

Justin K. Cole
Kathryn S. Mahe
GARLINGTON, LOHN & ROBINSON, PLLP
350 Ryman Street • P. O. Box 7909
Missoula, MT 59807-7909
Phone (406) 523-2500
Fax (406) 523-2595
jkcole@garlington.com
ksmahe@garlington.com

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

MONTANA MEDICAL
ASSOCIATION, et al.,

Plaintiffs,

and

MONTANA NURSES
ASSOCIATION,

Plaintiff-Intervenors,

v.

AUSTIN KNUDSEN, et al.,

Defendants.

Case No. CV 21-00108-DWM

PLAINTIFFS' MOTION ON
SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56, Plaintiffs respectfully move the Court to enter summary judgment on Claims I, II, V, VI, VII, and VIII, and issue the declaratory and injunctive relief sought in Plaintiffs' Second Amended

Complaint (Doc. 37). There are no material facts in dispute, and Plaintiffs are entitled to judgment as a matter of law.

Specifically, Plaintiffs seek declaratory relief that Montana Code Annotated § 49-2-312 (“MCA 49-2-312”) is invalid and unenforceable against Offices of Private Physicians, Critical Access Hospitals, and Hospitals, as well as the physicians who own, run, work or practice in these settings, to the following extent:

- (i) The phrases “employment opportunities” and “advantages [and] privileges” (to the extent such advantages and privileges implicate employment opportunities) in MCA 49-2-312(1)(a) are invalid and unenforceable,
- (ii) MCA 49-2-312(1)(b) is invalid and unenforceable in its entirety, and
- (iii) The phrase “or otherwise discriminate” in MCA 49-2-312(1)(c) is invalid and unenforceable.

Plaintiffs also seek accompanying permanent injunctive relief prohibiting Defendants from enforcing these portions of the statute against Offices of Private Physicians, Critical Access, and Hospitals, as well as the physicians who own, run, work or practice in these settings. At a minimum, Plaintiffs seek permanent injunctive relief prohibiting enforcement of MCA 49-2-312 against Montana’s healthcare facilities subject to the Centers for Medicare and Medicaid CMS Conditions of Participation in the Medicare and Medicaid programs.

This motion is supported by the accompanying Brief in Support, Statement of Undisputed Facts, Declaration of Mark Carpenter, and the Foundational Declaration of Counsel, along with Exhibits 1-45 attached thereto, filed contemporaneously herewith.

DATED this 26th day of August, 2022.

/s/ Justin K. Cole
Attorneys for Plaintiffs