

<p>DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO 7325 S. Potomac Street, Centennial, Colorado 80112</p>	
<p><b>Plaintiff:</b> BARBARA MORRIS, MD</p> <p>v.</p> <p><b>Defendants:</b> CENTURA HEALTH CORPORATION, a Colorado non-profit corporation, and CATHOLIC HEALTH INITIATIVES COLORADO d/b/a CENTURA HEALTH-ST. ANTHONY HOSPITAL, a Colorado non-profit corporation,</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><i>Attorneys for Defendants</i> Melvin B. Sabey, #9941 HALL RENDER KILLIAN HEATH &amp; LYMAN, P.C. 1512 Larimer Street, Suite 300 Denver, CO 80202 Telephone: (303) 801-3535 <a href="mailto:melsabey@hallrender.com">melsabey@hallrender.com</a></p> <p>L. Martin Nussbaum, #15370 Ian Speir, #45777 NUSSBAUM SPEIR PLLC 90 S. Cascade Avenue, #400 Colorado Springs, CO 80903 Telephone: 719-428-1919 <a href="mailto:martin@nussbaumspeir.com">martin@nussbaumspeir.com</a> <a href="mailto:ian@nussbaumspeir.com">ian@nussbaumspeir.com</a></p>	<p>Case No. 2019CV31980</p> <p>Division: 21</p>
<p style="text-align: center;"><b>ANSWER, COUNTERCLAIM, AND JURY DEMAND</b></p>	

Defendants, Centura Health Corporation (“Centura”) and Catholic Health Initiatives Colorado d/b/a Centura Health-St. Anthony Hospital (“CHI”) (collectively “Defendants”), through their attorneys, Hall, Render, Killian, Heath & Lyman, P.C. and Nussbaum Speir PLLC, answer Plaintiff’s First Amended Complaint and Jury Demand as follows:

## INTRODUCTION

This case is about whether Defendants can be forced to facilitate and cooperate with the intentional killing of a patient in direct violation of their deeply held religious beliefs<sup>1</sup>, their ethical obligations dating as far back as the Hippocratic Oath<sup>2</sup>, and their employment agreement with Plaintiff. It is also about whether the Defendants must employ and retain a physician who--in open violation of her employment agreement and Defendants' published policy--began the process of qualifying a patient for the administration of lethal drugs. The U.S. and Colorado Constitutions protect Defendants' rights to free exercise of religion, religious autonomy, expressive association, and substantive due process, each of which would be infringed by forced retention of a physician, who, by her own sworn admission, facilitated a patient's plan to commit suicide. Neither the End of Life Options Act ("EOLOA"), the tort law of Colorado, nor the other laws invoked by Plaintiff may be constitutionally applied to Defendants in this manner.

1. Paragraph 1 constitutes Plaintiff's introduction of the action, to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

2. Paragraph 2 constitutes Plaintiff's introduction of the action, to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

3. Paragraph 3 constitutes Plaintiff's introduction of the action, to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

4. Paragraph 4 constitutes Plaintiff's introduction of the action, to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

5. Paragraph 5 constitutes Plaintiff's introduction of the action, to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

6. Paragraph 6 constitutes Plaintiff's introduction of the action, to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

7. Paragraph 7 constitutes Plaintiff's introduction of the action, to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

8. Paragraph 8 constitutes Plaintiff's introduction of the action, to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

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<sup>1</sup> See Introduction to counterclaim, *infra*.

<sup>2</sup> The Hippocratic Oath, *inter alia*, states: "Nor shall any man's entreaty prevail upon me to administer poison to anyone; neither will I counsel any man to do so."

### **PARTIES, JURISDICTION, AND VENUE**

9. Defendants admit the allegations contained in Paragraph 9.
10. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 10 and, therefore, deny the same.
11. Defendants admit the allegations contained in Paragraph 11.
12. Defendants deny the allegations contained in Paragraph 12.
13. Defendants admit the Hospital is a Colorado nonprofit corporation. Defendant denies the remaining allegations contained in Paragraph 13.
14. Defendants deny the allegations contained in Paragraph 14.
15. Defendants admit that until August 26, 2019, Dr. Morris practiced medicine at Golden Primary Care. Defendant denies the remaining allegations contained in Paragraph 15.
16. Defendants admit the allegations contained in Paragraph 16.
17. Defendants admit the allegations contained in Paragraph 17.
18. Defendants admit the allegations contained in Paragraph 18.

### **FACTUAL ALLEGATIONS**

19. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 19 and, therefore, deny the same.
20. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 20 and, therefore, deny the same.
21. Defendants admit the allegations contained in Paragraph 21.
22. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 22 and, therefore, deny the same.

### **Dr. Morris's Employment Agreement with Centura**

23. Defendants deny the allegations contained in Paragraph 23.
24. Defendants deny the allegations contained in Paragraph 24.

25. Defendants admit the allegations contained in Paragraph 25.
26. Defendants admit the allegations contained in Paragraph 26.
27. Defendants admit that the Employment Agreement and its amendments were the result of negotiations between parties and that the Hospital prepared the documents after agreement was reached. Defendant denies the remaining allegations contained in Paragraph 27.
28. In response to Paragraph 28, Defendants state that the Employment Agreement speaks for itself.
29. In response to Paragraph 29, Defendants state that the Employment Agreement speaks for itself.
30. In response to Paragraph 30, the Defendants state that the Employment Agreement speaks for itself.
31. In response to Paragraph 31, Defendants state that the Employment Agreement speaks for itself.
32. In response to Paragraph 32, Defendants state that the Employment Agreement speaks for itself.
33. In response to Paragraph 33, Defendants state that the Employment Agreement speaks for itself.
34. In response to Paragraph 34, Defendants state that the Employment Agreement speaks for itself.
35. In response to Paragraph 35, Defendants state that the Employment Agreement speaks for itself.
36. In response to Paragraph 36, Defendants state that the Employment Agreement speaks for itself.
37. In response to Paragraph 37, Defendants state that the Employment Agreement speaks for itself.
38. In response to Paragraph 38, Defendants state that the Employment Agreement speaks for itself.
39. In response to Paragraph 39, Defendants state that the Employment Agreement speaks for itself.

40. In response to Paragraph 40, Defendants state that the Employment Agreement speaks for itself.

41. Defendants deny the allegations contained in Paragraph 41.

42. Defendants deny the allegations contained in Paragraph 42.

43. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 43 and, therefore, deny the same.

44. Paragraph 44 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

45. Paragraph 45 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

46. Defendants deny the allegations contained in Paragraph 46.

47. Defendants deny the allegations contained in Paragraph 47.

48. Defendants deny the allegations contained in Paragraph 48.

49. All of Defendants' employees are, consistent with Defendants' mission, expected to "extend the healing ministry of Christ by caring for those who are ill and by nurturing the health of the people in our communities." To the extent there are other allegations in Paragraph 49, they are denied.

50. All of Defendants' employees are, consistent with Defendants' mission, expected to "extend the healing ministry of Christ by caring for those who are ill and by nurturing the health of the people in our communities." To the extent there are other allegations in Paragraph 50, they are denied.

51. All of Defendants' employees are, consistent with Defendants' mission, expected to "extend the healing ministry of Christ by caring for those who are ill and by nurturing the health of the people in our communities." To the extent there are other allegations in Paragraph 51, they are denied.

52. Defendants deny the allegations contained in Paragraph 52.

53. Defendants deny the allegations contained in Paragraph 53.

54. Defendants deny the allegations contained in Paragraph 54.

55. Defendants admit the practice of medicine is regulated by the State of Colorado. Defendants deny the remaining allegations contained in Paragraph 55.

56. Paragraph 56 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

### **Colorado's End-Of-Life Options Act**

57. In response to Paragraph 57, Defendants state that the law speaks for itself.

58. Defendants admit the allegations contained in Paragraph 58.

59. Defendants deny the allegations contained in Paragraph 59.

60. In response to Paragraph 60, Defendants state that the EOLOA speaks for itself.

61. In response to Paragraph 61, Defendants state that the EOLOA speaks for itself.

62. In response to Paragraph 62, Defendants state that the EOLOA speaks for itself.

63. In response to Paragraph 63, Defendants state that the EOLOA speaks for itself.

64. In response to Paragraph 64, Defendants state that the EOLOA speaks for itself.

65. In response to Paragraph 65, Defendants state that the EOLOA speaks for itself.

66. In response to Paragraph 66, Defendants state that the EOLOA speaks for itself.

67. In response to Paragraph 67, Defendants state that the EOLOA speaks for itself.

68. In response to Paragraph 68, Defendants state that the EOLOA speaks for itself.

69. In response to Paragraph 69, Defendants state that the EOLOA speaks for itself.

### **Centura's Policy Regarding Medical Aid in Dying**

70. Defendants deny the allegations contained in Paragraph 70.

71. Paragraph 71 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

72. Defendants admit the allegations contained in Paragraph 72.

73. In response to Paragraph 73, Defendants state that the Policy speaks for itself.

74. In response to Paragraph 74, Defendants state that the Policy speaks for itself.

75. In response to Paragraph 75, Defendants state that the Policy speaks for itself.

76. In response to Paragraph 76, Defendants state that the Policy speaks for itself.

77. Paragraph 77 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

78. Paragraph 78 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

#### **Dr. Morris Raises Internal Concerns about Centura's EOLOA Policy**

79. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 79 and, therefore, deny the same.

80. Defendants admit the allegations contained in Paragraph 80.

81. Defendants admit the allegations contained in Paragraph 81.

82. Defendants admit the allegations contained in Paragraph 82.

83. Defendants admit the allegations contained in Paragraph 83.

84. Defendants admit the allegations contained in Paragraph 84.

85. In response to Paragraph 85, Defendants state that the email speaks for itself.

86. In response to Paragraph 86, Defendants state that the email speaks for itself.

#### **Mr. Mahoney's Terminal Diagnosis**

87. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 87 and, therefore, deny the same.

88. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 88 and, therefore, deny the same.

89. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 89 and, therefore, deny the same.

90. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 90 and, therefore, deny the same.

91. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 91 and, therefore, deny the same.

92. In response to Paragraph 92, Defendants state that Mr. Mahoney's medical record speaks for itself.

93. In response to Paragraph 93, Defendants state that Mr. Mahoney's medical record speaks for itself.

94. In response to Paragraph 94, Defendants state that Mr. Mahoney's medical record speaks for itself.

95. In response to Paragraph 95, Defendants state that Mr. Mahoney's medical record speaks for itself.

96. In response to Paragraph 96, Defendants state that Mr. Mahoney's medical record speaks for itself.

97. In response to Paragraph 97, Defendants state that Mr. Mahoney's medical record speaks for itself.

98. In response to Paragraph 98, Defendants state that Mr. Mahoney's medical record speaks for itself.

99. In response to Paragraph 99, Defendants state that Mr. Mahoney's medical record speaks for itself.

100. In response to Paragraph 100, Defendants state that Mr. Mahoney's medical record speaks for itself.

**Mr. Mahoney's Desire to Die Peacefully at His Own Home if his Disease Progresses**

101. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 101 and, therefore, deny the same.

102. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 102 and, therefore, deny the same.

103. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 103 and, therefore, deny the same.



104. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 104 and, therefore, deny the same.

105. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 105 and, therefore, deny the same.

106. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 106 and, therefore, deny the same.

107. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 107 and, therefore, deny the same.

108. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 108 and, therefore, deny the same.

109. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 109 and, therefore, deny the same.

#### **Mr. Mahoney's Request for Aid-in-Dying Medication**

110. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 110 and, therefore, deny the same.

111. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 111 and, therefore, deny the same.

112. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 112 and, therefore, deny the same.

113. Defendants admit that Mr. Mahoney discussed and asked about obtaining AID medication in his meeting with Ms. Brieske.

114. Defendants admit the allegations contained in Paragraph 114.

115. Defendants admit that Dr. Morris evaluated Mr. Mahoney on July 22. Defendants are without sufficient knowledge and information to form a belief as to the truth of the remaining allegations set forth in Paragraph 115 and, therefore, deny the same.

116. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 116 and, therefore, deny the same.

117. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 117 and, therefore, deny the same.

118. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 118 and, therefore, deny the same.

119. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 119 and, therefore, deny the same.

120. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 120 and, therefore, deny the same.

121. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 121 and, therefore, deny the same.

122. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 122 and, therefore, deny the same.

123. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 123 and, therefore, deny the same.

124. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 124 and, therefore, deny the same.

125. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 125 and, therefore, deny the same.

126. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 126 and, therefore, deny the same.

127. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 127 and, therefore, deny the same.

128. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 128 and, therefore, deny the same.

129. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 129 and, therefore, deny the same.

130. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 130 and, therefore, deny the same.

131. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 131 and, therefore, deny the same.

132. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 132 and, therefore, deny the same.

133. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 133 and, therefore, deny the same.

134. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 134 and, therefore, deny the same.

135. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 135 and, therefore, deny the same.

136. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 136 and, therefore, deny the same.

137. Defendants deny D'Ambrosio is Centura's general counsel. In response to the remaining allegations of Paragraph 137, Defendants state that Mr. D'Ambrosio's email speaks for itself.

138. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 138 and, therefore, deny the same.

139. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 139 and, therefore, deny the same.

140. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 140 and, therefore, deny the same.

141. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 141 and, therefore, deny the same.

#### **Dr. Morris's Termination by Centura**

142. Defendants admit the allegations contained in Paragraph 142.

143. In response to Paragraph 143, Defendants state that the lawsuit papers speak for themselves.

144. In response to Paragraph 144, Defendants state that the lawsuit papers speak for themselves.

145. Defendants admit that on August 26, 2019, Dr. Morris was given the Termination Letter. The Termination Letter speaks for itself.

146. Defendants admit that after being handed the Termination Letter, Dr. Morris turned in her hospital badge and computer and left the building.

147. In response to Paragraph 147, Defendants state that the Termination Letter speaks for itself.

148. In response to Paragraph 148, Defendants state that the Termination Letter speaks for itself.

### **Centura's Public Statements**

149. Defendants deny the allegations contained in Paragraph 149.

150. In response to Paragraph 150, Defendants state that the statements speak for themselves.

151. In response to Paragraph 151, Defendants state that the statements speak for themselves.

152. In response to Paragraph 152, Defendants state that the statements speak for themselves.

153. In response to Paragraph 153, Defendants state that the statements speak for themselves.

154. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 154 and, therefore, deny the same.

155. In response to Paragraph 155, Defendants state that the statements speak for themselves.

156. In response to Paragraph 156, Defendants state that the statements speak for themselves.

157. In response to Paragraph 157, Defendants state that the statements speak for themselves.

### **FIRST CLAIM FOR RELIEF (Wrongful Discharge in Violation of Public Policy) (Against all Defendants)**

158. Defendants incorporate their responses to the above Paragraphs as though fully set forth herein.

159. Paragraph 159 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

160. Paragraph 160 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

161. Paragraph 161 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

162. Paragraph 162 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

163. Paragraph 163 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

#### **Uniform Declaratory Judgments Law**

164. In response to Paragraph 164, Defendants state that the law speaks for itself.

165. In response to Paragraph 165, Defendants state that the law speaks for itself.

166. Paragraph 166 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

167. Paragraph 167 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

168. Paragraph 168 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

169. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 169 and, therefore, deny the same.

170. Paragraph 170 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

171. Defendants deny the allegations contained in Paragraph 171.

#### **Colorado End-of-Life Options Act**

172. Defendants deny the “EOLOA was passed in 2016 by an overwhelming majority of Colorado voters.” The remaining allegations of Paragraph 172 contain legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

173. Paragraph 173 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

174. In response to Paragraph 174, Defendants state that the law speaks for itself.

175. In response to Paragraph 175, Defendants state that the law speaks for itself.

176. Paragraph 176 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

177. Paragraph 177 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

178. Paragraph 178 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

179. Paragraph 179 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

180. Paragraph 180 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

181. Paragraph 181 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

182. Defendants deny the allegations contained in Paragraph 182.

### **Corporate Practice of Medicine**

183. In response to Paragraph 183, Defendants state that the law speaks for itself.

184. In response to Paragraph 183, Defendants state that the law speaks for itself.

185. In response to Paragraph 183, Defendants state that the law speaks for itself.

186. In response to Paragraph 183, Defendants state that the law speaks for itself.

187. Paragraph 187 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

188. Paragraph 188 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

189. Paragraph 189 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

190. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 190 and, therefore, deny the same.

191. Paragraph 191 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

192. Defendants deny the allegations contained in Paragraph 192.

193. Defendants deny the allegations contained in Paragraph 193.

**SECOND CLAIM FOR RELIEF**  
**(Breach of Contract)**  
**(Against all Defendants)**

194. Defendants incorporate their responses to the above Paragraphs as though fully set forth herein.

195. In response to Paragraph 195, Defendants state that the Employment Agreement speaks for itself.

196. In response to Paragraph 196, Defendants state that the Employment Agreement speaks for itself.

197. Paragraph 197 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

198. Defendants deny the allegations contained in Paragraph 198.

199. Paragraph 199 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

200. Defendants deny the allegations contained in Paragraph 200.

201. Paragraph 201 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

202. Paragraph 202 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

203. Defendants deny the allegations contained in Paragraph 203.

204. In response to Paragraph 204, Defendants state that the Employment Agreement speaks for itself.

205. In response to Paragraph 205, Defendants state that the Employment Agreement speaks for itself.

206. In response to Paragraph 206, Defendants state that the Employment Agreement speaks for itself.

207. In response to Paragraph 207, Defendants state that the Employment Agreement speaks for itself.

208. Paragraph 208 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

209. Paragraph 209 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

210. In response to Paragraph 210, Defendants state that the Employment Agreement speaks for itself.

211. Paragraph 211 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

212. Paragraph 212 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

213. Paragraph 213 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

214. Paragraph 214 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

215. Paragraph 215 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

216. Paragraph 216 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

217. Paragraph 217 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

218. Defendants deny the allegations contained in Paragraph 218.



**THIRD CLAIM FOR RELIEF**  
**(Unlawful Prohibition of Legal Activities as a Condition of Employment)**  
**(Colorado Lawful Off-Duty Activities Statute, C.R.S. § 24-34-402.5(1))**  
**(Against all Defendants)**

219. Defendants incorporate their responses to the above Paragraphs as though fully set forth herein.

220. Defendants deny the allegations contained in Paragraph 220.

221. Defendants deny the allegations contained in Paragraph 221.

222. Paragraph 222 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

223. Paragraph 223 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

224. Paragraph 224 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

225. Paragraph 225 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

226. Paragraph 226 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

227. Paragraph 227 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

228. Paragraph 228 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

229. Paragraph 229 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

230. Defendants deny the allegations contained in Paragraph 230.

**FOURTH CLAIM FOR RELIEF**  
**(Knowing or Reckless Interference with the Independent Practice of Medicine)**  
**(C.R.S. § 25-3-103.7(3))**  
**(Against all Defendants)**

231. Defendants incorporate their responses to the above Paragraphs as though fully set forth herein.

232. In response to Paragraph 232, Defendants state that the law speaks for itself.

233. In response to Paragraph 233, Defendants state that the law speaks for itself.

234. Defendants deny the allegations contained in Paragraph 234.

235. Paragraph 235 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

236. In response to Paragraph 236, Defendants state that the law speaks for itself.

237. Paragraph 237 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

238. Defendants deny the allegations contained in Paragraph 238.

**FIFTH CLAIM FOR RELIEF**  
**(Retaliation in Violation of the Colorado End-of-Life Options Act)**  
**(C.R.S. §§ 25-48-166 and 25-48-118(2))**  
**(Against all Defendants)**

239. In response to Paragraph 239, Defendants state that the law speaks for itself.

240. In response to Paragraph 240, Defendants state that the law speaks for itself.

241. In response to Paragraph 241, Defendants state that the law speaks for itself.

242. Paragraph 242 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

243. Paragraph 243 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

244. In response to Paragraph 244, Defendants state that the law speaks for itself.

245. Paragraph 245 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

246. Paragraph 246 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

247. Paragraph 247 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

248. Paragraph 248 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

249. Paragraph 249 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

250. Paragraph 250 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

251. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 251 and, therefore, deny the same.

252. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations set forth in Paragraph 252 and, therefore, deny the same.

253. Paragraph 253 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

254. Paragraph 254 contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Defendants deny the same.

255. Defendants deny the allegations contained in Paragraph 255.

256. Defendants deny the allegations contained in Paragraph 256.

### **RELIEF REQUESTED**

The remainder of Plaintiff's First Amended Complaint constitutes her prayer for relief, to which no response is required. To the extent a response is necessary, Defendants deny the same.

### **GENERAL DENIAL**

Defendants deny every allegation, statement, and conclusion of law in Plaintiff's First Amended Complaint that is not specifically admitted in this Answer.

## **AFFIRMATIVE DEFENSES**

1. Plaintiff has failed to state a claim upon which relief can be granted.
2. Plaintiff's claims are barred, in whole or in part, by the First Amendment Free Exercise Clause because the law Plaintiff invokes in support of her claim is neither neutral nor generally applicable, and it burdens Defendants' free exercise of religion and is neither supported by a compelling governmental interest nor advanced by the means least restrictive upon Defendants' religious exercise.
3. Plaintiff's claims are barred, in whole or in part, by the First Amendment Free Exercise Clause because the law Plaintiff invokes in support of her claim is not neutral and directly targets inherently religious practices.
4. Plaintiff's claims are barred, in whole or in part, by the First Amendment Free Exercise Clause because the law Plaintiff invokes in support of her claim was motivated in part by religious animosity.
5. Plaintiff's claims are barred, in whole or in part, by the First Amendment Religious Autonomy Doctrine because they interfere with Defendants' internal decisions regarding the scope of its ministry of providing healthcare in accordance with Catholic values and doctrine, including those articulated in the Ethical and Religious Directives promulgated by the United States Conference of Catholic Bishops.
6. Plaintiff's claims are barred, in whole or in part, by the First Amendment Establishment Clause because adjudication of them will entangle the Court in core religious subject matters of the defendant religious organizations.
7. Plaintiff's claims are barred, in whole or in part, by the First Amendment Right of Expressive Association which ensures that Defendants may associate with and engage persons, or disassociate with and terminate persons, in pursuit of Defendants' social, educational, religious, and cultural ends, including providing healthcare aligned with Catholic values and doctrine, including those articulated in the Ethical and Religious Directives promulgated by the United States Conference of Catholic Bishops.
8. Plaintiff's claims are barred, in whole or in part, by Defendants' fundamental right under the federal and state Due Process Clauses to be free from coerced participation in the deliberate killing of a patient.
9. Plaintiff's claims are barred, in whole or in part, by the First Amendment hybrid rights doctrine, including (without limitation) the right of free exercise of religion, the right of expressive association, the right to be free of excessive government entanglement with religion, and the fundamental right to be free from coerced participation in the killing of human beings.

10. Plaintiff's claims are barred, in whole or in part, by the Colorado Constitution, art. II, § 5, that guarantees that Defendants shall not "be denied any civil or political right, privilege or capacity, on account of [their] opinions concerning religion."

11. Plaintiff's claims are barred, in whole or in part, by the Colorado Constitution, art. 2, § 10 that guarantees that there shall be no law "impairing the freedom of speech" and association.

12. Plaintiff's claims are barred, in whole or in part, by the Colorado Constitution, art. 2, § 3 that guarantees that the Defendants have "certain natural, essential and inalienable rights."

13. Plaintiff's claims are barred, in whole or in part, by the EOLOA, including without limitation C.R.S. §§ 25-48-113(2), 25-48-117, and 25-48-118.

14. Plaintiff's claims are barred, in whole or in part, by her breach of contract and by breach of the requirements associated with the Defendants' grant of medical privileges to her.

15. Plaintiff's claims are barred, in whole or in part, by her failure to satisfy a condition precedent, including without limitation compliance with the Ethical and Religious Directives and the grant of privileges from Defendants.

16. Plaintiff's claims are barred, in whole or in part, by the doctrines of estoppel, laches, waiver, and unclean hands.

17. Plaintiff's damages, if any, are barred in whole or in part by her failure to mitigate them.

18. Defendants reserve the right to add additional affirmative defenses as they become known through the course of discovery or otherwise.

WHEREFORE, Defendants prays that that the Court enter judgment in their favor and against all claims set forth in the First Amended Complaint, dismissing each such claim with prejudice and awarding to Defendants their attorneys' fees, costs, and such other relief as the Court deems just.

### **COUNTERCLAIM FOR DECLARATORY JUDGMENT**

For its counterclaim for Declaratory Judgment against Plaintiff, Dr. Morris, Defendant states as follows:

#### **INTRODUCTION**

The clinic at which the employee Plaintiff was employed is part of St. Anthony Hospital. St. Anthony is a Catholic healthcare institution founded by Franciscan sisters in 1892. Inspired by this founding, by the sacrifice of the sisters and others over the decades that followed, and by the

teachings of the Jesus, *see* Mt. 25 (“when I was ill, you came to my help”), St. Anthony has, for almost 130 years, conducted its healing ministry consistent with those values. They are distilled in the Ethical and Religious Directives promulgated by the United States Conference of Catholic Bishops which, among other provisions, state:

Euthanasia is an action or omission that of itself or by intention causes death in order to alleviate suffering. Catholic health care institutions may never condone or participate in euthanasia or assisted suicide in any way. Dying patients who request euthanasia should receive loving care, psychological and spiritual support, and appropriate remedies for pain and other symptoms so that they can live with dignity until the time of natural death.

Patients should be kept as free of pain as possible so that they may die comfortably and with dignity, and in the place where they wish to die. Since a person has the right to prepare for his or her death while fully conscious, he or she should not be deprived of consciousness without a compelling reason. Medicines capable of alleviating or suppressing pain may be given to a dying person, even if this therapy may indirectly shorten the person’s life so long as the intent is not to hasten death.

St. Anthony and other Catholic healthcare institutions eventually merged into Catholic Health Initiatives Colorado (“CHIC”).

Numerous Seventh-day Adventist healthcare organizations similarly came together to form the PorterCare Adventist Health System (“PAHS”). Those institutions also undertook their healing ministry to follow the teachings of Jesus. They provide such healthcare consistent with Adventist values as articulated in Scripture. As regards, end of life care, Adventist values are similar to Catholic values and do not allow participation in assisted suicide.

In 1997, CHIC and PAHS agreed to become the sponsors of Centura Health Corporation, a Colorado non-profit corporation through which the facilities of each would be managed while preserving their respective Catholic and Seventh-day Adventist identities and values.

After Colorado voters approved the End of Life Options Act in 2016, Centura Health adopted and published a policy, as permitted under C.R.S. § 25-48-118(1), which, among other provisions, states:

- Centura Health prohibits physicians and providers who are employed by Centura Health, PorterCare Adventist Health System, or Catholic Health Initiatives Colorado, as well as physicians and providers providing services at Centura Health Facilities, from prescribing or dispensing medication intended to be used as a Medical Aid-in-Dying Medication for patients of Centura Health Facilities.

- Physicians and providers providing services at Centura Health Facilities may discuss the range of available treatment options with patients to ensure patients are making informed decisions with respect to their care; provide, however, that physicians and providers providing services at Centura Health Facilities will not engage in any stage of qualifying a patient for use in Medical Aid-in-Dying Medication.

1. A controversy exists between Plaintiff and Defendants regarding whether the EOLOA or the Corporate Practice of Medicine statute can, consistent with the U.S. and Colorado Constitutions, be applied so as to force a religious healthcare organization, through its employees, to participate in the intentional killing of a patient, contrary to its religious beliefs, ethical standards, and medical practices.

2. A controversy also exists between the parties as to whether the Defendants must employ and retain a physician who--in open violation of her agreement with the Defendants, Defendants' values and practices, and Defendants' published policy--began the process of qualifying a patient for the administration of lethal drugs.

3. The rights and legal relations between the parties, including the claims to be decided in this case, turn on the application of the First Amendment's Free Exercise Clause and Establishment Clause, Fourteenth Amendment substantive due process, and related U. S. Supreme Court case law.

4. A declaratory judgment declaring and enforcing those First Amendment and Fourteenth Amendment rights and principles would terminate the controversy, remove uncertainty and resolve the Plaintiff's claims in this case.

5. Pursuant to C.R.C.P. 57, Defendant is entitled to entry of an order declaring its rights and legal relations with respect to this issue.

6. Defendant therefore seeks a judicial declaration that neither the EOLOA nor the Corporate Practice of Medicine statute can, consistent with the First and Fourteenth Amendments of the U. S. Constitution, be applied to the activities of a religious healthcare organization in a way that compels it to allow its employees to participate in providing services that support or carry out assisted suicide, which is contrary to its strongly held, fundamental beliefs, mission and purposes.

7. Since the resolution of the constitutional issues could resolve the Plaintiff's claims without the necessity of trial, Defendant requests that the Court expedite ruling on the constitutional issues and order briefing and speedy hearing, if needed.

### **PRAYER FOR RELIEF**

WHEREFORE, Defendants pray for judgment in the form of declaratory relief holding that the First and Fourteenth Amendments to the United States Constitution:

A. Preclude application of the Colorado End of Life Options Act, the Colorado Lawful Off-Duty Activities Statute, Colorado law regarding the corporate practice of medicine, either directly or in support of a public policy wrongful discharge claim, to prevent Defendants from terminating Plaintiff or others who similarly insist upon or take any steps toward the administration of lethal drugs to a patient or other actions intended to end the patient's life in violation Defendants' religious values;

B. Preclude application of the Colorado End of Life Options Act, the Colorado Lawful Off-Duty Activities Statute, Colorado law regarding the corporate practice of medicine, either directly or in support of a public policy wrongful discharge claim, to prevent Defendants from terminating Plaintiff or others who similarly insist upon or take any step toward the administration of lethal drugs to a patient or other actions intended to end the patient's life in violation Defendants' religious values;

C. Preclude application of the Colorado End of Life Options Act, the Colorado Lawful Off-Duty Activities Statute, Colorado law regarding the corporate practice of medicine, either directly or in support of a public policy wrongful discharge claim, to assess damages against Defendants and in favor of Plaintiff because Defendants terminated Plaintiff or others who similarly insist upon or take any steps toward the administration of lethal drugs to a patient or other actions intended to end the patient's life in violation Defendants' religious values.

Defendants also pray that the Court enter additional relief as the Court deems just, including without limitation the award of attorney's fees and costs.

### **JURY DEMAND**

Defendants demand a jury trial on all claims or issues so triable.

<signatures on following page>



Respectfully submitted this 20th day of December, 2019.

HALL, RENDER, KILLIAN, HEATH & LYMAN, P.C.

By: /s/ Melvin B. Sabey  
Melvin B. Sabey, #9941

NUSSBAUM SPEIR PLLC

By: /s/ L. Martin Nussbaum  
L. Martin Nussbaum #15370  
Ian Speir #45777

ATTORNEYS FOR DEFENDANTS

### **CERTIFICATE OF SERVICE**

The undersigned certifies that on this 20th day of December, 2019, a true and correct copy of the foregoing was served via the Colorado Courts E-Filing System (CCES) as follows:

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