Supreme Court No. 19–1197
Polk County Case No. EQCE084567

IN THE SUPREME COURT OF IOWA

MIKA COVINGTON, AIDEN DELATHOWER, and ONE IOWA, INC.,

Petitioners–Appellants,

v.

KIM REYNOLDS *ex rel.* STATE OF IOWA, and IOWA DEPARTMENT OF HUMAN SERVICES,

Respondents–Appellees.

Appeal from the Iowa District Court for Polk County
Honorable David Porter, District Court Judge

APPLICATION FOR FURTHER REVIEW

(Iowa Court of Appeals Decision: August 5, 2020)

Rita Bettis Austen
Shefali Aurora
ACLU of Iowa Foundation Inc.
505 Fifth Avenue, Ste. 808
Des Moines, IA 50309-2317
Telephone: 515-243-3988
Facsimile: 515-243-8506
rita.bettis@aclu-ia.org
shefali.aurora@aclu-ia.org

John Knight
ACLU Foundation

F. Thomas Hecht
Tina B. Solis
Seth A. Horvath
Nixon Peabody LLP
70 West Madison St., Ste. 3500
Chicago, IL 60601
Telephone: 312-977-4443
Facsimile: 312-977-4445
fthecht@nixonpeabody.com
tbsolis@nixonpeabody.com
sahorvath@nixonpeabody.com

LGBT & HIV Project
150 North Michigan Ave., Ste. 600
Chicago, IL 60601
Telephone: 312-201-9740
Facsimile: 312-288-5225
jknight@aclu-il.org

QUESTIONS PRESENTED FOR FURTHER REVIEW

Petitioners–Appellants Mika Covington ("Ms. Covington"), Aiden DeLathower (Vasquez) ("Mr. Vasquez"), and One Iowa Inc. ("One Iowa") (together, "Petitioners") challenged the constitutionality of Division XX of House File 766 (the "Division"), which eviscerated this Court's recent decision in *Good v. Iowa Department of Human Services*, 924 N.W.2d 853 (Iowa 2019), by reinstating the categorical ban on Medicaid reimbursement for gender-affirming surgery imposed by section 441-78.1(4) of the Iowa Administrative Code (the "Regulation"). Respondents Kim Reynolds *ex rel.* the State of Iowa, and the Iowa Department of Human Services ("DHS") (together, the "State"), moved to dismiss. The District Court for Polk County granted the State's motion, holding that Petitioners' constitutional challenges were not ripe, Petitioners had an adequate remedy at law, and One Iowa had no standing to file suit. The Iowa Court of Appeals affirmed. The court of appeals' decision presents three questions for further review:

1. Does the availability of an inapplicable, futile administrative process for requesting relief prohibited by a statute render a challenge to the statute's constitutionality unripe?

2. Does the availability of an inapplicable, futile administrative process for requesting relief prohibited by a statute constitute an adequate remedy at law that precludes a request to enjoin the statute's enforcement?

3. Does an organization have standing to challenge the constitutionality of statute where the organization (a) has suffered demonstrable harm from the statute's enactment, (b) has individual members who qualify for standing, (c) seeks to protect interests directly related to the organization's purpose, and (d) seeks to litigate pure questions of law?

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes, Rules, and Constitutional Provisions

Other

STATEMENT SUPPORTING FURTHER REVIEW

Despite acknowledging that the Division was "clearly calculated to allow Medicaid providers to deny gender-affirming surgical procedures to transgender Iowans" (Op. 5–6), the court of appeals affirmed the district court's dismissal of Petitioners' constitutional challenges to the Division on procedural grounds. The court's decision needlessly forces Petitioners to restart those challenges from square one by distorting basic, well-settled standards for ripeness, injunctive relief, and standing.

This Court should grant further review because the court of appeals' decision conflicts with a decision by this Court; presents important questions of law that have not been, but should be, settled by this Court; and presents issues of broad public importance. Iowa R. App. Pro. 6.1103(1)(b)(1), (2), (4).

First, the decision upends the ripeness doctrine by requiring an aggrieved party to participate in an inapplicable, futile "administrative process" before challenging the constitutionality of a statute. Ripeness has two basic elements: (1) the existence of an actual controversy and (2) the existence of hardship in the absence of a decision resolving that controversy. There is an actual controversy in this case. Petitioners meet the prerequisites for obtaining Medicaid coverage for gender-affirming surgery, and the

Division, on its face, prohibits that coverage by reinstating the Regulation, which categorically prohibits Medicaid reimbursement for gender-affirming surgical care. There is also hardship. The record conclusively establishes the severity of Petitioners' gender dysphoria and the immediacy of their need for treatment. Withholding adjudication of Petitioners' claims will further exacerbate the harm they are suffering.

Although the court of appeals' decision suggests that DHS may ultimately exercise its discretion to grant Petitioners' requests for Medicaid coverage, the law is the law, and until the Regulation is abrogated or amended, the Division makes the outcome of the "administrative process" a *fait accompli*.[1] Additionally, that process does not even apply here. Petitioners have challenged a legislative action (i.e., the Division), not an agency action (i.e., a specific coverage denial under the Regulation), because the former predetermines the latter. Petitioners' constitutional claims challenging a legislative action cannot be resolved in an administrative proceeding before DHS.

[1] Indeed, the week before this application was filed, Amerigroup Iowa Inc., Mr. Vasquez's managed-care organization, denied his initial preauthorization request for Medicaid coverage, stating, unsurprisingly, that "[g]ender surgery is not a covered benefit in Iowa" and citing the Regulation.

Second, the court of appeals' holding that Petitioners have an adequate remedy at law conflicts with this Court's precedent. In *Sioux City Police Officers Association v. City of Sioux City*, 495 N.W.2d 687, 693 (Iowa 1993), the Court held that a state agency could not "provide an adequate remedy for the [constitutional] issues raised by [the] plaintiffs" and that, as a result, the case "present[ed] exactly the kind of fruitless pursuit of unavailable remedies that necessitat[ed] an exception to the [administrative] exhaustion doctrine." Ignoring *Sioux City*, the court of appeals concluded that the "administrative process" provides an adequate remedy at law. Taken to its logical conclusion, the court of appeals' decision means that, even if a statute results in immediate irreparable injury, as long as the subject matter of the statute is governed by administrative regulations, the aggrieved party has no right to injunctive relief until the "administrative process" has concluded. This is not, and cannot be, the law in this state. The Court should resolve the conflict between *Sioux City* and this case.

Third, the court of appeals' decision undermines direct organizational standing and representational standing by requiring an organization that seeks to challenge the constitutionality of a statute to clear an unreasonably high hurdle before filing suit. Under the court of appeals' decision, an organization that (1) has suffered demonstrable harm from a statute's

enactment, (2) has individual members who qualify for standing, (3) seeks to protect interests directly related to the organization's purpose, and (4) seeks to litigate pure questions of law still does not have standing to file suit. This standard contradicts, and narrows, decades of precedent on organizational standing.

STATEMENT OF THE CASE

Ms. Covington and Mr. Vasquez are transgender, meaning their gender identity differs from their birth-assigned sex. One Iowa is a nonpartisan, nonprofit organization that seeks to improve the lives of lesbian, gay, bisexual, transgender, and queer Iowans statewide. In the proceedings before the district court, Petitioners requested an injunction prohibiting the State from enforcing the Division, which was signed into law on May 3, 2019.

The State enacted the Division to negate this Court's recent decision in *Good v. Iowa Department of Human Services*, 924 N.W.2d 853, 862–63 (Iowa 2019). In *Good*, the Court held that the categorical ban on Medicaid reimbursement for gender-affirming surgery imposed by the Regulation violated the Iowa Civil Rights Act's ("ICRA") protections against gender-identity discrimination in public accommodations. The Division was enacted by logrolling a substantive amendment to ICRA into an annual

appropriations bill. It exempts state and local government units from ICRA's nondiscrimination protections for transgender Iowans seeking medically necessary care. This exemption violates the Iowa Constitution's Equal-Protection Guarantee, Single-Subject and Title Rules, and Inalienable-Rights Clause.

The district court erroneously dismissed Petitioners' lawsuit on ripeness and standing grounds, declining to reach the merits of Petitioners' claims. (App. 875–77.) The district also erroneously denied temporary injunctive relief on the basis that Petitioners failed to demonstrate that they lack an adequate remedy at law. (App. 871–75.)

The court of appeals affirmed. (Op. 8.) *First*, the court held that Petitioners' claims are not ripe, finding that until Petitioners' providers deny them Medicaid coverage, the controversy "is purely abstract because [Petitioners] have not been adversely affected in a concrete way." (*Id*. 3–6.) *Second*, the court held that Petitioners "have a legally adequate means of legal redress through . . . DHS's administrative process" and therefore have an adequate remedy at law precluding injunctive relief. (*Id*. 6–7.) *Third*, the court held that One Iowa lacks standing to file suit because any injury to One Iowa is "hypothetical or speculative at this time," and "the matter is not ripe for adjudication." (*Id*. 7–8.)

The court of appeals erred in affirming the district court's dismissal of Petitioners' claims. All three of its holdings are based on the same fundamentally flawed conclusion: that Petitioners should be required to seek Medicaid preauthorization, and complete the "administrative process," before challenging the Division's constitutionality in court. This conclusion disregards the nature of Petitioners' claims and the disconnect between the "administrative process" and those claims.

Petitioners' claims are ripe for adjudication. Petitioners have challenged the Division, a legislative action, not the Regulation, an agency action. As amended by the Division, ICRA's protections against discrimination in public accommodations no longer "require any state or local government unit or tax-supported district to provide for sex reassignment surgery" or any surgical procedure "related to transsexualism [or] gender identity disorder." Iowa Code § 216.7(3) (2020). This is so regardless of (1) an individual's eligibility for Medicaid coverage or (2) the medical necessity of the requested procedure. Indeed, the State has conceded that the Division reinstated the Regulation, which expressly prohibits Medicaid coverage for gender-affirming surgery. *See* Iowa Admin. Code r. 441-78.1(4) (2020). The Regulation was never removed from the Iowa

Administrative Code, notwithstanding this Court's decision in *Good* that the Regulation violates ICRA. *See Good*, 924 N.W.2d at 862–63.

Under the Division, the State *could* amend the Regulation to permit the coverage that is currently banned. *But it has not done so*. Thus, under the current law, it is preordained that any request by Petitioners, or any other transgender Iowans, for surgical preauthorization under Medicaid will be denied. The "administrative process" cannot change the Division, its reinstatement of the Regulation, or any subsequent discriminatory policy or practice adopted in the Regulation's place.

Petitioners' challenge to the constitutionality of the Division, however, *can*. Petitioners seek to require the State to make Medicaid coverage determinations on the same bases as all other Iowans who receive Medicaid coverage—that is, on the bases of (1) their eligibility for coverage and (2) the medical necessity of the procedures they have requested. Granting the relief requested in this case will entitle Petitioners to nondiscriminatory coverage determinations under Iowa Medicaid. Once the baseline for these nondiscriminatory determinations has been properly reset, Petitioners and other transgender Iowans will be subject to the same requirements of financial eligibility and medical necessity as all other

Iowans on Medicaid, rather than singled out for coverage denials based on their transgender status.

Whether this relief is warranted depends on the statutory language of the Division and the legislative procedure used in adopting it, *not* on the details of individualized Medicaid coverage determinations. Petitioners' challenge to the Division can, and should, be adjudicated now, rather than after a time-consuming and futile "administrative process."

Petitioners also have no adequate remedy at law. The Division ensures discriminatory consideration of requests for preapproval of Medicaid coverage for transgender Iowans who rely on Medicaid, including Petitioners. Monetary damages are insufficient to protect against the serious constitutional violations, medical risks, and other injuries resulting from the Division. The availability of an inapplicable, futile "administrative process" is not an adequate remedy at law for these harms. If anything, it is the opposite—a needless delay in a situation warranting immediate equitable relief.

Additionally, One Iowa has standing to challenge the Division. One Iowa has direct organizational standing because the Division causes it direct injury. One Iowa has diverted organizational resources to opposing and counteracting the Division and will continue to do so unless the Division is

enjoined. And the Division has frustrated the organization's mission—which includes expanding access to healthcare for transgender Iowans—in specific and concrete ways distinct from the Division's effect on the general population.

One Iowa also has representational standing. The Division causes its board members, staff members, and volunteer members injury; the interests at stake are germane to the organization's purpose; and, neither the claims asserted nor the relief requested require the participation of One Iowa's individual members.

ARGUMENT

I. Petitioners' claims are ripe.

The court of appeals incorrectly held that Petitioners' claims are not ripe. (Op. 3–6.) "The constitutional requirement of ripeness is basically a manifestation of the rule that courts should not address hypothetical questions." *Taft v. Iowa Dist. Court for Linn County*, 879 N.W.2d 634, 638 (Iowa 2016) (quotation marks omitted). "A case is ripe for adjudication when it presents an actual, present controversy, as opposed to one that is merely hypothetical or speculative." *Id*. (quotation marks omitted); *State v. Tripp*, 776 N.W.2d 855, 859 (Iowa 2010); *State v. Wade*, 757 N.W.2d 618, 627 (Iowa 2008); *State v. Iowa Dist. Court for Blackhawk Cnty.*, 616

N.W.2d 575, 578 (Iowa 2000). In determining whether a case is ripe, courts "evaluate both the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration." *Abbott Labs. v. Gardner*, 387 U.S. 136, 49 (1967).

This case presents "an actual, present controversy" that should be adjudicated now, as opposed to after the so-called "administrative process" invoked by the court of appeals. (Op. 7.) Petitioners' claims are neither "hypothetical" nor "speculative." *See Taft*, 879 N.W.2d at 638; *Tripp*, 776 N.W. 2d at 859; *Wade*, 757 N.W.2d at 627; *Iowa Dist. Court*, 616 N.W.2d at 578. Instead, the claims are ripe for adjudication because (1) they are "fit[] . . . for judicial decision," and (2) "withholding" them from "court consideration" will cause Petitioners significant "hardship." *See Abbott*, 387 U.S. at 149.

A. Petitioners' claims are fit for judicial decision.

Petitioners' claims are "fit[] . . . for judicial decision." *See Abbott*, 387 U.S. at 148–49; *Tripp*, 776 N.W.2d at 859 (citing *Abbott* for purposes of state ripeness doctrine); *Wade*, 757 N.W.2d at 627 (same); *Blackhawk*, 616 N.W.2d at 578 (same). They are not subject to the "administrative process" since they challenge a legislative action, not an agency action. They require no further factual development since they are purely legal in nature. And

they are not speculative since the Regulation, which the Division reinstated, remains in effect and mandates denying Medicaid coverage for gender-affirming surgery.

1. Petitioners are not required to exhaust administrative remedies before pursuing their claims.

The court of appeals incorrectly concluded that the "administrative process" for challenging denials of Medicaid coverage for gender-affirming surgery must be invoked before Petitioners can seek to enjoin the Division's enforcement. The court misconstrued the nature of Petitioners' challenges to the Division and ignored the limitations of "the administrative process."

a. Petitioners have challenged a legislative action, not an agency action.

First, Petitioners have challenged a legislative action, not an agency action. There are "three distinct categories of agency action: rulemaking, adjudication or contested case, and other agency action." *See Petit v. Iowa Dep't of Corrs.*, 891 N.W.2d 189, 194 (Iowa 2017). The Division, a legislative enactment, was not the product of "rulemaking," did not involve agency "adjudication" or a "contested case" before an agency, and did not involve any "other agency action." *See id*.

Petitioners allege, in part, that the legislative procedure by which the Division was enacted violates the Iowa Constitution's anti-logrolling

provisions. (App. 64–67; App. 826–39.) They also allege that the substance of the Division violates the Iowa Constitution's Equal-Protection Guarantee and Inalienable-Rights Clause. (App. 46–64, 67–70; App. 813–26, 839–42.)

Petitioners' anti-logrolling claims implicate issues with the legislative process that are fully independent from the Regulation. The State's violations of the Single-Subject and Title Rules arose from the manner in which the Division was enacted, not from the Division's reinstatement of the Regulation. The interests safeguarded by the Single-Subject and Title Rules—which ensure notice, input, and debate with respect to proposed legislation, and which protect the democratic process—cannot be secured or furthered by administrative remedies related to the Regulation. *See* Iowa Const., art. III, § 29; *State v. Mabry*, 460 N.W.2d 472, 473 (Iowa 1990); *Western Int'l v. Kirkpatrick*, 396 N.W.2d 359, 365 (Iowa 1986). As a result, the "administrative process" is irrelevant to Petitioners' anti-logrolling claims.

The same is true of Petitioners' equal-protection and inalienable-rights claims. The State's equal-protection and inalienable-rights violations arise from the Division, not from the Regulation. Both the Division and the Regulation expressly discriminate against transgender people and violate the Iowa Constitution. But absent the Division, the Regulation would be

unenforceable under this Court's decision in *Good*. *See Good*, 924 N.W.2d at 862–63 (enjoining the Regulation because it discriminates on the basis of gender identity in violation of ICRA). While the Division and the Regulation together make the denial of medically necessary gender-affirming surgery inevitable, the Regulation itself is not the target of Petitioners' claims. Rather, Petitioners' target is the Division, which expressly authorizes the State to discriminate against them solely because they are transgender. The Division takes away Petitioners' statutory right under ICRA to a nondiscriminatory preapproval process to obtain Medicaid coverage for medically necessary care. *See* Iowa Code § 216.7(3) (2020). The "administrative process" has no bearing on the ripeness of Petitioners' equal-protection or inalienable-rights claims.

Petitioners' claims are *not* requests for gender-affirming surgery. Petitioners seek to require the State to make coverage determinations regarding their surgical care on the same bases as all other Iowans who receive Medicaid coverage—that is, on the bases of (1) their eligibility for coverage and (2) the medical necessity of the procedures they have requested. Granting injunctive relief in this case will not entitle Petitioners, or anyone else, to gender-affirming surgery; it will merely entitle them to nondiscriminatory coverage determinations under Iowa Medicaid on the

same terms as all other Iowans' requests for coverage of medical care. The injunctive relief requested by Petitioners relates to the Division's statutory language and the procedure by which it was enacted, not the details of individualized Medicaid coverage determinations.

Indeed, neither DHS nor the Iowa Civil Rights Commission nor any other state agency even has the authority to resolve Petitioners' constitutional challenges to the Division or return the law to the state in which it existed before the Division's enactment. "The executive department," including its agencies, "has the general power to execute and carry out the laws." *Doe v. State*, 688 N.W.2d 265, 271 (Iowa 2004). But only "the judicial department has the power to interpret the constitution and laws, apply them, and decide controversies." *Id.; see also Salsbury Labs. v. Iowa Dep't of Envtl. Quality*, 276 N.W.2d 830, 836 (Iowa 1979) ("Agencies cannot decide issues of statutory validity.").

Petitioners' challenge to the Division must be decided in court. And the proper mechanism for proceeding in court is an action for declaratory and injunctive relief, like Petitioners' action here, not a judicial-review proceeding under the Iowa Administrative Procedure Act, which only applies to "agency action." *See* Iowa Code § 17A.19 (2020).

b. Engaging in the "administrative process" would be futile.

Second, a final administrative denial of Medicaid coverage is not a prerequisite to Petitioners' lawsuit since engaging in the "administrative process" would be futile. The outcome of that process has been predetermined by the Division, which the State has conceded authorizes it to enforce the Regulation against Petitioners. (*See* App. 120 ("[T]he administrative rule [is] currently in effect . . . .").) The Regulation mandates denying Medicaid reimbursement for gender-affirming surgery. *See* Iowa Admin. Code r. 441-78.1(4) (2020); *Voyageurs Region Nat'l Park Ass'n v. Lujan*, 966 F.2d 424, 428 (8th Cir. 1992) (agency must follow its regulations); *Stoglin v. Apfel*, 130 F. Supp. 2d 1060, (S.D. Iowa 2000) (same); *United States v. Newell*, 516 F. Supp. 2d 971, 974 (S.D. Iowa 2007) (same). Additionally, no administrative agency has the authority to resolve Petitioners' constitutional challenges to the Division. *See Doe*, 688 N.W.2d at 271; *Salsbury*, 276 N.W.2d at 836. Therefore, seeking preauthorization for Medicaid coverage for gender-affirming surgery is futile until the Division is enjoined. Petitioners are not required to engage in a "fruitless pursuit of unavailable remedies" just to obtain a formulaic denial of relief from a state agency. *See Sioux City Police Officers Ass'n v. City of Sioux City*, 495 N.W.2d 687, 693 (Iowa 1993) (quotation marks omitted).

2. Petitioners' claims require no further factual development.

Petitioners' claims are also "fit[] . . . for judicial decision" because they require no further factual development. *See Abbott*, 387 U.S. at 148–49. The claims are "purely legal" in nature. *See id*. at 149; *Club Madonna, Inc. v. City of Miami Beach*, 924 F.3d 1370, 1380–81 (11th Cir. 2019).

The Division was enacted by logrolling a substantive amendment to ICRA into a routine annual appropriations bill. On its face, it exempts state and local government units from ICRA's nondiscrimination protections for transgender Iowans seeking medically necessary care. 2019 Iowa Acts, HF766, Division XX (stating the same in the title of Division XX: "Provision of Certain Surgeries or Procedures—*Exemption from Required Accommodations or Services*") (emphasis added).

This violates the Iowa Constitution's Equal-Protection Guarantee, Single-Subject and Title Rules, and Inalienable-Rights Clause. These "purely legal" claims do not require further factual development. *See Abbott*, 387 U.S. at 149 (concluding that the issue presented, which was "purely legal," was "appropriate for judicial resolution"); *Club Madonna*, 924 F.3d at 1380–81 (explaining that facial challenges, which present a "purely legal argument" are "presumptively ripe for judicial review because that type of

argument does not rely on a developed factual record") (quotation marks omitted).

Petitioners' individualized Medicaid coverage determinations are not at issue here. Petitioners seek to require the State to make those determinations based on the standard criteria—(1) their eligibility for coverage and (2) the medical necessity of the procedures they have requested—rather than on the discriminatory grounds permitted by the Division. The injunctive relief Petitioners seek will simply place them on equal footing with all other Iowa Medicaid recipients who apply for surgical care under Iowa Medicaid.

Whether this relief is warranted depends on the statutory language of the Division and the legislative procedure used in adopting it, not on the details of individualized Medicaid coverage determinations. No further factual development regarding Petitioners' individual medical conditions or prescribed surgical care is necessary for a court to adjudicate these issues.

3. Petitioners' claims are not speculative.

Finally, Petitioners' claims are "fit[] . . . for judicial decision" because they are not speculative. *See Abbott*, 387 U.S. at 148–49. The future deprivation of a benefit is actionable where the deprivation is certain, not speculative. *See Doe*, 688 N.W.2d at 269 (rejecting argument that prisoner's

challenge to agency rule was not ripe because he had not yet been denied release based on the rule, where he claimed that "the effect of the . . . rule [was] to remove him from the class of inmates who may be *considered* for early release," even though he did not claim "a *present* deprivation of release") (emphases in original); *Bassett*, 951 F. Supp. 2d at 951, 952–53 (finding that, even though some plaintiffs had not yet had benefits terminated that they received through their same-sex partners' employment, their claims were ripe because termination was certain under the challenged law).

Here, as in *Doe* and *Basset*, it is certain, not speculative, that the State will deny Petitioners coverage for their medically necessary gender-affirming surgeries. The State agrees that the Division reinstated the discriminatory Regulation. (*See* App. 120 ("[T]he administrative rule [is] currently in effect . . . .").) The Regulation mandates denying Medicaid reimbursement for gender-affirming surgery. *See* Iowa Admin. Code r. 441-78.1(4) (2020); *Good*, 924 N.W.2d at 862–63. Thus, under the Division, Petitioners are prohibited from receiving Medicaid reimbursement for the surgical treatment they need.

Additionally, Petitioners have already experienced harm as a result of the Division's enactment. Mr. Vazquez could not afford to travel to his

physician's office in Madison, Wisconsin, for a presurgical consultation to seek preauthorization for his surgical procedure, knowing that this trip would be futile based on the Division. (App. 78–80 ¶¶ 18–27.) And Ms. Covington was due to seek preauthorization for, and schedule, her presurgical consultation following a July 30, 2019, medical appointment, but after the district court dismissed the lawsuit, she and her doctor did not seek preauthorization because doing so would be futile based on the Division. (App. 92–93 ¶¶ 21–31.) Contrary to the district court's holding, these are nonspeculative, "concrete ways" in which Petitioners have been harmed, and will continue to be harmed, by the Division. (App. 876.)

It is, moreover, immaterial that, even if the Division is enjoined, the State theoretically—albeit erroneously—could deny Medicaid coverage to Petitioners on nondiscriminatory grounds, such as financial ineligibility or the absence of medical necessity. As discussed, the relief requested by Petitioners—an injunction prohibiting the Division's enforcement—will not automatically lead to the preapproval of their requests for Medicaid reimbursement. If the Division is enjoined, transgender Iowans on Medicaid, like Petitioners, will be subject to the same requirements of financial eligibility and medical necessity as all other Iowans on Medicaid. Like all Medicaid recipients, Petitioners will still be required to seek

preauthorization for coverage. And, at that point, coverage could be denied on nondiscriminatory grounds.

These types of "anything-can-happen scenarios" are insufficient to defeat the ripeness of Petitioners' claims. *See Thomas More Law Center v. Obama*, 651 F.3d 529, 537 (6th Cir. 2011) (rejecting the government's argument that a challenge to the Affordable Care Act was not ripe because the plaintiffs might die or their incomes might fall), *overruled on other grounds by Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519 (2012)); *Bassett*, 951 F. Supp. 2d at 952–53 (rejecting challenge to ripeness based on possibility that same-sex couples could separate, or that one employee could lose a job before the employee's domestic partner lost benefits under the law at issue, because those speculative possibilities did not undermine the causal relationship between the defendant's conduct and the harm alleged). Regardless of the ultimate outcome of Petitioners' preauthorization requests, their claims are ripe because, if Petitioners prevail, they will be entitled to the nondiscriminatory consideration of those requests.

B. Withholding adjudication will cause Petitioners significant hardship.

Petitioners' claims are also ripe because "withholding" them from "court consideration" will cause Petitioners significant "hardship." *See*

Abbott, 387 U.S. at 149; *Tripp*, 776 N.W.2d at 859; *Wade*, 757 N.W.2d at 627; *Blackhawk*, 616 N.W.2d at 578.

First, the court of appeals ignored the uncontested allegations and affidavits establishing the severity of Petitioners' gender dysphoria and the immediacy of their need for treatment. As numerous courts have acknowledged, the emotional distress, anxiety, depression and physical pain resulting from inadequate medical treatment for gender dysphoria constitute irreparable harm. *See Hicklin v. Precynthe*, No. 4:16–cv–01357–NCC, 2018 WL 806764, at *10, 14 (E.D. Mo. Feb. 9, 2018) (granting preliminary injunction); *Edmo v. Corizon, Inc.*, 935 F.3d 757, 785 (9th Cir. 2019) (upholding permanent injunction); *Flack v. Wis. Dep't of Health Servs.*, 328 F. Supp. 3d 931, 942–46 (W.D. Wis. 2018) (granting preliminary injunction). Petitioners averred that their gender dysphoria causes depression and suicidal ideation and that these symptoms have intensified because of the Division. (App. 9–11 ¶¶ 29–36, 43–51; App. 29–75; App. 79 ¶ 26; App. 93 ¶ 32.) Ms. Covington's medical provider stated that Ms. Covington's gender dysphoria has become "debilitating" (App. 97–99.) And Mr. Vazquez's doctor described gender-affirming surgery "as a vital quality of life and mental health issue for him." (App. 83.)

Actual and ongoing mental-health issues and threatened physical harm, as alleged by Petitioners in their petition and supported by their affidavits, constitute injuries so severe they cannot adequately be remedied at law. *See Matlock v. Weets*, 531 N.W.2d 118, 122–23 (Iowa 1995). A court should not require an individual to endure these injuries in the name of ripeness. *Cf. Salsbury*, 276 N.W.2d at 837 ("[A] litigant who would suffer irreparable harm from administrative litigation delay may proceed to court without exhausting administrative remedies.").

Second, the court of appeals failed to recognize the constitutional dimension of Petitioners' injuries. "It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)); *see also Ezell v. City of Chicago*, 651 F.3d 684, 699 (7th Cir. 2011) (infringement of constitutional rights by facially invalid law causes irreparable harm) (citing 11A Charles Wright, et al., Federal Practice & Procedure § 2948.1 (2d ed. 1995) ("When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.")). Petitioners' constitutional rights are being violated. (App. 46–70; App. 813–42.) For this

reason alone, delaying adjudication of their claims has imposed, and will continue to impose, significant "hardship." *See Abbott*, 387 U.S. at 149.

II. Petitioners have no adequate remedy at law.

The court of appeals also erred in holding that Petitioners have an adequate remedy at law. (Op. 6–7.) They do not. Petitioners have no adequate legal remedy for the Division's gross violation of their constitutional rights and their right to necessary medical care, causing significant distress, pain and discomfort, risks of self-harm, and suicidality. (App. 79 ¶ 26; App. 81–88; App. 93 ¶ 32; App. 95–102; App. 107 ¶ 15.) The Division ensures discriminatory consideration of requests for preapproval of Medicaid coverage for transgender Iowans who rely on Medicaid, including Petitioners. Monetary damages are insufficient to protect against these serious constitutional violations, medical risks, and other harms. *See Ney v. Ney*, 891 N.W.2d 446, 452 (Iowa 2017) (no adequate legal remedy "if the character of the injury is such that it cannot be adequately compensated by damages at law") (quotation marks omitted).

Contrary to the court of appeals' decision, the availability of an inapplicable, futile "administrative process" is not an adequate remedy at law for Petitioners' harm, as illustrated by this Court's decision in *Sioux City*. There, the plaintiffs, various municipal unions, brought a declaratory-

judgment action seeking a determination that a municipal resolution was unconstitutional. *Sioux City*, 495 N.W.2d at 690. The plaintiffs claimed that the resolution violated the Iowa Constitution's limitations on municipal home-rule authority, as well as the rights of their members to associate and marry under the First and Fourteenth Amendments. *Id*. This Court reversed the district court's decision that it did not have jurisdiction to render a declaratory ruling on the resolution's constitutionality. *Id*. at 691.

The Court rejected the defendant's contention that the plaintiffs were first required to proceed with their constitutional challenges before the agency charged with adjudicating labor disputes involving public employees. *Id*. at 691–93. The Court concluded that the agency was not "the most appropriate tribunal to hear [the] case" because the plaintiffs sought "to have the [resolution] declared invalid," a matter "properly for the courts to decide rather than [the agency]." *Id*. at 693. The agency, observed the Court, could not "provide an adequate remedy for the issues raised by [the] plaintiffs." As a result, the case "present[ed] exactly the kind of fruitless pursuit of unavailable remedies that necessitat[ed] an exception to the [administrative] exhaustion doctrine." *Id*.

Here, as in *Sioux City*, Petitioners have asserted constitutional challenges to a legislative enactment. Just as the agency was unable to

resolve the plaintiffs' claims in that case, no state agency can resolve Petitioners' claims in this one. Requiring Petitioners to assert those claims anywhere other than before a court would be "fruitless." *See id*. The "administrative process" therefore does not give Petitioners an adequate remedy at law.

III. One Iowa has standing.

The court of appeals also erred in holding that One Iowa lacks standing to challenge the Division. (Op. 7–8.) One Iowa has standing in two ways. *First*, One Iowa has direct organizational standing because the Division causes it direct injury by depleting its organizational healthcare-advocacy resources and frustrating its organizational mission of expanding access to healthcare for transgender Iowans. (App. 11–13 ¶¶ 52, 53, 55, 57, 59, 60; App. 804–43, App. 851–52 ¶ 13–15.) *See Godfrey v. State*, 752 N.W.2d 413, 418–22 (Iowa 2008); *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982).

Second, One Iowa has representational standing because the Division injures its board members, staff members, and volunteer members; the interests at stake are germane to the organization's purpose; and, neither the claims asserted, which raise pure questions of law, nor the relief requested, which does not involve individualized Medicaid coverage determinations,

require One Iowa's individual members to participate in the litigation. (App. 11–13 ¶¶ 52, 55–60; App. 18–19 ¶¶ 96–102.) *See Citizens for Wash. Square v. Davenport*, 277 N.W.2d 882, 886 (Iowa 1979); *Hunt v. Wash. State Apple Advertising Comm'n*, 432 U.S. 433, 443 (1977).

The court of appeals did not question One Iowa's satisfaction of these standing requirements. Instead, the court sidestepped the standing inquiry by concluding that any injury to One Iowa is speculative and that Petitioners claims are not ripe. (Op. 7–8.) In doing so, the court effectively held that an organization that (1) has suffered demonstrable harm from a statute's enactment, (2) has individual members who qualify for standing, (3) seeks to protect interests directly related to the organization's purpose, and (4) seeks to litigate pure questions of law still does not have standing to file suit. This Court should correct the court of appeals' drastic misapplication of the standing doctrine.

CONCLUSION

The district court's dismissal of Petitioners' lawsuit and the court of appeals' decision affirming the dismissal violate fundamental standards of ripeness, injunctive relief, and standing. For the reasons stated above, Petitioners respectfully ask this Court to (1) hold that their claims are ripe, (2) hold that they have no adequate remedy at law, (3) hold that One Iowa

has standing, (4) reverse the court of appeals' decision affirming the district court's order dismissing Petitioners' claims, (5) remand this case to the district court for further proceedings, and (6) temporarily enjoin the Division until final adjudication of this matter.

REQUEST FOR ORAL ARGUMENT

Petitioners believe oral argument will help the Court resolve the questions raised by this appeal.

Respectfully submitted,

/s/ Rita Bettis Austen
Rita Bettis Austen, AT0011558
ACLU of Iowa Foundation Inc.
505 Fifth Avenue, Ste. 808
Des Moines, IA 50309-2317
Telephone: 515-243-3988
Facsimile: 515-243-8506
rita.bettis@aclu-ia.org

/s/ Shefali Aurora
Shefali Aurora, AT0012874
ACLU of Iowa Foundation Inc.
505 Fifth Avenue, Ste. 808
Des Moines, IA 50309-2317
Telephone: 515-243-3988
Facsimile: 515-243-8506
shefali.aurora@aclu-ia.org

/s/ F. Thomas Hecht
F. Thomas Hecht, PHV001733
Nixon Peabody LLP
70 West Madison Street, Ste. 3500
Chicago, IL 60601
Telephone: 312-977-4322

Facsimile: 312-977-4405
fthecht@nixonpeabody.com

/s/ Tina B. Solis
Tina B. Solis, PHV001311

Nixon Peabody LLP
70 West Madison Street, Ste. 3500
Chicago, IL 60601
Telephone: 312-977-4482
Facsimile: 312-977-4405
tbsolis@nixonpeabody.com

/s/ Seth A. Horvath
Seth A. Horvath, PHV001734
Nixon Peabody LLP
70 West Madison Street, Ste. 3500
Chicago, IL 60601
Telephone: 312-977-4443
Facsimile: 312-977-4405
sahorvath@nixonpeabody.com

/s/ John Knight
John Knight, PHV001725
ACLU Foundation LGBT & HIV Project
150 North Michigan Avenue, Ste. 600
Chicago, IL 60601
Telephone: 312-201-9740
Facsimile: 312-288-5225
jknight@aclu-il.org

COST CERTIFICATE

I hereby certify that the cost of printing this brief was $0.00 and that that amount has been paid in full by the undersigned counsel.

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Rule 6.903(1)(g)(1) or (2) of the Iowa Rules of Appellate Procedure, as modified by Rule 6.1103(4)(a) of the Iowa Rules of Appellate Procedure, because:

[x] This brief contains 5,338 words, excluding the parts of the brief exempted by Rule 6.1103(4)(a) of the Iowa Rules of Appellate Procedure, or

[ ] This brief has a monospaced typeface and contains _____ lines of text, excluding the parts of the brief exempted by Rule 6.903(1)(g)(2) of the Iowa Rules of Appellate Procedure.

2. This brief complies with the typeface requirements of Rule 6.903(1)(e) of the Iowa Rules of Appellate Procedure and the type-style requirements of Rule 6.903(1)(f) of the Iowa Rules of Appellate Procedure because:

[x] This brief has been prepared in a proportionally spaced typeface using Times New Roman in fourteen-point font, or

[ ] This brief has been prepared in a monospaced typeface using Microsoft Word 2016 with _____ characters per inch and _____ style.

/s/ Rita Bettis Austen
Rita Bettis Austen
ACLU of Iowa Foundation Inc.
505 Fifth Avenue, Ste. 808
Des Moines, IA 50309-2317
Telephone: 515-207-0567
Facsimile: 515-243-8506
rita.bettis@aclu-ia.org

IN THE COURT OF APPEALS OF IOWA

No. 19-1197
Filed August 5, 2020

MIKA COVINGTON, AIDEN VASQUEZ, f/k/a AIDEN DELATHOWER, and ONE IOWA, INC.,
Petitioners-Appellants,

vs.

KIM REYNOLDS ex rel. STATE OF IOWA, and IOWA DEPARTMENT OF HUMAN SERVICES,
Respondents-Appellees.

Appeal from the Iowa District Court for Polk County, David M. Porter, Judge.

The petitioners appeal the district court order dismissing their petition for declaratory judgment and denying their motion for injunctive relief. **AFFIRMED.**

Rita Bettis Austen and Shefali Aurora of ACLU of Iowa Foundation Inc., Des Moines, and F. Thomas Hecht, Tina B. Solis, and Seth A. Horvath of Nixon Peabody LLP, Chicago, Illinois, and John Knight of ACLU Foundation LGBT & HIV Project, Chicago, Illinois, for appellants.

Thomas J. Miller, Attorney General, Jeffrey S. Thompson, Solicitor General of Iowa, and Thomas J. Ogden, Assistant Attorney General, for appellees.

Considered by Bower, C.J., and Doyle and Schumacher, JJ.

DOYLE, Judge.

Mika Covington, Aiden Vasquez, and One Iowa, Inc. brought a declaratory judgment action regarding an amendment to the Iowa Civil Rights Act (ICRA) that exempts transgender Iowans seeking gender-affirming surgical procedures from protection against discrimination by state and local government. The Iowa legislature passed the amendment following our supreme court's decision in *Good v. Iowa Department of Human Services*, 924 N.W.2d 853, 858-59, 862 (Iowa 2019), in which the Iowa Supreme Court held an administrative rule excluding surgeries "for the purpose of sex reassignment" and procedures "related to transsexualism, hermaphroditism, gender identity disorders, and body dysmorphic disorders" from Medicaid coverage violated the ICRA's prohibition against discrimination based on gender identity.[1] As amended, the ICRA states that it "shall not require any state or local government unit or tax-supported district to provide for sex reassignment surgery or any other cosmetic, reconstructive, or plastic surgery procedure related to transsexualism, hermaphroditism, gender identity disorder, or body dysmorphic disorder." *See* 2019 Iowa Acts ch. 85, § 93 (codified at Iowa Code § 216.7(3) (Supp. 2019)). The petitioners alleged the amendment violates provisions of the Iowa Constitution and moved for temporary and permanent injunctions to prevent its enforcement. The district court granted

[1] The petitioners in *Good* were two transgender women whose Medicaid providers denied them coverage for gender-affirming surgical procedures. *Good*, 924 N.W.2d at 857-59. Each woman unsuccessfully pursued administrative appeals before petitioning the court for judicial review, arguing the rule violated ICRA and the Equal Protection Clause of the Iowa Constitution. *Id.* at 858-59. Because the supreme court determined the rule violated the ICRA, it did not address the question of whether the rule violated protections afforded by the Iowa Constitution. *Id.* at 863 (following the doctrine of constitutional avoidance).

the State's motion to dismiss the action and denied the petitioners request for injunctive relief on the basis that Covington and Vasquez had adequate remedies at law and their claims were not ripe for adjudication, and One Iowa[2] lacked standing to challenge the legislative amendment.

We review the district court's grant of a motion to dismiss for correction of errors at law. *See Hedlund v. State*, 875 N.W.2d 720, 724 (Iowa 2016). In reviewing the ruling, we accept the petitioners' factual allegations as true. *See id.* Dismissal is appropriate only if the petition, on its face, shows no right of recovery under any state of facts. *See Rieff v. Evans*, 630 N.W.2d 278, 284 (Iowa 2001).

I. Declaratory Judgement.

The petitioners first challenge the dismissal of their petition for declaratory judgment on ripeness grounds. An action for declaratory judgment is available to any person "whose rights, status or other legal relations are affected by any statute" for the purpose determining its validity. Iowa R. Civ. P. 1.1102. But "[a] constitutional question does not arise merely because it is raised and a decision thereof sought." *Vietnam Veterans Against the War v. Veterans Mem'l Auditorium Comm'n*, 211 N.W.2d 333, 335 (Iowa 1973) (citation omitted). Rather, there must be "a substantial controversy between parties having adverse legal interests of

[2] The petition for declaratory judgment describes One Iowa as a nonpartisan, nonprofit organization with the purpose of advancing, empowering, and improving the lives of LGBTQ Iowans statewide. "Its work includes educating Iowans about the LGBTQ community, training healthcare providers, law enforcement, business leaders, and others to ensure LGBTQ Iowans are respected in every facet and stage of their lives, promoting policies within state and local government that protect the civil rights, health, and safety of LGBTQ Iowans, empowering tomorrow's LGBTQ leaders through training and mentorship, and connecting LGBTQ Iowans with vital resources." "One Iowa has a major focus on increasing healthcare access for transgender Iowans."

sufficient immediacy and reality to warrant a declaratory judgment." *Sierra Club Iowa Chapter v. Iowa Dep't of Transp*., 832 N.W.2d 636, 648 (Iowa 2013); *Lewis Consol. Sch. Dist. of Cass Cty. v. Johnston*, 127 N.W.2d 118, 122 (Iowa 1964) ("[N]o one may question the constitutionality of a statute unless he can show that he is injured by it."). The legal interest must be greater than that of the general public. *See Vietnam Veterans*, 211 N.W.2d at 335. And the action must involve a controversy that presently exists rather than "a mere abstract question." *Citizens for Responsible Choices v. City of Shenandoah*, 686 N.W.2d 470, 474 (Iowa 2004) (citations omitted); *Katz Inv. Co. v. Lynch*, 47 N.W.2d 800, 805 (Iowa 1951) (noting that "courts frequently decline to pass upon remote, future, or contingent rights which may never arise, at least where there is no present need for such determination or, because of absence of parties or otherwise, the determination may not be final"). In making these determinations, we ask: "(1) are the relevant issues sufficiently focused to permit judicial resolution without further factual development and (2) would the parties suffer any hardship by postponing judicial action?" *Sierra Club*, 832 N.W.2d at 649. Typically, both questions must be answered in the affirmative before a case is considered ripe. *See* David Floren, *Pre-Enforcement Ripeness Doctrine: The Fitness of Hardship*, 80 Or. L. Rev. 1107, 1112 (2001).

Our supreme court has illustrated when there is sufficient immediacy for an issue to be ripe for adjudication by contrasting the facts presented in two cases. *See Sierra Club*, 832 N.W.2d at 649. It noted that in *Citizens for Responsible Choices*, it determined that a nonprofit citizens group's objection to a public

improvement project that included a recreational lake and public park was not ripe for adjudication:

> There, the city had to issue bonds and establish a water recreational area before proceeding with the project. Before the city could issue the bonds, the Code required the city to hold a public hearing. At the time of the suit, the public hearing had not taken place nor had the city established the recreational area. Under these facts, we held the action failed for ripeness.

Sierra Club, 832 N.W.2d at 649. But the court in *Sierra Club* determined that under the facts before it, a challenge to the Iowa Department of Transportation's decision on a highway's location was ripe for adjudication:

> The decision where to locate a highway rests solely within the discretion of IDOT. According to the record before us, IDOT has made the decision to locate the Highway 100 extension adjacent to and through two nature preserves. There are no other decisions to make concerning the highway's location. Although the actual building of the highway may be contingent on future funding, IDOT has committed funds in excess of 4.3 million dollars in the 2012–2014 funding plan to obtain the right-of-way and for wetland mitigation at the chosen location. This commitment of funds supports the fact that IDOT has selected the site for the highway. Thus, there are no other facts that need to be resolved for the court to determine whether IDOT complied with sections 314.23(3) and 314.24 when it decided to locate the Highway 100 extension.

Id. (internal citations omitted).

Here, the factual scenario presented is more akin to that in *Citizens for Responsible Choices*. Covington and Vasquez have not requested Medicaid pre-authorization, their Medicaid providers have not evaluated the request, and no notice of decision had been issued. The district court determined that until their Medicaid providers deny them coverage, the controversy is purely abstract because they have not been adversely affected in a concrete way. We agree. Although the ICRA amendment is clearly calculated to allow Medicaid providers to

deny gender-affirming surgical procedures to transgender Iowans, nothing prohibits Medicaid providers from allowing such a claim. Thus, any dispute is speculative until a denial occurs and the matter is not ripe for adjudication.

II. Injunctive Relief.

Next, we address the denial of the petitioners' motion for injunctive relief. Because the question of whether to issue a temporary injunction rests within the discretion of the district court, we review the denial for an abuse of discretion. *See Lewis Investments, Inc. v. City of Iowa City*, 703 N.W.2d 180, 184 (Iowa 2005).

A temporary injunction is available only if the party seeking injunctive relief shows the likelihood of success on the merits of the underlying claim. *See id.* In other words, in order to grant temporary injunctive relief, the court must find it is likely the petitioners will succeed in obtaining a permanent injunction. *See id.* Because the court may grant permanent injunctive relief only if there is no other way to avoid irreparable harm to the plaintiff, it will not issue if there is an adequate remedy at law available. *Id.* at 185; *see also Ney v. Ney*, 891 N.W.2d 446, 451 (Iowa 2017) ("Generally, a party seeking an injunction must prove '(1) an invasion or threatened invasion of a right; (2) that substantial injury or damages will result unless the request for an injunction is granted; and (3) that there is [not another] adequate [means of protection] available.'" (citation omitted) (alteration in original)).

In denying temporary injunctive relief, the district court determined that the petitioners have an adequate remedy at law by means of administrative challenge. It noted that the petitioners in *Good*, pursued and exhausted their administrative appeals, providing the district court a complete factual record from which the court

could engage in constitutional analysis. On this record, the supreme court determined that the administrative rule enacted by the Iowa Department of Human Services (DHS) to allow Medicaid providers to deny transgender Iowans gender-affirming surgery violated the ICRA. Although the legislature has amended the ICRA so that the administrative rule no longer violates the law, the question of whether Medicaid must provide a recipient with a gender-affirming surgical procedure still resides, ultimately, with the DHS. *See* Iowa Admin. Code r. 441-73.13 (providing that a Medicaid recipient may appeal a denial decision of their managed care organization "in accordance with the appeal process available to all persons receiving Medicaid-funded services as set forth in 441—Chapter 7"); *see also* Iowa Admin. Code r. 441-7.4(3)(b) (pertaining to the appeal of medical services coverage under Medicaid managed care). On that basis, the petitioners have a legally adequate means of legal redress through the DHS's administrative process.

III. Standing.

Finally, we address One Iowa's challenge to the district court's determination that it lacks standing. We review the decision to dismiss One Iowa from the case based on lack of standing for errors at law. *See Hawkeye Foodserv. Distrib., Inc. v. Iowa Educators Corp.*, 812 N.W.2d 600, 604 (Iowa 2012). In order to have standing, a party "must (1) have a specific personal or legal interest in the litigation, and (2) be injuriously affected." *Id.* at 606 (citation omitted). The first element is satisfied if the litigant alleges an injury different than that of the general population. *See id.* The second element is satisfied when the injury is concrete and actual or imminent rather than conjectural or hypothetical. *See id.* In

dismissing it as a party to the action, the district court determined that One Iowa failed to show the required actual or imminent injury to maintain standing. As stated above, we agree that any injury is hypothetical or speculative at this time.

The district court also found that One Iowa failed to show it has representational standing. An organization may rest its right to sue on the rights of its members. *Citizens for Washington Square v. City of Davenport*, 277 N.W.2d 882, 886 (Iowa 1979) (citing *Hunt v. Washington Apple Advert. Comm'n*, 432 U.S. 333, 342 (1977)); *see also Arizonans for Official English v. Arizona*, 520 U.S. 43, 65-66 (1997) (stating that an association has standing "only if its members would have standing in their own right"). But in order to do so, it "must allege that its members, or any one of them, are suffering immediate or threatened injury as a result of the challenged action of the sort that would make out a justiciable case had the members themselves brought suit." *Hunt*, 432 U.S. at 342. As stated above, the matter is not ripe for adjudication and therefore is not justiciable. As such, One Iowa is without standing to bring this action. It is seeking general vindication of the public interest in seeing that the legislature acts in conformity with the constitution "is an admirable interest, but not one that is alone sufficient to establish the personal injury required for standing." *See Godfrey v. State*, 752 N.W.2d 413, 424 (Iowa 2008).

Because the district court committed no legal error or abuse of discretion in dismissing this action for declaratory judgment and injunctive relief, we affirm.

AFFIRMED.

IOWA APPELLATE COURTS

State of Iowa Courts

Case Number	**Case Title**
19-1197	Covington v. Reynolds

Electronically signed on 2020-08-05 08:27:07