

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

STATE OF FLORIDA; FLORIDA AGENCY
FOR HEALTH CARE ADMINISTRATION;
FLORIDA DEPARTMENT OF
MANAGEMENT SERVICES; CATHOLIC
MEDICAL ASSOCIATION, on behalf of its
current and future members,

Plaintiffs,

No. 8:24-cv-1080-WFJ-TGW

DEPARTMENT OF HEALTH AND
HUMAN SERVICES; XAVIER BECERRA,
in his official capacity as Secretary of the
Department of Health and Human Services;
MELANIE FONTES RAINER, in her official
capacity as the Director of the Office for Civil
Rights; CENTERS FOR MEDICARE AND
MEDICAID SERVICES; CHIQUITA
BROOKS-LASURE, in her official capacity as
Administrator of the Centers for Medicare and
Medicaid Services,

Defendants.

COUNTERSTATEMENT OF RELATED CASES

***Dekker v. Weida*, No. 4:22-cv-00325-RH-MAF (N.D. Fla.), appeal pending, No. 23-12155 (11th Cir.).** In *Dekker*, three plaintiffs challenged Florida’s Medicaid rule, Fla. Admin. Code r. 59G-1.050(7), and a Florida law limiting payments for “sex-reassignment prescriptions or procedures,” Fla. Stat. § 286.311. They obtained an injunction and declaratory relief stating that the rules are unlawful “to the extent they categorically ban Medicaid payment for puberty blockers and cross-sex hormones for the treatment of gender dysphoria.” *Dekker v. Weida*, 679 F. Supp. 3d 1271, 1299 (N.D. Fla. 2023). *Dekker* is not a class action. The law remains in effect. And although Florida is not enforcing § 286.311 for puberty blockers and cross-sex hormones, Florida’s Agency for Healthcare Administration (“AHCA”) continues to enforce 59G-1.050(7) for those same interventions because the rule is not a categorical ban—a waiver process is available. Dkt. 32, Ex. 7. Notably, the district court has noted that AHCA is fining plans that don’t follow the rule, and yet declined to extend the judgment to limit Florida’s enforcement, noting intervening precedent—*Eknes-Tucker*—may even counsel in favor of staying the judgment while the appeal is pending. Order at 7, <https://tinyurl.com/mprt4kau>.

***Doe v. Ladapo*, No. 4:23-cv-00114-RH-MAF (N.D. Fla.).** Recently, the district court (the same that decided *Dekker*) entered a final judgment in *Doe v. Ladapo*, 2024 WL 2947123, at *39–41 (N.D. Fla. June 11, 2024). Unlike *Dekker*, *Ladapo* is a class action. The final judgment enjoins Florida’s enforcement of its board of medicine rules and its laws regulating health care providers, but only to the extent the rules limit

puberty blockers and cross-sex hormones in individuals who have reached at least early puberty. It does not prohibit enforcing the rules to restrict other procedures, such as mastectomies for minors, nor does the judgment limit Florida’s enforcement of the public spending rules at issue in *Dekker*. *See id.* Florida disagrees with *Ladapo*, and will appeal it.

***Neese v. Becerra*, No. 2:21-cv-00163-Z (N.D. Tex.), appeal pending, no. 23-10078 (5th Cir.).** *Neese v. Becerra* challenged HHS’s earlier *Bostock* notification, not these Rules. 640 F. Supp. 3d 668 (N.D. Tex. 2022); *see also* Compl. ¶ 59. The class action involved two physicians as named representatives, and the court issued declaratory relief against the notification. Final Judgment, <https://perma.cc/NC23-3Q5U/>. Florida, AHCA, Florida’s Department of Management Services (“DMS”), and Florida’s Agency for Persons with Disabilities (“APD”) are not class members, because they are not medical providers.

***American College of Pediatricians, Catholic Medical Association, and Jeanie Dassow, M.D. v. Becerra, et al.*, No. 1:21-cv-00195-TRM-SKL (E.D. Tenn.), appeal pending, No. 23-5053 (6th Cir.).** In *American College of Pediatricians (ACP)*, several plaintiffs including the Catholic Medical Association challenged several earlier HHS actions, including HHS’s 2016 Section 1557 Rule. The district court concluded that plaintiffs lacked standing. 2022 WL 17084365, at *12–18 (E.D. Tenn. Nov. 18, 2022). Plaintiffs appealed, and following oral argument, the Sixth Circuit panel requested supplemental briefing on whether HHS’s issuance of the 2024 Rules moots Plaintiffs’

claims. No. 23-5053, ECF 42. Although their reasoning differed, both plaintiffs and HHS agreed that the claims are moot. *See* No. 23-5053, ECF 43, at 6–10 (plaintiffs) (“With the issuance of the 2024 Rule, that complicated amalgamation of agency actions, court decisions, and official statements that ... Appellants sued to enjoin has been rendered inoperative by a single, comprehensive new rule”); ECF 44, at 10–17 (HHS) (“the Final Rule confirms that plaintiffs’ identified individual members do not face a credible threat of enforcement”). As of June 18, 2024, the appeal remains pending.

***McComb Children’s Clinic, LTD. v. Becerra, et al.*, No. 5:24-cv-00048-KS-LGI (S.D. Miss.); *Catholic Benefits Association, et al. v. Becerra, et al.*, No. 3:23-cv-203-PDW-ARS (D.N.D.); *Tennessee, et al. v. Becerra, et al.*, No. 1:24-cv-00161-LG-BWR (S.D. Miss.); and *Texas, et al. v. Becerra, et al.*, No. 6:24-cv-00211-JCB (E.D. Tex.).** In these four cases, four different sets of plaintiffs challenge HHS’s 2024 Rules in three different districts, bringing a variety of claims. As of June 18, 2024, plaintiffs in two of the four suits had moved for preliminary relief. *See McComb Children’s Clinic*, No. 5:24-cv-00048-KS-LGI, ECF 6 (filed June 3, 2024) (reply due June 26, 2024, *see* ECF 12); *Tennessee*, No. 1:24-cv-00161-LG-BWR, ECF 12 (filed June 13, 2024) (reply due July 1, 2024, *see* ECF 23).

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CERTIFICATE OF SERVICE

I hereby certify that on June 18, 2024, a true and correct copy of the foregoing was filed with the Court's CM/ECF system, which will provide service to all parties who have registered with CM/ECF and filed an appearance in this action. I also sent a copy by email to the following U.S. Department of Justice attorney assigned to this matter:

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/s/ James R. Conde
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