

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

ST. JOSEPH REGIONAL HEALTH	:	
NETWORK,	:	
	:	
Petitioner	:	
	:	
	:	
v.	:	
	:	
	:	
COMMONWEALTH OF PENNSYLVANIA,	:	
PENNSYLVANIA HUMAN RELATIONS	:	NO. _____ M.D. 2025
COMMISSION,	:	
	:	
Respondent.	:	
	:	

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within thirty (30) days after this Petition and Notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

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NETWORK,	:	
Petitioner	:	NO. _____ M.D. 2025
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COMMONWEALTH OF PENNSYLVANIA,	:	
PENNSYLVANIA HUMAN RELATIONS	:	
COMMISSION,	:	
Respondent.	:	

PETITION FOR REVIEW IN THE NATURE OF A COMPLAINT

Petitioner St. Joseph Regional Health Network (“SJRHN” or “Petitioner”) by and through its counsel, Buchanan Ingersoll & Rooney PC, hereby files this Petition for Review in the Nature of a Complaint for Declaratory Judgment and Injunctive Relief against the Commonwealth of Pennsylvania, Pennsylvania Human Relations

Commission (the “PHRC” or “Respondent”). In support of this Petition for Review,

Petitioner avers as follows:

INTRODUCTION

This action filed in the Court’s original jurisdiction challenges the PHRC’s implementation of regulations revising Title 16 – Community Affairs, Part II – Governor’s Office, Subpart A – Human Relations Commission, Chapter 41 – Preliminary Provisions (the “PHRC regulations”) (16 Pa. Code. §§ 41.201 – 41.207) as well as the PHRC’s construction of the PHRC regulations.

Petitioner seeks review of the PHRC regulations on two (2) primary grounds:

- 1) they constitute an unconstitutional exercise of lawmaking power by an administrative agency, exceeding the scope of the PHRC’s statutory authority and violating the Non-Delegation Doctrine, Article II, Section 1 of the Pennsylvania Constitution (Pa. Const., art. II, § 1); Article III, Section 1 of the Pennsylvania Constitution (Pa. Const., art. III, § 1); and Article III, Section 6 of the Pennsylvania Constitution (Pa. Const., art. III, § 6); and
- 2) they substantially burden Petitioner’s free exercise of religion in violation of the Pennsylvania Religious Freedom Protection Act, 71 P.S. §§ 2401 et seq. (“RFPA”). The PHRC further violated and continues to violate the RFPA by failing to construe the PHRC regulations as to avoid the imposition of substantial burdens upon Petitioner’s free exercise of religion without compelling justification. *See* 71 P.S. § 2402.

Petitioner now files this action seeking declaratory and injunctive relief, including a declaration that the PHRC regulations are unlawful and unconstitutional,

and an order enjoining their enforcement. Alternatively, Petitioner respectfully requests that this Honorable Court compel the PHRC to construe the PHRC regulations as inapplicable to Petitioner’s policy that technological interventions on the human body that do not aim to repair some defect in the body or sacrifice a part of the body for the sake of the whole shall not be performed at SJRHN, a Catholic hospital exercising its religious rights.

As it relates to a pending PHRC proceeding which relies on the applicability of the PHRC regulations, captioned *E.S.¹ v. SJRHN et al.*, PHRC Case No. 202401365 (“E.S.’s Complaint”), Petitioner respectfully requests this Honorable Court to enjoin the PHRC from exercising subject matter jurisdiction over E.S.’s Complaint as it is a dispute involving a matter of purely ecclesiastical concern, and/or to enjoin the PHRC from relying on the PHRC regulations during its investigation into E.S.’s Complaint.

JURISDICTIONAL STATEMENT

1. This Honorable Court has original jurisdiction over this Petition for Review pursuant to 42 Pa. C.S. § 761(a)(1).
2. “[T]he propriety of invoking the original equitable jurisdiction of the Commonwealth Court in a case seeking preenforcement review of a substantial

¹ Petitioner utilizes the PHRC Complainant’s initials rather than full name to protect the privacy of the Complainant and will likewise redact the full name of the Complainant on any attached materials.

challenge to the validity of regulations promulgated by an administrative agency is clear.” *Arsenal Coal Co. v. Commonwealth, Dep’t of Env’t Res.*, 477 A.2d 1333, 1338 (Pa. 1984).

3. This Honorable Court may review Petitioner’s claims under the RFPA because Petitioner asserted these claims and defenses as a counterclaim in *E.S. v. SJRHN et al.*, pending with the PHRC. *See* E.S.’s Complaint and Petitioner’s Answer with New Matter to E.S.’s Complaint, attached hereto as **Exhibit A**, and containing redactions to protect the privacy of E.S. and other third parties.

THE PARTIES

4. Petitioner is a Pennsylvania nonprofit corporation that operates a Catholic acute care hospital located at 2500 Bernville Road, Reading, Pennsylvania 19605, and has a registered business address at 100 Crystal A Drive MC CA210, Hershey, Pennsylvania 17033.

5. Petitioner is recognized by the Roman Catholic Diocese of Allentown (the “Diocese”) as a Catholic hospital and operates consistent with the moral, ethical, sacramental and social teachings of the Roman Catholic Church.

6. Petitioner holds a sincerely held religious belief that God created humans as male and female.

7. Petitioner also holds a sincerely held religious belief that technological interventions on the human body that do not aim to repair some defect in the body

or sacrifice a part of the body for the sake of the whole—including gender-affirming procedures²—should not be performed on patients.

8. Respondent the PHRC is an independent agency of the Commonwealth of Pennsylvania, organized and existing pursuant to the Pennsylvania Human Relations Act, 43 P.S. § 951, et seq. (“PHRA”), with an office located at 333 Market Street, 8th Floor, Harrisburg, Pennsylvania 17101.

GENERAL STATEMENT OF MATERIAL FACTS

9. The PHRA guarantees individuals the right to obtain all accommodations, advantages, facilities, and privileges of any public accommodation without discrimination because of sex. 43 P.S. § 953.

10. A “public accommodation, resort or amusement” includes clinics and hospitals. 43 P.S. § 954.

11. On or about August 16, 2023, Respondent issued the PHRC regulations, 16 Pa. Code §§ 41.201 – 41.207, which define “sex” as used in the PHRA and the Pennsylvania Fair Educational Opportunities Act (“PFEAO”), as inclusive of “gender, including a person’s gender identity or gender expression.” 16 Pa. Code § 41.206.

² Petitioner utilizes the term “gender-affirming procedure” throughout this Petition as this is the term utilized by E.S. for the procedure that is the subject of E.S.’s Complaint.

12. The PHRC regulations further define “gender identity or expression” as “[h]aving or being perceived as having a gender-related identity, appearance, expression or behavior, which may or may not be stereotypically associated with the person’s sex assigned at birth. Gender identity or expression may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is part of a person’s core identity.” 16 Pa. Code § 41.204.

13. The PHRC regulations purport to “ensure that all unlawful discriminatory practices proscribed by the PHRA ... are interpreted and applied consistently ... also ensures that all complaints filed with the PHRC are investigated consistent with the rules outlined in this subchapter.” 16 Pa. Code § 41.201.

14. Prior to the issuance of the PHRC regulations, the PHRA did not contain a definition of “sex” for purposes of the prohibition of sex discrimination, nor did the General Assembly explicitly grant the PHRC the authority to promulgate a regulation including such a broad and expansive definition.

15. Even after the issuance of the PHRC regulations, the Pennsylvania Supreme Court clearly defined “sex” as “either the male or female division of a species ...” for purposes of the Equal Rights Amendment to the Pennsylvania Constitution, Pa. Const. art. I, § 28. *Allegheny Reprod. Health Ctr. v. Pa. Dep’t of Hum. Servs.*, 309 A.3d 808, 868-869 (Pa. 2024).

16. The Pennsylvania Supreme Court further explained: “There is no reason to conclude, based on the text of Section 28, that there was an intention to give a different meaning to sex than the meaning given to it in the PHRA that preceded it.” *Allegheny*, 309 A.3d at 876.

17. The PHRA affords the PHRC the power to “adopt, promulgate, amend and rescind rules and regulations to effectuate the policies and provisions of [the PHRA].” 43 P.S. § 957(d).

18. However, Article II, Section 1 of the Pennsylvania Constitution provides:

The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.

Pa. Const., art. II, § 1.

19. The non-delegation doctrine, derived from Article II, Section 1 of the Pennsylvania Constitution, “requires that the basic policy choices involved in ‘legislative power’ actually be made by the [l]egislature as constitutionally mandated.” *City of Lancaster v. Pa. Pub. Util. Comm’n*, 313 A.3d 1020, 1027-1028 (Pa. 2024).

20. The Pennsylvania General Assembly has not delegated any authority to the PHRC to amend the PHRA to include a new definition of “sex;” nor has it

delegated any authority to the PHRC to amend and expand the definition of “sex” for purposes of Pennsylvania statutes.

21. Article III, Section 1 of the Pennsylvania Constitution provides:

No law shall be passed except by bill, and no bill shall be so altered or amended, on its passage through either House, as to change its original purpose.

Pa. Const., art. III, § 1.

22. The PHRC regulations were not passed by bill through the Pennsylvania General Assembly.

23. Article III, Section 6 of the Pennsylvania Constitution provides:

No law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only, but so much thereof as is revived, amended, extended or conferred shall be re-enacted and published at length.

Pa. Const., art. III, § 6.

24. The PHRC regulations amend the PHRA.

25. The Pennsylvania Religious Freedom Protection Act (“RFPA”) provides, in relevant part:

- (a) General Rule.—Except as provided in subsection (b), an agency shall not substantially burden a person’s free exercise of religion, including any burden which results from a rule of general applicability.
- (b) Exceptions.—An agency may substantially burden a person’s free exercise of religion if the agency proves, by a preponderance of the evidence, that the burden is all of the following:

- (1) In furtherance of a compelling interest of the agency
- (2) The least restrictive means of furthering the compelling interest.

71 P.S. § 2404.

26. The definition of “person” under RFPA includes an individual or a church, association of churches or other religious order, body or institution which qualifies for exemption from taxation under section 501(c)(3) or (d) of the Internal Revenue Code of 1986 (26 U.S.C. § 501). 71 P.S. § 2403.

27. Petitioner qualifies for exemption from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and operates consistent with the moral, ethical, sacramental, and social teachings of the Roman Catholic Church.

28. The definition of “substantially burden” under RFPA is an agency action which does any of the following:

- (1) Significantly constrains or inhibits conduct or expression mandated by a person’s sincerely held religious beliefs.
- (2) Significantly curtails a person’s ability to express adherence to the person’s religious faith.
- (3) Denies a person a reasonable opportunity to engage in activities which are fundamental to the person’s religion.
- (4) Compels conduct or expression which violates a specific tenet of a person’s religious faith.

71 P.S. §2403.

29. The RFPA also provides: “The General Assembly intends that all laws which it has heretofore enacted or will hereafter enact and all ordinances and regulations which have been or will be adopted by political subdivisions or executive agencies shall be construed so as to avoid the imposition of substantial burdens upon the free exercise of religion without compelling justification.” 71 P.S. §2402.

30. A party’s right to free exercise of religion acts as a jurisdictional bar if a controversy interferes with the relationship between a church and one of its ministers, or if the dispute involves a matter of purely ecclesiastical concern. *See Chestnut Hill Coll. v. Pa. Hum. Rels. Comm’n*, 158 A.3d 251, 265 (Pa. Commw. Ct. 2017).

31. On or about January 22, 2025, E.S. filed a Complaint with the PHRC, alleging that Petitioner discriminated against E.S. based on E.S.’s sex, “non-binary.”

32. E.S. does not allege Petitioner discriminated against E.S. because E.S. is male or because E.S. is female.

33. E.S. specifically alleges that, in 2024, Petitioner refused to perform a gender-affirming mastectomy at SJRHN³ on the basis that performing gender-affirming surgeries would be against Petitioner’s religious beliefs; E.S. claims this

³ E.S. further alleges: “I eventually was able to have a mastectomy at [an affiliated hospital in the same healthcare system as SJRHN]...” (Exhibit A at pg. 4).

was discrimination on the basis of sex, i.e., non-binary, because Petitioner performs mastectomies on patients for non-gender-affirming reasons.

34. On March 6, 2025, South Side Area School District, Knoch School District, and several parents of minor children (the “School District Petitioners”) filed a Petition for Review with this Honorable Court, captioned as *South Side Area School District, et al. v. Pennsylvania Human Relations Commission*, 78 MD 2025 (the “School District Petition”) and requesting that the PHRC regulations be invalidated as violative of the Pennsylvania Constitution.

35. On May 16, 2025, Petitioner filed a Motion to Stay with the PHRC, seeking to stay the investigation into E.S.’s Complaint until such time that this Honorable Court issued a determination on the School District Petition.

36. On or about June 10, 2025, the PHRC issued an Order denying Petitioner’s Motion to Stay, noting that the PHRC regulations became effective on August 16, 2023⁴.

37. Petitioner is adversely impacted by the direct and immediate financial and other obligations placed upon it with regards to the claim of E.S. and other

⁴ On June 20, 2025, Petitioner filed a Motion for Reconsideration with the PHRC, asking the PHRC to consider staying the investigation into E.S.’s Complaint while the School District Petition remains pending with this Honorable Court. Petitioner’s Motion for Reconsideration was also denied by the PHRC. With the filing of this Petition for Review, Petitioner intends to request that the PHRC issue a stay in the matter of *E.S. v. Petitioner, et al.*, pending this Honorable Court’s review of this Petition for Review.

potential individuals as the PHRC is taking the position that the PHRC regulations require Petitioner to provide all accommodations, advantages, facilities, and privileges without discrimination because of “sex,” to include “gender identity,” including providing gender-affirming surgical procedures and care, in violation of Petitioner’s sincerely held religious beliefs.

38. Petitioner is adversely impacted by the PHRC’s decision to exercise subject matter jurisdiction over and investigate E.S.’s Complaint and apply the PHRC regulations thereto.

39. Petitioner’s free exercise of religion is substantially burdened by the PHRC regulations’ new and expansive definition of “sex” for purposes of sex discrimination under the PHRA.

40. On March 20, 2023, the United States Conference of Catholic Bishops’ (“USCCB”) Committee on Doctrine issued a Doctrinal Note entitled *Doctrinal Note on the Moral Limits to Technological Manipulation of the Human Body* (“Doctrinal Note”). A copy of the Doctrinal Note is attached hereto as **Exhibit B**.

41. The Doctrinal Note specifically references an integral tenet of the Catholic faith—that God created Man as *male and female*, stating as follows:

5. Human bodiliness is, in turn, intrinsically connected with human sexual differentiation. Just as every human person necessarily has a body, so also human bodies, like those of other mammals, are sexually differentiated as male or female: “Male and female he created them” (Gen 1:27).⁸ Saint John Paul II reminded us that, in the Book of Genesis, we learn that “Man is created ‘from the very beginning’ as male and female: the life of all humanity—whether of small communities or of society as a whole—is marked by this primordial duality.”⁹ The *Catechism of the Catholic Church* affirms: “Man and woman have been *created*, which is to say, *willed* by God: on the one hand, in perfect equality as human persons; on the other, in their respective beings as man and woman. ‘Being man’ or ‘being woman’ is a reality which is good and willed by God.”¹⁰

⁶ *Catechism of the Catholic Church*, no. 365 (https://www.vatican.va/archive/ENG0015/_P1B.HTM): “The unity of soul and body is so profound that one has to consider the soul to be the ‘form’ of the body: i.e., it is because of its spiritual soul that the body made of matter becomes a living, human body; spirit and matter, in man, are not two natures united, but rather their union forms a single nature.”

⁷ International Theological Commission, *Communion and Stewardship: Human Persons Created in the Image of God* (2002), no. 26 (https://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_con_cfaith_doc_20040723_communione-stewardship_en.html).

⁸ Persons affected by Disorders of Sexual Development do not fall outside the two categories of male and female, but they do exhibit ambiguous or abnormal indicators of sexual difference, so that the sex of their bodies is difficult to determine, though not impossible for modern medical and genetic techniques.

⁹ Saint Pope John Paul II, *Letter to Families* (1994), no. 6 (https://www.vatican.va/content/john-paul-ii/en/letters/1994/documents/hf_jp-ii_let_02021994_families.html). Cf. *Catechism of the Catholic Church*, no. 2333.

¹⁰ *Catechism of the Catholic Church*, no. 369.

42. The Doctrinal Note further explains that Catholic principles view technological interventions on the human body that do not aim to repair some defect in the body or sacrifice a part of the body for the sake of the whole—including gender-affirming procedures—as “not morally justified” and as not “respect[ing] the fundamental order of the human person as an intrinsic unit of body and soul...” *See Exhibit B.*

43. The USCCB specifically directs: “Catholic health care services must not perform interventions, whether surgical or chemical, that aim to transform the sexual characteristics of a human body into those of the opposite sex or take part in the development of such procedures. They must employ all appropriate resources to

mitigate the suffering of those who struggle with gender incongruence, but the means used must respect the fundamental order of the human body. Only by using morally appropriate means do healthcare providers show full respect for the dignity of each human person.” *Id.*

44. To compel Petitioner to perform gender-affirming surgeries (and to hold Petitioner liable for failing to do so) would be to compel conduct violating specific tenets of Petitioner’s faith and would jeopardize SJRHN’s classification as a Catholic hospital.

45. To compel Petitioner to perform gender-affirming surgeries (and to hold Petitioner liable for failing to do so) would not be the least restrictive means of furthering a government interest in protecting against sex discrimination.

46. To illustrate less restrictive means, another integral tenet of the Catholic faith is the belief that human life should be respected, and that abortion is contrary to the moral law. *See* USCCB Educational Resource: “The Catholic Church is a Pro-Life Church,” attached hereto as **Exhibit C**.

47. In enacting the PHRA, the Pennsylvania General Assembly explicitly included a carve-out allowing hospitals to refuse to perform or permit abortion or sterilization contrary to their stated ethical policies, and allowing providers stating objections to performing abortions or sterilizations on moral, religious, or

professional grounds, to do the same without violating the PHRA. *See* 43 P.S. § 955.2.

48. When the PHRC issued the PHRC regulations, it failed to include any similar carve-outs allowing hospitals or providers to refuse to perform gender-affirming surgeries without violating the PHRA. *See* 16 Pa. Code. §§ 41.201 – 41.207.

COUNT I
DECLARATORY JUDGMENT
The PHRC Regulations violate the Pennsylvania Constitution.

49. Petitioner incorporates Paragraphs 1 through 48 above by reference as though set forth fully herein.

50. Under the Declaratory Judgments Act, 42 Pa.C.S. §§ 7531-7541, this Honorable Court has the authority “to declare rights, status and other legal relations whether or not further relief is or could be claimed....The declaration may be either affirmative or negative in form and effect, and such declarations shall have the force and effect of a final judgment or decree.” 42 Pa. C.S. § 7532.

51. The Declaratory Judgments Act further provides that “[a]ny person...whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or

franchise, and obtain a declaration of rights, status, or other legal relations thereunder.” 42 Pa. C.S. § 7533.

52. Finally, the Declaratory Judgments Act provides that “[i]ts purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations, and is to be liberally construed and administered.” 42 Pa. C.S. § 7541(a).

53. Agency regulations must be “(a) adopted within the agency’s granted power, (b) issued pursuant to proper procedure, and (c) reasonable.” *Tire Jockey Serv., Inc. v. Commonwealth, Dep’t of Env’t Prot.*, 915 A.2d 1165, 1186 (Pa. 2007).

54. An entity created by statute, such as the PHRC, “can only exercise those powers which have been conferred upon it by the Legislature in clear and unmistakable language.” *Aetna Cas. & Ins. Co. v. Insurance Dep’t*, 638 A.2d 194, 200 (Pa. 1994) (quoting *Human Relations Comm’n v. Transit Cas. Ins. Co.*, 387 A.2d 58, 62 (Pa. 1978)); *see also Small v. Horn*, 722 A.2d 664, 669 (Pa. 1998) (“Administrative agencies are creatures of the legislature...and they have only those powers that are conferred by statute.”); *Koken v. Legion Ins. Co.*, 831 A.2d 1196, 1227 (Pa. Cmwlth. 2003) (“A creature of statute, such as the Insurance Commissioner acting as a rehabilitator, can only exercise those powers which have been conferred by the Legislature in clear and unmistakable language.” (citing *Aetna*)).

55. The PHRC exceeded its authority by issuing the PHRC regulations which included a new and expansive definition of “sex” without being granted the authority to do so. *See Insurance Federation of Pa., Inc. v. Com., Dept. of Ins.*, 889 A.2d 550, 555 (Pa. 2005) (explaining that authority may be given to a government official or administrative agency to make rules and regulations to cover “mere matters of detail for the implementation of a statute” but that “where the statute itself is lacking in essential substantive provisions the law does not permit a transfer of the power to supply them, for the legislature cannot delegate its power to make a law”).

56. The PHRC regulations also include an unreasonable definition of “sex” for purposes of “sex discrimination,” where the Supreme Court of Pennsylvania has defined “sex” as meaning “male” or “female” even after the issuance of the PHRC regulations. *See Allegheny Reprod. Health Ctr. v. Pa. Dep’t of Hum. Servs.*, 309 A.3d 808, 868-869 (Pa. 2024).

57. The PHRC’s issuance of and reliance on the PHRC regulations is unconstitutional as violative of the Non-Delegation Doctrine, Article II, Section 1 of the Pennsylvania Constitution (Pa. Const., art. II, § 1); Article III, Section 1 of the Pennsylvania Constitution (Pa. Const., art. III, § 1); and Article III, Section 6 of the Pennsylvania Constitution (Pa. Const., art. III, § 6).

58. The PHRC regulations were issued in violation of the Pennsylvania Constitution and must be declared void. *See* Pa. Const., art. II, § 1; Pa. Const., art. III, § 1; Pa. Const., art. III, § 6.

59. An actual controversy exists as between the PHRC and SJRHN as set forth in this Petition in the form of the *E.S. v. SJRHN, et al.* matter and the requested declaratory judgment will terminate this controversy.

60. All parties who may claim an interest in or be affected by this controversy – namely, the PHRC and SJRHN – are parties to the instant action.

WHEREFORE, Petitioner respectfully requests that this Honorable Court enter declaratory judgment in its favor and against the PHRC and award such other relief as set forth in the Statement of Relief Requested section below.

COUNT II
DECLARATORY JUDGMENT

The PHRC regulations violate Petitioner's rights under the RFPA.

61. Petitioner incorporates Paragraphs 1 through 60 above by reference as though set forth fully herein.

62. The RFPA explicitly authorizes declaratory relief for persons whose free exercise of religion has been burdened or likely will be burdened in violation of the RFPA. 71 P.S. § 2405(f).

63. For the reasons set forth above, the PHRC's issuance of the PHRC regulations substantially burdens Petitioner's free exercise of religion in violation of the RFPA. *See* 71 P.S. §§ 2401 et seq.

64. The PHRC regulations should be declared void as violative of the RFPA. *See* 71 P.S. §§ 2401 et seq.

WHEREFORE, Petitioner respectfully requests that this Honorable Court enter declaratory judgment in its favor and against the PHRC and award such other relief as set forth in the Statement of Relief Requested section below.

COUNT III
DECLARATORY JUDGMENT

The PHRC regulations must not be construed as compelling Petitioner to provide technological interventions on the human body that do not aim to repair some defect in the body or sacrifice a part of the body for the sake of the whole, such as gender affirming procedures and care, in violation of specific tenets of its Roman Catholic faith.

65. Petitioner incorporates Paragraphs 1 through 64 above by reference as though set forth fully herein.

66. The RFPA explicitly authorizes declaratory relief for persons whose free exercise of religion has been burdened or likely will be burdened in violation of the RFPA. 71 P.S. § 2405(f).

67. Petitioner's free exercise of religion will likely be burdened in violation of the RFPA by the PHRC's application of the PHRC regulations to E.S.'s Complaint and Petitioner's defenses to that Complaint.

68. It must be declared that the PHRC regulations do not compel Petitioner to provide technological interventions on the human body that do not aim to repair some defect in the body or sacrifice a part of the body for the sake of the whole, such as gender affirming procedures and care, in violation of specific tenets of its Roman Catholic faith.

WHEREFORE, Petitioner respectfully requests that this Honorable Court enter declaratory relief in its favor and against the PHRC and award such other relief as set forth in the Statement of Relief Requested section below.

COUNT IV
INJUNCTIVE RELIEF

The PHRC must be enjoined from exercising subject matter jurisdiction over E.S.'s claims against Petitioner.

69. Petitioner incorporates Paragraphs 1 through 68 above by reference as though set forth fully herein.

70. The RFPA explicitly authorizes injunctive relief for persons whose free exercise of religion has been burdened or likely will be burdened in violation of the RFPA. 71 P.S. § 2405(f).

71. Petitioner's free exercise of religion has been or will likely be burdened in violation of the RPFA by the PHRC's exercise of subject matter jurisdiction over E.S.'s claims, a dispute involving a matter of purely ecclesiastical concern. *See Chestnut Hill Coll. v. Pa. Hum. Rels. Comm'n*, 158 A.3d 251, 265 (Pa. Commw. Ct. 2017).

72. Absent entry of injunctive relief, SJRHN will suffer immediate and irreparable harm that cannot be compensated – adequately or otherwise – by monetary damages.

73. Further, greater injury will occur from refusing the requested injunction than from granting it for the reasons set forth above.

74. The requested injunction will not have any material impact on the PHRC, financial or otherwise, and the PHRC cannot be heard to complain of any “injury” on account of being required to decline to exercise subject matter jurisdiction where it is barred from so exercising.

75. Petitioner, on the other hand, will continue to be negatively impacted by the PHRC’s exercise of subject matter jurisdiction over a dispute involving a matter of ecclesiastical concern.

76. Entry of injunctive relief will restore the parties to their status *quo* before the PHRC’s improper exercise of jurisdiction over a dispute involving a matter of ecclesiastical concern.

77. Petitioner’s right to relief is clear as the PHRC’s actions are unconstitutional and violate the RFPA, as set forth in detail above.

78. The injunctive relief sought herein is reasonably tailored to address only the offending activity and entry of this relief will not adversely affect the public’s interest.

79. Based on the foregoing, Petitioner is entitled to injunctive relief to stop and prevent the injuries set forth herein; namely, the PHRC's exercise of subject matter jurisdiction over *E.S. v. SJRHN, et al.*, a dispute involving a matter of ecclesiastical concern.

WHEREFORE, Petitioner respectfully requests that this Honorable Court enter injunctive relief in its favor and against the PHRC and award such other relief as set forth in the Statement of Relief Requested section below.

STATEMENT OF RELIEF REQUESTED

WHEREFORE, based on the foregoing averments which are incorporated herein by reference, Petitioner SJRHN respectfully requests that this Honorable Court:

1. Enter judgment in favor of SJRHN and against the PHRC;
2. Declare that the PHRC regulations are and always have been void, invalid, and unenforceable as the result of actions undertaken without statutory authority and in violation of the Pennsylvania Constitution;
3. Declare that the PHRC regulations are and always have been void, invalid, and unenforceable as the result of actions undertaken in violation of the RFPA;
4. Declare that the PHRC must not construe the PHRC regulations as compelling Petitioner to provide technological interventions on the human body that do not aim to repair some defect in the body or sacrifice a part of the body for the sake of the whole, such as gender affirming procedures and care, in violation of specific tenets of its Roman Catholic faith;

5. Enjoin the PHRC from exercising subject matter jurisdiction over *E.S. v. Petitioner, et al.*, as a dispute involving a matter of purely ecclesiastical concern;
6. Award Petitioner attorney's fees and costs as permitted by law, including 42 Pa. C.S. § 1726; and
7. Enter such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

/s/ Anthony (T.J.) Andrisano

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Attorneys for Petitioner St. Joseph Regional Health Network

DATE: August 29, 2025

VERIFICATION

I, Alexandria M. Cirko, the Vice President, Mission & Ministry of St. Joseph Regional Health Network, verify that the facts appearing in the foregoing Petition for Review are true, accurate and correct to the best of my knowledge, information and belief.

This statement and verification are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: 8/27/2025

Alexandria M. Cirko
Alexandria M. Cirko

CERTIFICATE OF COMPLIANCE

I hereby certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

By: /s/ Anthony (T.J.) Andrisano

Anthony (T.J.) Andrisano (Pa. I.D. 201231)

DATE: August 29, 2025

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing document upon the following will be effectuated in a manner that complies with Pa. R.A.P. 106 and Pa. R.A.P. 1514(c):

Via the PACFile appellate court electronic filing system:

Michael F. Krimmel, Prothonotary
Pennsylvania Judicial Center
601 Commonwealth Ave.
Suite 2100
P.O. Box 69185
Harrisburg, PA 17106

Via hand delivery:

Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Stephanie Chapman, Esq.
Assistant Chief Counsel
PA Human Relations Commission
333 Market Street, 8th Floor
Harrisburg, PA 17101

Via electronic mail:

Richard T. Ting, Esq.
ACLU of Pennsylvania
PO Box 23058
Pittsburgh, PA 15222
rting@aclupa.org
Attorney for Claimant

By: /s/ Anthony (T.J.) Andrisano

Anthony (T.J.) Andrisano (Pa. I.D. 201231)

DATE: August 29, 2025

EXHIBIT A

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

E.S. [REDACTED] :
Complainant :
v. : PHRC Case No. 202401365
St. Joseph Regional Health Network, :
[REDACTED]
[REDACTED]
Respondents :
:

AMENDED COMPLAINT

JURISDICTION

Jurisdiction is pursuant to the Pennsylvania Human Relations Act 43 P.S. §§ 951-963.

PARTIES

The Complainant herein is:

E.S. [REDACTED]

The Respondents herein are:

St. Joseph Regional Health Network, [REDACTED]
100 Crystal A Drive MC CA210
Hershey, PA 17033

[REDACTED]



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

E.S. [REDACTED]

PHRC Case No.

Complainant

v.

St. Joseph Regional Health Network,
[REDACTED]

Respondents

2025 JAN 22 AM9:01

COMPLAINT

1. COMPLAINANT

E.S. [REDACTED]

Counsel:

Richard T. Ting
ACLU of Pennsylvania
P.O. Box 23058
Pittsburgh, PA 15222
rting@aclupa.org
412-634-1151

2. RESPONDENTS

St. Joseph Regional Health Network,
[REDACTED]

100 Crystal A Drive MC CA210
Hershey, PA 17033
[REDACTED]

3. Respondent St. Joseph Regional Health Network, under the direction and control of [REDACTED] and [REDACTED] operates [REDACTED] St. Joseph Medical Center, which is a public accommodation which is open to, accepts, or solicits the patronage of the general public.
- 4a. [REDACTED] St. Joseph Medical Center is located at 2500 Bernville Road, Reading, PA 19605.
- 4b. I did not visit [REDACTED] St. Joseph Medical Center, because I was denied services there.
5. **Protected Class:** Sex, nonbinary
6. **Dates of Discrimination:**

Beginning: 07/23/2024 **Ending:** 07/23/2024

Continuing? No.

7. **DESCRIBE THE DISCRIMINATORY CONDUCT, WITH SPECIFICITY, AND EXPLAIN HOW THE DISCRIMINATORY CONDUCT IS RELATED TO YOUR PROTECTED CLASS:**

(e.g. denial of admittance, denial of disability accommodation, retaliation, different terms and conditions of services provided)

Discriminatory Conduct

This complaint relates to refusal to provide gender-affirming procedures at [REDACTED] St. Joseph Medical Center, a hospital located at 2500 Bernville Road, Reading, PA 19605 (Berks County). [REDACTED]

On July, 23, 2024, [REDACTED] and/or St. Joseph Regional Health Network [REDACTED] discriminated against me on the basis of sex by cancelling my mastectomy surgery, which was scheduled for July 24, 2024, at [REDACTED] St. Joseph Medical Center. The reason for the cancellation is that [REDACTED] and St. Joseph Regional Health Network do not allow gender-affirming procedures at [REDACTED] St. Joseph Medical Center.

Dr. [REDACTED], a [REDACTED] surgeon specializing in all aspects of plastic and reconstructive surgery, including breast reconstruction and cosmetic surgery, agreed to perform my surgery. The surgery was deemed medically necessary by my

primary care provider, Dr. [REDACTED] to alleviate emotional duress of gender dysphoria. Dr. [REDACTED] in pre-surgery notes explained the surgery would benefit me “given the severity of [my] anxiety and emotional distress with the gender dysphoria.”

On July 23, 2024, at 2:08 PM, [REDACTED] St. Joseph Medical Center’s scheduling department called me to confirm my 5:30 AM arrival time for my surgery the next day. On July 23, 2024, at 4:39 PM, [REDACTED] for [REDACTED] St. Joseph Medical Center, and [REDACTED] St. Joseph Medical Center, called me to tell me my surgery was cancelled. In that and subsequent conversations, [REDACTED] and [REDACTED] told me that I may not receive gender-affirming procedures at [REDACTED] St. Joseph Medical Center because such procedures are not in alignment with the Diocese at St. Joseph and the Catholic Church.

Cancellation of my surgery less than 24 hours before the scheduled time was devastating. I planned for this procedure for almost six months and put my life on hold for it. When [REDACTED] and [REDACTED] told me my surgery was cancelled, I became distraught and had to leave the room. My mother had to continue and finish the phone call for me.

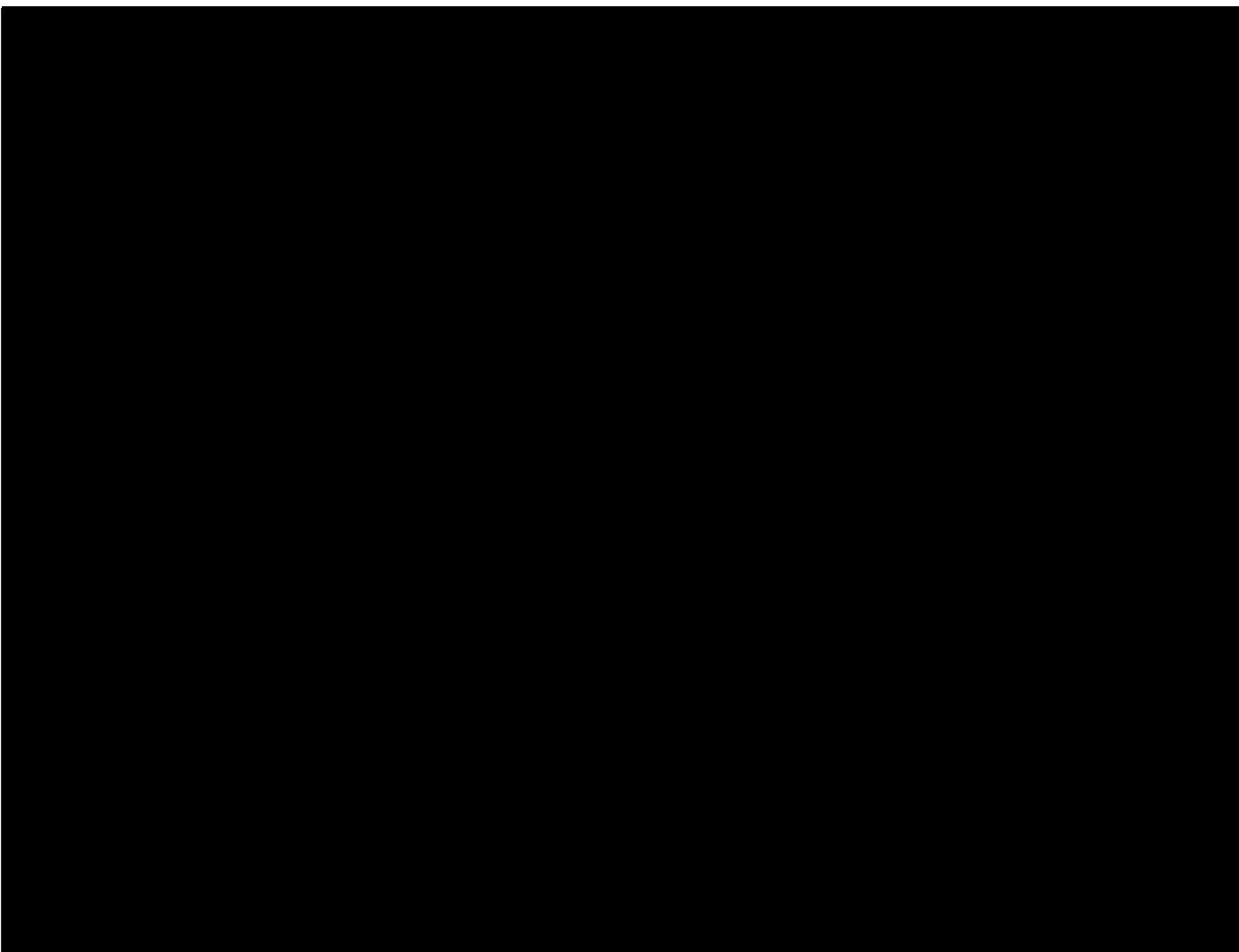
In simple terms, my world came crashing down. I was hysterical and immediately caved into my previous history of acute depressive and manic episodes due to various reasons (Generalized Anxiety Disorder, Major Depressive Disorder, PTSD and Gender Dysphoria). The immediate course of my life was completely derailed and I did not know what to do. I considered checking myself into an in-patient mental health facility.

My understanding is that [REDACTED] in the past had performed mastectomies for gender-affirming purposes at [REDACTED] St. Joseph Medical Center, with express permission from [REDACTED] and/or St. Joseph Regional Health Network. [REDACTED] and [REDACTED] have told me that [REDACTED] and other doctors have permission to perform breast reduction and mastectomy surgeries at [REDACTED] St. Joseph Medical Center for reasons other than gender-affirming care, but [REDACTED] no longer has permission to perform gender-affirming procedures at [REDACTED] St. Joseph Medical Center. [REDACTED] and [REDACTED] told me [REDACTED] should not have been given past permission to perform such procedures at [REDACTED] St. Joseph Medical Center.

[REDACTED] offers gender-affirming mastectomies at other [REDACTED] facilities. After my surgery was cancelled, [REDACTED] and [REDACTED] gave me the options of finding a different surgeon at [REDACTED] [REDACTED] or trying to get permission for [REDACTED] to perform my surgery at a facility other than [REDACTED] St. Joseph Medical Center. [REDACTED] and St.

Joseph Regional Health Network do not require patients seeking mastectomies for reasons other than gender-affirming care to seek these alternatives.

Although I would have preferred to have my surgery performed by [REDACTED] since my primary care doctor referred me to him and I had spent months building a trusting relationship with him, [REDACTED] was unable to secure an alternate location to perform my surgery. I eventually was able to have a mastectomy at [REDACTED] [REDACTED] but this required referral to a different doctor and additional pre-surgery appointments.

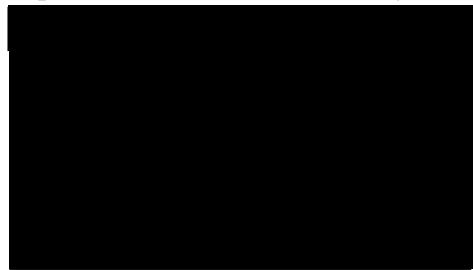


8. Based upon the foregoing, I allege that the Respondents violated Section 5 of the Pennsylvania Human Relations Act, 43 P.S. §§ 951-963.
9. The Pennsylvania Human Relations Commission has jurisdiction over this matter pursuant to the Pennsylvania Human Relations Act, 43 P.S. §§ 951-963.
10. I pray that the Respondents be required to provide all appropriate remedies under Section 9 of the Pennsylvania Human Relations Act.

VERIFICATION

I hereby verify that the statements contained in this Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

1/21/2025
Date



E S
Printed Name

WARNING: COMPLAINTS MUST BE SIGNED AND FILED WITHIN 180 DAYS OF THE ALLEGED ACT OF HARM.

**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION**

_____ :
E [REDACTED] :
: :
Complainant : PHRC Case No. 202401365
v. :
: :
St. Joseph Regional Health Network, :
[REDACTED] :
[REDACTED] :
Respondents :
_____ :
_____ :

RESPONDENTS ST. JOSEPH REGIONAL HEALTH NETWORK
AND
ANSWER WITH NEW MATTER

Respondents, St. Joseph Regional Health Network [REDACTED]
(“SJRHN”) and [REDACTED] (hereinafter, “Hospital Respondents”) by and through
their undersigned counsel, hereby file this Answer to the Complaint of E [REDACTED] (“Complainant”).

The numbered paragraphs of this Answer correspond with the like-numbered paragraphs
of the Complaint and, unless specifically admitted herein, each factual allegation in Complainant’s
Complaint is denied.

JURISDICTION

Denied. The averments of this Paragraph are legal conclusions to which no responsive
pleading is required. In the event the averments are deemed to require a responsive pleading, the
averments are denied.

PARTIES

Admitted in part; denied in part. It is admitted only that Complainant claims to be an individual named E [REDACTED] S [REDACTED] and that the Respondents are identified as including St. Joseph Regional Health Network [REDACTED] and [REDACTED]. It is further admitted that Hospital Respondents have an address of 100 Crystal A Drive MC CA210, Hershey, PA 17033. Hospital Respondents are without sufficient information regarding Complainant's legal name and current address and, therefore, they deny the same and leave Complainant to their proofs. The averments of this Paragraph directed to a respondent other than Hospital Respondents do not require a response by Hospital Respondents. To the extent a response is deemed necessary by Hospital Respondents, the averments are denied. Any remaining averments of this Paragraph are also denied.

RESPONSE TO COMPLAINT

1. Admitted in part; denied in part. It is admitted only that Complainant claims to be an individual named E [REDACTED] St [REDACTED]. Hospital Respondents are without sufficient information regarding Complainant's legal name and current address and, therefore, they deny the same and leave Complainant to their proofs. Any remaining averments of this Paragraph are also denied.
2. Admitted in part; denied in part. It is admitted only that the Respondents are identified as including St. Joseph Regional Health Network, [REDACTED] and [REDACTED], and that Hospital Respondents have an address of 100 Crystal A Drive MC CA210, Hershey, PA 17033. The averments of this Paragraph directed to a respondent other than Hospital Respondents do not require a response by Hospital Respondents. To the extent a response is deemed necessary by Hospital Respondents, the averments are denied. Any remaining averments of this Paragraph are also denied.

3. Denied. The averments of this Paragraph are legal conclusions to which no responsive pleading is required. In the event the averments are deemed to require a responsive pleading, the averments are denied.

4a. Admitted in part; denied in part. It is admitted only that Hospital Respondents have an address at [REDACTED] All remaining averments of this Paragraph are denied.

4b. Denied. The averments of this Paragraph are legal conclusions to which no responsive pleading is required. In the event the averments are deemed to require a responsive pleading, the averments are denied.

5. Denied. The averments of this Paragraph are legal conclusions to which no responsive pleading is required. In the event the averments are deemed to require a responsive pleading, the averments are denied.

6. Denied. The averments of this Paragraph are legal conclusions to which no responsive pleading is required. In the event the averments are deemed to require a responsive pleading, the averments are denied. It is specifically denied that Complainant was subjected to any unlawful discrimination.

7. Denied. The averments of this Paragraph are legal conclusions to which no responsive pleading is required. In the event the averments are deemed to require a responsive pleading, the averments are denied. It is specifically denied that Complainant was subjected to any unlawful discrimination.

Discriminatory Conduct¹

Admitted in part; denied in part. It is admitted only that [REDACTED] and [REDACTED] spoke with Complainant via telephone on or about July 23, 2024, and that Complainant had a mastectomy surgery performed at [REDACTED]. All remaining averments of this Paragraph are legal conclusions to which no responsive pleading is required. In the event the averments are deemed to require a responsive pleading, the averments are denied. It is specifically denied that Complainant was subjected to any unlawful discrimination.

[REDACTED]

8. Denied. The averments of this Paragraph are legal conclusions to which no responsive pleading is required. In the event the averments are deemed to require a responsive pleading, the averments are denied. It is specifically denied that Complainant was subjected to any unlawful discrimination.

9. Denied. The averments of this Paragraph are legal conclusions to which no responsive pleading is required. In the event the averments are deemed to require a responsive pleading, the averments are denied.

¹ Hospital Respondents utilize Complainant's headings for ease of reference only and such use should not be construed as admissions. It is specifically denied that Complainant was subjected to any unlawful discrimination.

10. Denied. The averments of this Paragraph are legal conclusions to which no responsive pleading is required. In the event the averments are deemed to require a responsive pleading, the averments are denied. It is specifically denied that Complainant was subjected to any unlawful discrimination.

NEW MATTER

1. The responses to the foregoing paragraphs are incorporated herein by reference as if set forth at length herein.

2. Complainant's claims are barred because Complainant lacks standing to assert the claims.

3. Complainant's claims are barred because the PHRC and Pennsylvania courts lack subject matter jurisdiction over the claims, including, without limitation, the PHRC exceeding its legal authority to issue regulations, and/or issuing regulations containing procedural defects, vagueness, and/or overbreadth.

4. Complainant's claims fail because they are legally insufficient.

5. Complainant's claims are barred because Hospital Respondents are not the proximate or legal cause of Complainant's alleged injury.

6. Complainant's claims are barred because Complainant has suffered no actual harm or damages.

7. Complainant's claims are barred in whole or in part to the extent Complainant is seeking to recover damages that are speculative in nature.

8. To the extent it is determined that Complainant is entitled to any damages, Complainant has failed to mitigate the same.

9. Complainant's claims are barred to the extent they seek to hold Hospital Respondents jointly liable for conduct attributable only to one party.

10. All actions of Hospital Respondents in this matter were taken in good faith and for legitimate, non-discriminatory reasons.

11. Hospital Respondents did not engage in any discriminatory conduct.

12. Hospital Respondents did not act with any discriminatory intent.

13. Hospital Respondents did not intentionally, deliberately, or knowingly engage in any conduct in violation of any statute, nor did Hospital Respondents exhibit reckless disregard for the requirements of any law or act with malice toward Complainant.

14. Hospital Respondents acted in good faith and had reasonable grounds for believing that their conduct and actions were lawful and in compliance with federal and state law and regulations.

15. Complainant's claims are barred by the ecclesiastical abstention doctrine.

16. Complainant's claims and/or the PHRC's regulations are barred by and/or are inapplicable due to the Pennsylvania Religious Freedom Protection Act, 71 P.S. §§ 2401-2408.

17. Complainant's claims are barred by the First Amendment to the United States Constitution, U.S. Const. Amend. 1, and the Pennsylvania Constitution, Pa. Const. Art. 1, § 3.

18. Complainant was not subjected to unlawful discrimination in violation of the Pennsylvania Human Relations Act ("PHRA") or any similar law.

19. The Complaint fails to state a *prima facie* case for discrimination and/or any other cause of action.

20. All actions taken by Hospital Respondents relative to Complainant were based on legitimate, non-discriminatory factors.

21. Hospital Respondents maintain policies against discrimination and harassment as well as a reasonable and available procedure for handling patient complaints, and Hospital Respondents have ensured Complainant was not subjected to discrimination and/or harassment.

22. Complainant's claims may be barred in whole or in part by the doctrines of laches, fraud, waiver, estoppel and/or unclean hands.

23. Hospital Respondents have not violated any of Complainant's rights or harmed or damaged them in any way and are not liable to Complainant for any reason in any amount.

24. Complainant has failed to sufficiently identify any individual outside of Complainant's protected class that was treated more favorably than Complainant.

25. Complainant's claims are barred, in whole or in part, to the extent Complainant failed to comply with any of the procedural requirements of the PHRA or any similar law.

26. Complainant's claims are barred, in whole or in part, to the extent they are untimely filed.

27. Complainant has not sustained any damages, including the fact that they received the procedure at issue.

Hospital Respondents reserve the right to assert additional defenses based upon information learned during the course of this proceeding.

WHEREFORE, Respondents St. Joseph Regional Health Network [REDACTED]

[REDACTED] and [REDACTED] respectfully request that the allegations in the above-captioned Complaint be found to lack any merit and that the Complaint be dismissed with prejudice.

Respectfully submitted,



Anthony (T.J.) Andrisano, Esq. (PA ID 201231)
Alyssa K. Stouder, Esq. (PA ID 324468)
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anthony.andrisano@bipc.com
alyssa.stouder@bipc.com
Attorneys for Respondents
St. Joseph Regional Health Network [REDACTED]
[REDACTED]

Dated: March 31, 2025

VERIFICATION

I, Anthony (T.J.) Andrisano, Esquire, verify that I am an attorney for Respondents, St. Joseph Regional Health Network [REDACTED] and [REDACTED] (collectively referred to as "Hospital Respondents") and, having read the foregoing, verify that the statements made in the within Hospital Respondents' Answer with New Matter to the Complaint are true, accurate and correct to the best of my knowledge, information and belief. This pleading is based on information furnished to counsel, which information has been gathered by counsel in the course of this proceeding.

This verification is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Date: March 31, 2025



Anthony (T.J.) Andrisano, Esq.
Attorney for Respondents
St. Joseph Regional Health Network [REDACTED]
[REDACTED]

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer with New Matter was served upon the following parties this 31st day of March, 2025, via electronic mail and via First-Class U.S. mail, postage prepaid:

E [REDACTED] S [REDACTED]
c/o Richard T. Ting, Esq.
ACLU of Pennsylvania
PO Box 23058
Pittsburgh, PA 15222
rting@aclupa.org

Ian Fahnestock
Human Relations Representative
PA Human Relations Commission
333 Market Street, 8th Floor
Harrisburg, PA 17101
ifahnestoc@pa.gov

By: *s/Jamie C. Cabuyadao*
Jamie C. Cabuyadao
Practice Assistant

EXHIBIT C

Why is the Catholic Church such a strong voice for life?

The *Catechism of the Catholic Church* puts it this way:

“ Human life must be respected and protected absolutely from the moment of conception. From the first moment of his existence, a human being must be recognized as having the rights of a person—among which is the inviolable right of every innocent being to life...”¹



“ Since the first century the Church has affirmed the moral evil of every procured abortion. This teaching has not changed and remains unchangeable. Direct abortion, that is to say, abortion willed either as an end or a means, is gravely contrary to the moral law...”²

“ We are the *people of life* because God, in his unconditional love, has given us the Gospel of life ... and we are called to act accordingly.”

Saint John Paul II
Evangelium Vitae, 79
1995

People of
Life

People of Life is the pro-life action campaign of the Catholic Church in the United States, under the direction of the USCCB Secretariat of Pro-Life Activities.

USCCB Secretariat of Pro-Life Activities
3211 Fourth Street, N.E.
Washington, DC 20017-1194
202-541-3070
www.usccb.org/prolife

1 *Catechism of the Catholic Church*, 2nd ed., 2270.

2 *Catechism of the Catholic Church*, 2nd ed., 2271.

3 *The Didache*, by Charles H. Hoole, [1894], at [sacred-texts.com](http://sacred-texts.com/chr/did/did03.htm).
<<http://www.sacred-texts.com/chr/did/did03.htm>>

4 Translated by S. Thelwall. From *Ante-Nicene Fathers*, Vol. 3.
Edited by Alexander Roberts, James Donaldson, and A. Cleveland Coxe. (Buffalo, NY: Christian Literature Publishing Co., 1885.)
Revised and edited for New Advent by Kevin Knight.
<<http://www.newadvent.org/fathers/0301.htm>>.

5 Charles H. Hoole, 1885 translation
<<http://www.earlychristianwritings.com/text/barnabas-hoole.html>>

6 Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion*, (Vatican City: Libreria Editrice Vaticana, 1974), no. 11.

7 Pope John Paul II, *Evangelium vitae*, (Vatican City: Libreria Editrice Vaticana, 1995), no. 28.

8 *Ibid.*

Catechism of the Catholic Church, second edition © 2001 LEV-USCCB.
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The Catholic Church is a *Pro-Life Church*



All persons, not just Catholics, can know from scientific and medical evidence that what grows in a mother's womb is a new, distinct human being. All persons can understand that each human being merits respect. At the very least, respecting human life excludes the deliberate and direct destruction of life.

Throughout her rich tradition, the Catholic Church has always been pro-life. As Saint John Paul II reminded us, we believe that "all human life is sacred, for it is created in the image and likeness of God." Aborting an unborn child destroys a precious human life which God has called uniquely into existence.

Our Faith also obliges us to follow in the footsteps of Jesus Christ, who spoke and acted strongly and compassionately in favor of the most despised and vulnerable persons in society. Jesus touched lepers, spoke with prostitutes, and showed mercy and tenderness to the sick, the poor and children.

Our society has many vulnerable persons including women in difficult pregnancies as well as unborn children whose lives may legally be ended at any time during pregnancy,

The DIDACHE 2nd Cent.

"You shall not commit murder. You shall not commit adultery. You shall not corrupt the young. You shall not commit fornication. You shall not steal. You shall not kill an unborn child or murder a newborn infant."³

and for any reason. In following Jesus Christ, Catholics have a responsibility to speak and act in defense of these persons. This is part of our special care for the poor and powerless.

TERTULLIAN 3rd Cent.

"For us, killing and murder forbidden once and for all, it is not permitted to destroy what is conceived in the mother's womb. To hinder the birth of a child is a faster way to murder. It makes little difference whether one destroys a life already born or prevents it from coming to birth. It is a human being, for the whole fruit is already present."⁴

The Church's mission to defend human life applies over the entire course of life, from conception to natural death. And so the Catholic Church has defended human rights and conducted international relief and development efforts. Catholic hospitals and other healthcare facilities form the largest network of private, not-for-profit healthcare providers in the United

States. Our Catholic charitable organizations provide countless social services to all Americans, regardless of race, creed or national origin.

The Catholic Church strives to be a prophetic voice, speaking out to protest injustices and indignities against the human person. We will continue in this work, whether our words are popular or unpopular.

Since its beginning, the Church has maintained a firm and clear teaching on the sacredness of human life. Abortion was rejected in the earliest known Christian manual of discipline, the Didache.

Early Christian fathers likewise condemned abortion as the killing of innocent human life. A third century Father of the Church, Tertullian,

called it "accelerated homicide." Early Church councils considered it one of the most serious crimes. Since that time, science has only further confirmed the humanity of the child growing in his or her mother's womb. Church teaching continues to insist, to the present day, that a just society protects and cares for life before as well as after birth.

DECLARATION ON PROCURED ABORTION, 11

*Congregation for the
Doctrine of the Faith, 1974*

"The first right of the human person is his life. He has other goods and some are more precious, but this one is fundamental - the condition of all the others. Hence it must be protected above all others."⁵

Saint John Paul II challenged us:

"We find ourselves not only faced with but necessarily in the midst of this conflict: we are all involved and we all share in it, with the inescapable responsibility of choosing to be unconditionally pro-life."⁶ As a people who believe in life, how are we responding to this challenge?

EVANGELIUM VITAE, 28

1995

"... we are facing an enormous and dramatic clash between good and evil, death and life, the 'culture of death' and the 'culture of life'. We find ourselves not only faced with but necessarily in the midst of this conflict: we are all involved and we all share in it, with the inescapable responsibility of choosing to be unconditionally pro-life."⁸

EXHIBIT B

**DOCTRINAL NOTE ON THE MORAL LIMITS TO
TECHNOLOGICAL MANIPULATION OF THE HUMAN BODY**

*Committee on Doctrine
United States Conference of Catholic Bishops*

1. Modern technology offers an ever-increasing range of means—chemical, surgical, genetic—for intervening in the functioning of the human body, as well as for modifying its appearance. These technological developments have provided the ability to cure many human maladies and promise to cure many more. This has been a great boon to humanity. Modern technology, however, produces possibilities not only for helpful interventions, but also for interventions that are injurious to the true flourishing of the human person. Careful moral discernment is needed to determine which possibilities should be realized and which should not, in order to promote the good of the human person. To do this discernment, it is necessary to employ criteria that respect the created order inscribed in our human nature.

THE NATURAL ORDER

2. A fundamental tenet of the Christian faith is that there is an order in the natural world that was designed by its Creator and that this created order is good (Gen 1:31; Ps 19:1ff.). The Church has always affirmed the essential goodness of the natural order and called on us to respect it. The Second Vatican Council taught: “From the fact of being created, every thing possesses its own stability, truth and goodness, and its own laws and order, which should be respected by us in recognizing the methods which are appropriate to the various sciences and arts.”¹ Pope Benedict XVI explained that the natural world has an “inbuilt order,” a “grammar” that “sets forth ends and

¹ Second Vatican Council, Pastoral Constitution *Gaudium et Spes*, no. 36; in *Decrees of the Ecumenical Councils*, ed. Norman P. Tanner, S.J. (Washington, D.C.: Georgetown University Press, 1990).

criteria for its wise use, not its reckless exploitation.”² Pope Francis has warned against a “technological paradigm” that treats the natural world as “something formless, completely open to manipulation.”³ He observes that human beings have always been intervening in nature,

but for a long time this meant being in tune with and respecting the possibilities offered by the things themselves. It was a matter of receiving what nature itself allowed, as if from its own hand. Now, by contrast, we are the ones to lay our hands on things, attempting to extract everything possible from them while frequently ignoring or forgetting the reality in front of us.⁴

3. What is true of creation as a whole is true of human nature in particular: there is an order in human nature that we are called to respect. In fact, human nature deserves utmost respect since humanity occupies a singular place in the created order, being created in the image of God (Gen. 1:27). To find fulfillment as human persons, to find true happiness, we must respect that order. We did not create human nature; it is a gift from a loving Creator. Nor do we “own” our human nature, as if it were something that we are free to make use of in any way we please. Thus, genuine respect for human dignity requires that decisions about the use of technology be guided by genuine respect for this created order.

4. A crucial aspect of the order of nature created by God is the body-soul unity of each human person. Throughout her history, the Church has opposed dualistic conceptions of the human person that do not regard the body as an intrinsic part of the human person, as if the soul were essentially complete in itself and the body were merely an instrument used by the soul.⁵ In opposition to dualisms both ancient and modern, the Church has always maintained that, while

² Pope Benedict XVI, Encyclical Letter *Caritas in Veritate* (2009), no. 48 (https://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf_ben-xvi_enc_20090629_caritas-in-veritate.html).

³ Pope Francis, Encyclical Letter *Laudato Si'* (2015), no. 106 (https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html).

⁴ Pope Francis, *Laudato Si'*, no. 106.

⁵ While in ancient and medieval thought dualism was typically expressed in terms of soul and body, in modern thought it is often expressed in terms of mind and body.

there is a distinction between the soul and the body, *both* are constitutive of what it means to be human, since spirit and matter, in human beings, “are not two natures united, but rather their union forms a single nature.”⁶ The soul does not come into existence on its own and somehow happen to be in this body, as if it could just as well be in a different body. A soul can never be in another body, much less be in the wrong body. *This* soul only comes into existence together with *this* body. What it means to be a human person necessarily includes bodilyness. “Human beings are physical beings sharing a world with other physical beings.”⁷

5. Human bodilyness is, in turn, intrinsically connected with human sexual differentiation. Just as every human person necessarily has a body, so also human bodies, like those of other mammals, are sexually differentiated as male or female: “Male and female he created them” (Gen 1:27).⁸ Saint John Paul II reminded us that, in the Book of Genesis, we learn that “Man is created ‘from the very beginning’ as male and female: the life of all humanity—whether of small communities or of society as a whole—is marked by this primordial duality.”⁹ The *Catechism of the Catholic Church* affirms: “Man and woman have been *created*, which is to say, *willed* by God: on the one hand, in perfect equality as human persons; on the other, in their respective beings as man and woman. ‘Being man’ or ‘being woman’ is a reality which is good and willed by God.”¹⁰

⁶ *Catechism of the Catholic Church*, no. 365 (https://www.vatican.va/archive/ENG0015/_P1B.HTM): “The unity of soul and body is so profound that one has to consider the soul to be the ‘form’ of the body: i.e., it is because of its spiritual soul that the body made of matter becomes a living, human body; spirit and matter, in man, are not two natures united, but rather their union forms a single nature.”

⁷ International Theological Commission, *Communion and Stewardship: Human Persons Created in the Image of God* (2002), no. 26 (https://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_con_cfaith_doc_20040723_communio-stewardship_en.html).

⁸ Persons affected by Disorders of Sexual Development do not fall outside the two categories of male and female, but they do exhibit ambiguous or abnormal indicators of sexual difference, so that the sex of their bodies is difficult to determine, though not impossible for modern medical and genetic techniques.

⁹ Saint Pope John Paul II, *Letter to Families* (1994), no. 6 (https://www.vatican.va/content/john-paul-ii/en/letters/1994/documents/hf_jp-ii_let_02021994_families.html). Cf. *Catechism of the Catholic Church*, no. 2333.

¹⁰ *Catechism of the Catholic Church*, no. 369.

Just as bodiliness is a fundamental aspect of human existence, so is either “being a man” or “being a woman” a fundamental aspect of existence as a human being, expressing a person’s unitive and procreative finality. The Congregation for the Doctrine of the Faith insists that

the importance and the meaning of sexual difference, as a reality deeply inscribed in man and woman, needs to be noted. “Sexuality characterizes man and woman not only on the physical level, but also on the psychological and spiritual, making its mark on each of their expressions.” It cannot be reduced to a pure and insignificant biological fact, but rather “is a fundamental component of personality, one of its modes of being, of manifestation, of communicating with others, of feeling, of expressing and of living human love.” This capacity to love – reflection and image of God who is Love – is disclosed in the spousal character of the body, in which the masculinity or femininity of the person is expressed.¹¹

6. In our contemporary society there are those who do not share this conception of the human person. Pope Francis has spoken about an ideology that promotes “a personal identity and emotional intimacy radically separated from the biological difference between male and female,” in which “human identity becomes the choice of the individual, one which can also change over time.”¹² In response to this, Pope Francis affirmed:

It needs to be emphasized that “biological sex and the socio-cultural role of sex (gender) can be distinguished but not separated.” … It is one thing to be understanding of human weakness and the complexities of life, and another to accept ideologies that attempt to sunder what are inseparable aspects of reality. Let us not fall into the sin of trying to replace the Creator. We are creatures, and not omnipotent. Creation is prior to us and must be received as a gift. At the same time, we are called to protect our humanity, and this means, in the first place, accepting it and respecting it as it was created.¹³

¹¹ Congregation for the Doctrine of the Faith, *Letter on the Collaboration of Men and Woman in the Church and in the World* (2004), no. 8 (https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20040731_collaboration_en.html); quotations from Congregation for Catholic Education, *Educational Guidance in Human Love: Outlines for Sex Education* (1983), no. 5 and no. 4, respectively.

¹² Pope Francis, Post-Synodal Apostolic Exhortation *Amoris Laetitia* (2016), no. 56; quoting the *Relatio Finalis* of the Synod on the Family (2015), no. 8 (https://www.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20160319_amoris-laetitia.html).

¹³ Pope Francis, *Amoris Laetitia*, no. 56; quoting the *Relatio Finalis*, no. 58.

TECHNOLOGICAL INTERVENTIONS

7. The human person, body and soul, man or woman, has a fundamental order and finality whose integrity must be respected. Because of this order and finality, neither patients nor physicians nor researchers nor any other persons have unlimited rights over the body; they must respect the order and finality inscribed in the embodied person. Pope Pius XII taught that the patient “is not the absolute master of himself, of his body, of his mind. He cannot dispose of himself just as he pleases.”¹⁴ The Pope went on to affirm that, with regard to the faculties and powers of one’s human nature, a patient “is the user and not the owner” and thus “does not have an unlimited power to effect acts of destruction or of mutilation of a kind that is anatomical or functional.”¹⁵ The body is not an object, a mere tool at the disposal of the soul, one that each person may dispose of according to his or her own will, but it is a constitutive part of the human subject, a gift to be received, respected, and cared for as something intrinsic to the person. As Pope Francis affirmed: “The acceptance of our bodies as God’s gift is vital for welcoming and accepting the entire world as a gift from the Father and our common home, whereas thinking that we enjoy absolute power over our own bodies turns, often subtly, into thinking that we enjoy absolute power over creation.”¹⁶

8. There are essentially two scenarios recognized by the Church’s moral tradition in which technological interventions on the human body may be morally justified: 1) when such

¹⁴ Pope Pius XII, “Discours aux participants au Congrès International d’Histopathologie du Système Nerveux,” 14 September 1952 (https://www.vatican.va/content/pius-xii/fr/speeches/1952/documents/hf_p-xii_spe_19520914_istopatologia.html). See also his “Discours à la VIII^e Assemblée de l’Association Médicale Mondiale,” 30 September 1954 (https://www.vatican.va/content/pius-xii/fr/speeches/1954/documents/hf_p-xii_spe_19540930_viii-assemblea-medica.html).

¹⁵ Pope Pius XII, “Discours,” 14 September 1952.

¹⁶ Pope Francis, *Laudato Si’*, no. 155. In the same paragraph, Pope Francis quotes Pope Benedict XVI, who asserted: “Man too has a nature that he must respect and that he cannot manipulate at will” (Address to the Bundestag, 22 September 2011 (https://www.vatican.va/content/benedict-xvi/en/speeches/2011/september/documents/hf_ben-xvi_spe_20110922_reichstag-berlin.html)).

interventions aim to repair a defect in the body; 2) when the sacrifice of a part of the body is necessary for the welfare of the whole body. These kinds of technological interventions respect the fundamental order and finality inherent in the human person. However, there are other technological interventions that aim neither to repair some defect in the body nor to sacrifice a part for the sake of the whole but, rather, aim to alter the fundamental order of the body. Such interventions do not respect the order and finality inscribed in the human person.

REPAIRING A DEFECT IN THE BODY

9. Much of the practice of medicine involves using the available technology to repair defects in the body, usually when it has been affected by some injury or ailment.¹⁷ The intention to repair defects in the body shows respect for the fundamental order of the body, which is commendable. In fact, each of us has a duty to care for our bodies. The *Ethical and Religious Directives for Catholic Health Care Services* affirm that “every person is obliged to use ordinary means¹⁸ to preserve his or her health.”¹⁹ This obligation no longer holds, however, when the benefits of the intervention are no longer proportionate to the burdens involved.²⁰ Thus, judging whether or not

¹⁷ Sometimes the technology is used not to return the body to a previous state but to compensate for some lack of normal development in the body.

¹⁸ Use of extraordinary means is never morally obligatory. Cf. Pope Pius XII, “Discours du Pape Pie XII en réponse à trois questions de morale médicale sur la réanimation,” 24 November 1957 (https://www.vatican.va/content/pius-xii/fr/speeches/1957/documents/hf_p-xii_spe_19571124_rianimazione.html); Congregation for the Doctrine of the Faith, “Commentary on the Responses to Certain Questions of the United States Conference of Catholic Bishops Concerning Artificial Nutrition and Hydration,” 1 August 2007 (https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20070801_nota-commento_en.html).

¹⁹ United States Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services*, Sixth Edition (2018), no. 32 (<https://www.usccb.org/about/doctrine/ethical-and-religious-directives/upload/ethical-religious-directives-catholic-health-service-sixth-edition-2016-06.pdf>); cf. no. 56. See also Congregation for the Doctrine of the Faith, *Declaration on Euthanasia* (1980), Pt. IV (https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19800505_euthanasia_en.html).

²⁰ USCCB, *Ethical and Religious Directives*, no. 32: “...no person should be obliged to submit to a health care procedure that the person has judged, with a free and informed conscience, not to provide a reasonable hope of benefit without imposing excessive risks and burdens on the patient or excessive expense to family or community”.

a reparative medical intervention is morally licit requires a consideration not only of the object of the act and of the intention in undertaking it, but also of the consequences of the action, which would include an evaluation of the likelihood of discernible benefit to the person and a comparison of expected benefits with expected burdens. Sometimes the expected benefits (such as improved health or function) will outweigh the expected burdens (such as cost or physical pain involved in the procedure), but sometimes they will not.

10. A similar analysis is involved in considering the morality of interventions undertaken to improve the body not in terms of its functioning but rather in terms of its appearance, which can involve either restoring appearance or improving it. In this regard, Pope Pius XII acknowledged that the physical beauty of a person “is in itself a good, though subordinated to others that are much higher, and consequently precious and desirable.”²¹ He goes on to point out that physical beauty “does not stand at the summit of the scale of values, for it is a good that is neither spiritual nor essential”; indeed, it is “a good, but a corporal one … As a good and a gift from God, it must be esteemed and cared for, without, however, requiring recourse to extraordinary means as a duty.”²² Since the moral analysis requires that the expected benefits of a procedure be proportionate to the expected burdens and risks, a higher level of burden and risk can be justified in the case of someone who seeks to repair defects in order to achieve a normal appearance than in the case of someone who already has a normal appearance and who, as Pope Pius XII put it, seeks “the perfection of

²¹ Pope Pius XII, “Discorso ai partecipanti al X Congresso Nazionale della Società Italiana di chirurgia plastica,” 4 Oct. 1958, III (https://www.vatican.va/content/pius-xii/it/speeches/1958/documents/hf_p-xii_spe_1958_1004_chirurgia-plastica.html).

²² Pope Pius XII, “Discorso,” 4 October 1958, III.

his or her features.”²³ Still, both of these could be morally licit, if undertaken with the correct intention and in the correct circumstances.²⁴

THE SACRIFICE OF A PART FOR THE SAKE OF THE WHOLE

11. Pope Pius XII’s predecessor, Pope Pius XI, also stressed the need to respect the fundamental order of the body, affirming that, as a rule, one is not allowed “to destroy or mutilate” members of one’s body. At the same time, however, he affirmed that there can be exceptions when the welfare of the body as a whole is at stake.

Christian doctrine establishes, and the light of human reason makes it most clear, that private individuals have no other power over the members of their bodies than that which pertains to their natural ends; and they are not free to destroy or mutilate their members, or in any other way render themselves unfit for their natural functions, *except when no other provision can be made for the good of the whole body.*²⁵

This teaching was further developed by Pope Pius XII, who explained that

each particular organ is subordinated to the body as a whole and must yield to it in case of conflict. Therefore, the one who has been given the use of the whole organism has the right to sacrifice a particular organ, if its retention or its functioning causes significant harm to the whole, harm that cannot possibly be avoided any other way.²⁶

12. Pope Pius XII stipulated three conditions that must be fulfilled for a medical intervention “that involves anatomical or functional mutilation” to be morally permissible:

First, the retention or functioning of a particular organ in the organism as a whole causes serious damage to it or constitutes a threat.

²³ Pope Pius XII, “Discorso,” 4 October 1958, III.

²⁴ Pope Pius XII provides some examples of incorrect intentions, such as increasing one’s power of seduction or protecting a guilty party from justice. He also gives as an example of an illicit cosmetic intervention one “that causes damage to the regular functions of the physical organs” (“Discorso,” 4 October 1958, III).

²⁵ Pope Pius XI, Encyclical Letter *Casti Connubii* (1930), no. 71 (https://www.vatican.va/content/pius-xi/en/encyclicals/documents/hf_p-xi_enc_19301231_casti-connubii.html). Emphasis added.

²⁶ Pope Pius XII, “Discours aux Participants au XXVIe Congrès Organisé par la Société Italienne d’Urologie,” 8 October 1953, I (https://www.vatican.va/content/pius-xii/fr/speeches/1953/documents/hf_p-xii_spe_19531008_congresso-urologia.html). Cf. St. Thomas Aquinas, *Summa theologiae* II-II, q. 65, a. 1; I-II, q. 90, a. 2.

Second, this damage cannot be avoided, or at least appreciably diminished, otherwise than by the mutilation in question and the effectiveness of the mutilation is well assured.

Finally, it can reasonably be expected that the negative effect, i.e., the mutilation and its consequences, will be compensated for by the positive effect: removal of the danger for the whole organism, lessening of suffering, etc.²⁷

These conditions ensure proper respect for the fundamental order of the human person in that they establish that the sacrifice of the part of the body is not itself what is sought, that this is truly a last resort that is necessary for the welfare of the body, there being no other options for securing the welfare of the body as a whole.

ATTEMPTS TO ALTER THE FUNDAMENTAL ORDER OF THE HUMAN BODY

13. While the foregoing two types of technological interventions take the basic order of the human person as a given and do not intend to alter it, there is another type of intervention that regards this order as unsatisfactory in some way and proposes a more desirable order, a redesigned order. Some proposals for genetic engineering fit into this category: not those that aim to repair some defect, but those that are non-therapeutic manipulations of human genetic material. The Congregation for the Doctrine of the Faith has explained that “procedures used on somatic cells for strictly therapeutic purposes are in principle morally licit” since these procedures “seek to restore the normal genetic configuration of the patient or to counter damage caused by genetic anomalies or those related to other pathologies.”²⁸ By contrast, genetic engineering “for purposes other than medical treatment” is not morally permissible.²⁹ Here the intention is to replace the

²⁷ Pope Pius XII, “Discours,” 8 October 1953, I.

²⁸ Congregation for the Doctrine of the Faith, *Instruction on Certain Bioethical Questions (Dignitas Personae)* (2008), no. 26 (https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20081208_dignitas-personae_en.html). The Congregation adds the qualifications that the patient must not be “exposed to risks to his health or physical integrity which are excessive or disproportionate to the gravity of the pathology for which a cure is sought” and that the patient or his legitimate representative must give informed consent.

²⁹ Congregation for the Doctrine of the Faith, *Instruction on Certain Bioethical Questions (Dignitas Personae)*, no. 27.

natural order with what is imagined to be a new and better order. The Congregation warns that “in the attempt to create *a new type of human being* one can recognize *an ideological element* in which man tries to take the place of his Creator.”³⁰ In a similar way, some proposals for “cybernetic enhancement” also aim to redesign the fundamental order of the human being and to produce a new type of human being by replacing some or all³¹ bodily organs with artificial devices. These kinds of technological interventions are, in most cases, currently in the developmental stage or are under theoretical consideration.

14. What is widely in practice today, however, and what is of great concern, is the range of technological interventions advocated by many in our society as treatments for what is termed “gender dysphoria” or “gender incongruence.”³² These interventions involve the use of surgical or chemical techniques that aim to exchange the sex characteristics of a patient’s body for those of the opposite sex or for simulations thereof. In the case of children, the exchange of sex characteristics is prepared by the administration of chemical puberty blockers, which arrest the natural course of puberty and prevent the development of some sex characteristics in the first place.

15. These technological interventions are not morally justified either as attempts to repair a defect in the body or as attempts to sacrifice a part of the body for the sake of the whole. First, they do not repair a defect in the body: there is no disorder in the body that needs to be addressed; the bodily organs are normal and healthy. Second, the interventions do not sacrifice one part of

³⁰ Congregation for the Doctrine of the Faith, *Instruction on Certain Bioethical Questions (Dignitas Personae)*, no. 27

³¹ Some even envision transferring what they imagine to be the essence of the human person from the brain into a computer, thereby leaving bodily existence behind altogether.

³² The term “gender dysphoria” was introduced in 2013 in the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders* (Arlington, VA: American Psychiatric Association, 2013), 452-53. The term “gender incongruence” was introduced in 2022 in the eleventh revision of the *International Classification of Diseases* published by the World Health Organization (<https://icd.who.int/browse11/l-m/en#/http%3a%2f%2fid.who.int%2ficd%2fentity%2f411470068>).

the body for the good of the whole. When a part of the body is legitimately sacrificed for the sake of the whole body, whether by the entire removal or substantial reconfiguration of a bodily organ, the removal or reconfiguring of the bodily organ is reluctantly tolerated as the only way to address a serious threat to the body. Here, by contrast, the removal or reconfiguring is itself the desired result.³³

16. Instead, rather than to repair some defect in the body or to sacrifice a part for the sake of the whole, these interventions are intended to transform the body so as to make it take on as much as possible the form of the opposite sex, contrary to the natural form of the body. They are attempts to alter the fundamental order and finality of the body and to replace it with something else.

17. There is a wide range of interventions used for this purpose, corresponding to the variety of ways in which sexual differentiation affects various parts of the body. Currently, not all persons who seek this kind of treatment undergo all the interventions available, either because they are unable to do so, or they choose not to do so for some reason; instead, they typically undergo some limited selection of the available interventions. These interventions differ in the magnitude of the changes brought about in the body. They are alike, however, in that they all have the same basic purpose: that of transforming sex characteristics of the body into those of the opposite sex.

18. Such interventions, thus, do not respect the fundamental order of the human person as an intrinsic unity of body and soul, with a body that is sexually differentiated. Bodiliness is a fundamental aspect of human existence, and so is the sexual differentiation of the body. Catholic health care services must not perform interventions, whether surgical or chemical, that aim to

³³ With some procedures of this category, the removal of the organ is directly intended in order to allow for its replacement with a simulation of the corresponding organ of the opposite sex; in other procedures, the removal of the organ is directly intended because the absence of the organ is a characteristic of the opposite sex; in still others, the reconfiguring of the organ is directly intended in order to make the organ resemble as much as possible the corresponding organ of the opposite sex.

transform the sexual characteristics of a human body into those of the opposite sex or take part in the development of such procedures. They must employ all appropriate resources to mitigate the suffering of those who struggle with gender incongruence, but the means used must respect the fundamental order of the human body. Only by using morally appropriate means do healthcare providers show full respect for the dignity of each human person.

CONCLUSION: MORAL LIMITS TO THE TECHNOLOGICAL MANIPULATION OF THE HUMAN BODY

19. The use of technology in order to manipulate the natural world has a history that goes back to the earliest use of tools. What is different in our day is the greatly expanded capabilities that modern technology offers and the rapid development of ever-new possibilities. As the boundaries of what is technologically possible continue to expand, it is imperative to identify moral criteria to guide our use of technology. As the range of what we *can* do expands, we must ask what we *should* or *should not* do. An indispensable criterion in making such determinations is the fundamental order of the created world. Our use of technology must respect that order.

20. To be sure, many people are sincerely looking for ways to respond to real problems and real suffering.³⁴ Certain approaches that do not respect the fundamental order appear to offer solutions. To rely on such approaches for solutions, however, is a mistake. An approach that does not respect the fundamental order will never truly solve the problem in view; in the end, it will only create further problems. The Hippocratic tradition in medicine calls upon all healthcare providers first and foremost to “do no harm.” Any technological intervention that does not accord with the fundamental order of the human person as a unity of body and soul, including the sexual difference inscribed in the body, ultimately does not help but, rather, harms the human person.

³⁴ With regard to those who identify as transgender or non-binary, there is a range of pastoral issues that need to be addressed, but that cannot be addressed in this document.

21. Particular care should be taken to protect children and adolescents, who are still maturing and who are not capable of providing informed consent. As Pope Francis has taught, young people in particular

need to be helped to accept their own body as it was created, for “thinking that we enjoy absolute power over our own bodies turns, often subtly, into thinking that we enjoy absolute power over creation... An appreciation of our body as male or female is also necessary for our own self-awareness in an encounter with others different from ourselves. In this way we can joyfully accept the specific gifts of another man or woman, the work of God the Creator, and find mutual enrichment.”³⁵

22. The search for solutions to problems of human suffering must continue, but it should be directed toward solutions that truly promote the flourishing of the human person in his or her bodily integrity. As new treatments are developed, they too should be evaluated according to sound moral principles grounded in the good of the human person as a subject with his or her own integrity. Catholic health care services are called to provide a model of promoting the authentic good of the human person. To fulfill this duty, all who collaborate in Catholic health care ministry must make every effort, using all appropriate means at their disposal, to provide the best medical care, as well as Christ’s compassionate accompaniment, to all patients, no matter who they may be or from what condition they may be suffering. The mission of Catholic health care services is nothing less than to carry on the healing ministry of Jesus, to provide healing at every level, physical, mental, and spiritual.³⁶

³⁵ Pope Francis, Encyclical Letter *Amoris Laetitia*, no. 285; quotation from his Encyclical Letter *Laudato Si'*, no. 155.

³⁶ See USCCB, *Ethical and Religious Directives for Catholic Health Care Services*, General Introduction.

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Rev. Michael J. K. Fuller
General Secretary, USCCB

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

St. Joseph Regional Health Network, Petitioner v. PA : 202401365
 Human Relations Commision, Harrisburg :
 :
 :

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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