policy Number H-160.991, Health Care Needs of Lesbian, Gay, Bisexual, Transgender and Queer Populations (2018), <https://policysearch.ama-assn.org/policyfinder/detail/Health%20Care%20Needs%20of%20Lesbian,%20Gay,%20Bisexual,%20Transgender%20and%20Queer%20Populations%20H-160.991?uri=%2FAMADoc%2FHOD.xml-0-805.xml>; Am. Sch. Counselor Ass'n, *The School Counselor and LGBTQ Youth* (2016), <https://www.schoolcounselor.org/Standards-Positions/Position-Statements/ASCA-Position-Statements/The-School-Counselor-and-LGBTQ-Youth>; Hilary Daniel *et al.*, *Lesbian, Gay, Bisexual, and Transgender Health Disparities: Executive Summary of a Policy Position Paper from the American College of Physicians*, 163 *Annals Internal Med.* 135, 136 (2015); AAP Technical Report, *supra*, at e307-08; Am. Psychoanalytic Ass'n, *Position Statement on Attempts to Change Sexual Orientation, Gender Identity, or Gender Expression* (2012), <http://www.apsa.org/content/2012-position-statement-attempts-change-sexual-orientation-gender-identity-or-gender>.

requires an individualized treatment plan to account for their specific needs. Am. Psychol. Ass'n *Task Force Report, supra*, at 32. The task of deciding on an individualized treatment plan should be left to the patient and their medical professionals—not an outside organization such as an insurance provider.

For children experiencing the onset of puberty, treatment may include medication to prevent further progression of puberty (“pubert[y] blockers”). Wylie C. Hembree *et al.*, *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline*, 102 *J. Clinical Endocrinology & Metabolism* 3869, 3880-83 (2017), <https://academic.oup.com/jcem/article/102/11/3869/4157558>. This reversible treatment allows children with gender dysphoria to delay the development of secondary sex characteristics that do not match their gender identity, giving them additional time to decide whether hormone treatment to feminize or masculinize the body is appropriate. *Id.* at 3880; Am. Psychol. Ass'n *Guidelines, supra*, at 842; WPATH *Standards of Care, supra*, at 18-20.

For some transgender people, hormone treatment which helps develop secondary sex characteristics consistent with their gender identity may be medically necessary to treat their gender dysphoria. *See* Am. Med. Ass'n, Policy H-185.950, *supra*; Am. Psychol. Ass'n *Guidelines, supra*, at 861, 862; Ctr. of Excellence for Transgender Health, University of California, San

Francisco, Guidelines for the Primary and Gender-Affirming Care of Transgender and Gender Nonbinary People 23 (Madeline B. Deutsch ed., 2d ed. June 17, 2016), <https://transcare.ucsf.edu/sites/transcare.ucsf.edu/files/Transgender-PGACG-6-17-16.pdf>; WPATH *Standards of Care, supra*, at 33-34, 54. The Endocrine Society, the oldest and largest global professional membership organization representing the field of endocrinology (the study of hormones), considers hormone therapy to be an important component of treatment for gender dysphoria. Hembree *et al., supra*, at 3869-70; *see also* Alessandra D. Fisher *et al., Cross-Sex Hormone Treatment and Psychobiological Changes in Transsexual Persons: Two-Year Follow-Up Data*, 101 J. Clinical Endocrinology & Metabolism 4260 (2016). A transgender woman undergoing hormone therapy, for example, will often have hormone levels within the same range as cisgender women; and just as they do in any other woman, these hormones will affect most of her major body systems. Hembree *et al., supra*, at 3885-88; *see also* Brill & Pepper, *supra*, at 217. Hormone therapy physically impacts the patient's secondary sex characteristics. For instance, women will generally experience breast growth, altered distribution of body fat, softening of the skin, and decreased muscle mass; while men generally develop increased muscle mass, increased body and facial hair, male-pattern baldness (for some), and a deepening of the

voice. Hembree *et al.*, *supra*, at 3886-89. Hormones have been clinically proven to be an effective treatment with a low rate of complications. *See* Henk Asscheman *et al.*, *A Long-Term Follow-*

Psychol. & Human Sexuality 131, 150 (1993). The established protocols for assessing and treating gender dysphoria specifically recognize the medical necessity and therapeutic importance of surgery for certain individuals: “While many transsexual, transgender, and gender-nonconforming individuals find comfort with their gender identity, role, and expression without surgery, for many others surgery is essential and medically necessary to alleviate their gender dysphoria.” WPATH *Standards of Care*, *supra*, at 54.⁵ However, surgery is not recommended for many transgender people and needs to be determined on a case-by-case basis, and the guidelines do not prescribe surgery for children or adolescents.

Surgical procedures might include chest reconstruction surgery for transgender men, breast augmentation for transgender women, or genital surgeries, including removal of the testicles, the primary source of testosterone production, in women who are transgender. Hembree *et al.*, *supra*, at 3893-95; *see also* WPATH *Standards of Care*, *supra*, at 57-58.

⁵ The legal issue of whether gender affirming surgery can be medically necessary is not at issue in the present case. This Court has already recognized that gender affirming surgery can be medically necessary for at least some people experiencing gender dysphoria. *See Good v. Iowa Dept. of Human Servs.*, 924 N.W.2d 853, 862 (Iowa 2019) (holding that “the rule expressly excludes Iowa Medicaid for gender-affirming surgery specifically because this surgery treats gender dysphoria for transgender individuals,” not because the surgery is not medically necessary).

Ultimately—regardless of the particular treatments required for a specific individual and when such treatment begins—the goal is for individuals with gender dysphoria to experience “identity integration,” where “being transgender is no longer the most important signifier of one’s identity” and the individual can reepts nr)8.3 (e)3.6 (r)3.6 (er)3.7 (e)6n 6(la)32.1 (ti8.5 (it)8.2 (n)

articles/PMC3953767/. By delaying care because of lack of access or denial of coverage, transgender individuals face not just the potential aggravation of their gender dysphoria, but an onset of other dangerous health conditions. According to a 2015 study by the UCLA School of Law's Williams Institute, failing to receive surgical care where it was needed led to a 16.6% increase in prevalence of suicidal thoughts and a 3.4% higher rate of actual suicide attempts in the preceding year. Jody L. Herman *et al.*, The Williams Institute, Suicide Thoughts and Attempts Among Transgender Adults Findings From the 2015 U.S. Transgender Study 16-17 (Sept. 2019). The study also showed that failure to receive hormones similarly increased the prevalence of suicidal thoughts by 15% and increased suicide attempts by 2.4%. *Id.* Overall, where a transgender individual "wanted, and subsequently received[] hormone therapy and/or surgical care[, they] had substantially lower prevalence of ... suicide [sic] thoughts and attempts than those who wanted hormone therapy and surgical care but had not received them [in the past year]." *Id.* One study in particular found that "a review of quality of life after hormone therapy and transition indicated that the majority (80%) showed improvement, including more stable relationships, better psychosocial adjustment, overall happiness and contentment. Perceived financial, professional, and employment status

Life of Transgender and Gender Nonconforming People, 23 *Current Op. in Endocrinology, Diabetes & Obesity* 188, 192 (2016). Other recent studies have also shown “lower depressive symptoms in gender dysphoria individuals receiving hormonal treatment. . . . [and] report[ed] higher levels of self-esteem due to the hormonal treatment intervention.” Rosalia Costa & Marco Colizzi, *The Effect of Cross-Sex Hormonal Treatment on Gender Dysphoria Individuals’ Mental Health: A Systematic Review*, 12 *Neuropsychiatric Disease & Treatment* 1953, 1962 (2016). Hormone therapy leads to lower rates of anxiety, higher quality of life, fewer problems with socialization, and fewer functional impairments. *Id.* at 1964-65.

affordability even with insurance, including issues of what the insurer deems “medically necessary,” policies like the Iowa Medicaid plan at issue, which create blanket bans, *ensure* that medical treatment remains outside the reach of many who need it. To be eligible for Iowa Medicaid, an individual Iowan’s annual income must not exceed \$18,075—or \$24,353 for a household of two. Benefits.gov, *Iowa Medicaid Program*, <https://www.benefits.gov/benefit/1388> (last visited Apr. 21, 2022). The policy in place would therefore force those Iowans who can least afford it to pay out of pocket for medically necessary care, or else seek private insurance coverage that is not accessible to those using Medicaid. But as a practical matter, the result for these Iowans will be an inability to access medically necessary interventions, likely leading to worse healthcare outcomes. *See generally*, ACOG Committee Opinion: Health Care for Transgender and Gender Diverse Individuals, <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2021/03/health-care-for-transgender-and-gender-diverse-individuals>.

CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa R. App. P. 6.903(1)(d) and 6.903(1)(g)(1) or (2) because this brief has been prepared in a proportionally spaced typeface using Times