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IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT  
IN AND FOR TETON COUNTY, WYOMING

DANIELLE JOHNSON; KATHLEEN  
DOW; GIOVANNINA ANTHONY,  
M.D.; RENE R. HINKLE, M.D.;  
CHELSEA'S FUND; and CIRCLE OF  
HOPE HEALTHCARE d/b/a Wellspring  
Health Access,

Plaintiffs,

v.

Civil Action No. 18853

STATE OF WYOMING; MARK  
GORDON, Governor of Wyoming;  
BRIDGET HILL, Attorney General for  
the State of Wyoming; MATTHEW  
CARR, Sheriff Teton County, Wyoming;  
and MICHELLE WEBER, Chief of  
Police, Town of Jackson, Wyoming,

Defendants.

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Motion for Leave of Court to File Brief of *Amici Curiae*  
in Support of State Defendants

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Through undersigned counsel, relying by analogy on Wyoming Rule of Appellate Procedure 7.12, the proposed *amici curiae* identified below hereby seek this

Court's leave to file the accompanying brief in support of the State Defendants and opposing the Plaintiffs' motion for summary judgment.

The undersigned emailed counsel for the parties about this motion. The State Defendants and the Sheriff take no position on this motion. The Chief of Police takes no position at this time but reserves the right to do so for any and all future filings at appropriate times. The Plaintiffs will respond to this motion once it is filed and served.

### **I. Identification of *Amici Curiae***

The *amici curiae* are Wyoming physicians. Timothy P. Hallinan, MD is a retired family physician who delivered approximately 500 babies during his career. David M. Lind, MD, FACOG, is a physician and Fellow of the American College of Obstetricians and Gynecologists who retired after 33 years of practice in Cheyenne. Samantha Michelena, MD, FACOG, is an active OB/GYN at a Cheyenne-based practice. Michael R. Nelson, DO, FACOOG, is an active OB/GYN at a Cheyenne-based practice.

### **II. Justification for Proposed Brief**

#### **a. Interest in the Issues**

In the appellate context, a motion to file an *amicus* brief must “state . . . the movant's interest in the issues raised in the case.” WYO. R. APP. P. 7.12(b)(1). Here, without limitation, the proposed *amici* are interested for the following reasons:

- (1) This case involves the definition of “health care” in Wyoming, which is of professional interest to the proposed *amici*

- (2) This case involves the extent to which abortion may be legally prohibited in Wyoming, which is of professional interest to the proposed *amici*; and
- (3) The Plaintiffs have stated the position that physicians have a legal and ethical duty to perform abortions, which is of professional interest to the proposed *amici*.

**b. Reasons an Amicus Brief is Appropriate and Desirable**

In the appellate context, a motion to file an *amicus* brief must “state . . . the reasons an amicus brief is appropriate and desirable.” WYO. R. APP. P. 7.12(b)(2). Here, the State Defendants are ably represented and have filed a comprehensive memorandum defending the statutes in question. However, while the Plaintiffs have submitted and relied on declarations from physicians who oppose the statutes, the State has taken the position that this Court should resolve the pertinent issues as matters of law.

The proposed *amici* agree this Court should resolve the case in the State’s favor as a matter of law. However, if this Court should choose to accept and consider the Plaintiffs’ proposed expert declarations and other arguments based on physicians’ perspectives, this Court also should have perspective from physicians who oppose abortion on demand.

The proposed *amicus* brief limits its discussion to the Life is a Human Right Act (“the Act”). In the brief, the *amici* explain how the Plaintiffs are seeking to impose a radical new one-patient paradigm of obstetric care, replacing the two-patient paradigm that has existed in Wyoming for more than a century. The *amici* explain

how the Plaintiffs’ paradigm is inconsistent with clinical reality and would require obstetricians in Wyoming to perform (or at least facilitate) abortion on demand in every circumstance. The *amici* further explain how the Act generally reflects the established two-patient paradigm of obstetric care and is clear and workable for physicians. Moreover, the *amici* explain how the act allows Wyoming physicians—relying on their training, experience, and expert guidance—to offer life-preserving treatments for dangerous pregnancy complications, while offering many unborn babies a chance to survive.

**c. Adequacy of Representation**

In the appellate context, a motion to file an *amicus* brief must “state . . . the view of the movant with respect to whether a party is not represented competently.” WYO. R. APP. P. 7.12(b)(3). As noted above, the State Defendants are competently represented. However, as a strategic choice, the State has chosen not to counter the Plaintiffs’ proposed expert declarations with declarations by physicians who support the Act. The proposed *amicus* brief seeks to offer some perspective from such physicians.

**d. Other Cases**

In the appellate context, a motion to file an *amicus* brief must “state . . . the interest of the amicus in some other case that may be affected by the decision in the case before the court.” WYO. R. APP. P. 7.12(b)(3). To the undersigned’s knowledge, none of the proposed *amici* has an interest in another case that would be affected by this Court’s decision here, but the undersigned will update this Court as appropriate.

**e. Information or Perspective**

In the appellate context, a motion to file an *amicus* brief must “state . . . any unique information or perspective the amicus has that can be of assistance to the court beyond that the lawyers for both parties can provide.” WYO. R. APP. P. 7.12(b)(5). Here, as discussed above, the *amici* are Wyoming physicians who support the Act and would offer additional perspective, beyond what counsel for the State Defendants has provided.

**III. Conclusion**

The proposed *amici* respectfully move to file the accompanying brief for this Court’s consideration in its summary judgment analysis. Counsel for the proposed *amici* does not seek to participate in oral argument. *Cf.* WYO. R. APP. P. 7.12(h).

DATED this 16th day of October, 2023.

Respectfully submitted,

*/s/ Thomas Szott*

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<sup>1</sup> I hereby attest that I have on file an original signature corresponding to any signature indicated by a conformed signature /s/ within the electronically filed version of this document.

## Certificate of Service

I hereby certify that, on the 16th day of October, 2023, a copy of the foregoing was or will be served by email and U.S. Mail (and eService if applicable) as follows, consistent with WYO. R. CIV. P. 5(b):

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