

**In the Supreme Court of the United States**

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KEITH PARDUE, IN HIS OFFICIAL CAPACITY AS VICE PRESIDENT OF THE TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS; SANDRA “LYNN” CRINER, DOCTOR OF VETERINARY MEDICINE, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS; MICHAEL WHITE, DOCTOR OF VETERINARY MEDICINE, IN HIS OFFICIAL CAPACITY AS A MEMBER OF THE TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS; SAMANTHA MIXON, DOCTOR OF VETERINARY MEDICINE, IN HER OFFICIAL CAPACITY AS A MEMBER OF THE TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS; RANDALL SKAGGS, DOCTOR OF VETERINARY MEDICINE, IN HIS OFFICIAL CAPACITY AS A MEMBER OF THE TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS; RAQUEL OLIVER, IN HER OFFICIAL CAPACITY AS A MEMBER OF THE TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS; SUE ALLEN, LICENSED VETERINARY TECHNICIAN, IN HER OFFICIAL CAPACITY AS A MEMBER OF THE TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS; VICTORIA WHITEHEAD, IN HER OFFICIAL CAPACITY AS A MEMBER OF THE TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS; STEVEN GOLLA, DOCTOR OF VETERINARY MEDICINE, IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS,  
*Applicants*

*v.*

RONALD S. HINES, DOCTOR OF VETERINARY MEDICINE,  
*Respondent.*

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*ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT*

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**APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A  
PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE FIFTH CIRCUIT**

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## **PARTIES TO THE PROCEEDING**

Applicants Keith Pardue, in his official capacity as Vice President of the Texas State Board of Veterinary Medical Examiners; Sandra “Lynn” Criner, Doctor of Veterinary Medicine, in her official capacity as Secretary of the Texas State Board of Veterinary Medical Examiners; Michael White, Doctor of Veterinary Medicine, in his official capacity as a Member of the Texas State Board of Veterinary Medical Examiners; Samantha Mixon, Doctor of Veterinary Medicine, in her official capacity as a Member of the Texas State Board of Veterinary Medical Examiners; Randall Skaggs, Doctor of Veterinary Medicine, in his official capacity as a Member of the Texas State Board of Veterinary Medical Examiners; Raquel Oliver, in her official capacity as a Member of the Texas State Board of Veterinary Medical Examiners; Sue Allen, Licensed Veterinary Technician, in her official capacity as a Member of the Texas State Board of Veterinary Medical Examiners; Victoria Whitehead, in her official capacity as a Member of the Texas State Board of Veterinary Medical Examiners; Steven Golla, Doctor of Veterinary Medicine, in his official capacity as President of the Texas State Board of Veterinary Medical Examiners, were defendants-appellees in the court of appeals.

Respondent Ronald S. Hines, Doctor of Veterinary Medicine, was plaintiff-appellant in the court of appeals.

## APPLICATION FOR AN EXTENSION OF TIME

To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the Fifth Circuit:

Under 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30.3 of this Court, applicants respectfully request a sixty-day extension of time—to and including Monday, February 24, 2025—within which to file a petition for a writ of certiorari in this case to review the decision of the United States Court of Appeals for the Fifth Circuit, dated September 26, 2024. The panel opinion is attached as Exhibit A and may also be found at 117 F.4th 769 (5th Cir. 2024). No petition for rehearing was filed. The petition for a writ of certiorari currently is due December 26, 2024. This application is made more than ten days before that date. The Court’s jurisdiction is invoked under 28 U.S.C. § 1254(1). This request is unopposed.\*

1. The underlying case involves a circuit split concerning States’ “compelling interest in the practice of professions within their boundaries” and their corresponding “broad power to establish standards for licensing practitioners and regulating the practice of professions.” *Gade v. Nat’l Solid Wastes Mgmt. Ass’n*, 505 U.S. 88, 108 (1992). Specifically, it involves Texas’s authority to require a veterinarian to physically examine an animal before the veterinarian provides care for that animal, notwithstanding any incidental burden imposed on the veterinarian’s speech. *Cf. Nat’l Inst. of Fam. & Life Advoc. v. Becerra (NIFLA)*, 585 U.S. 755, 768 (2018) (“States may regulate professional conduct, even though that conduct incidentally involves speech.”).

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\* Under Rule 29.6 of the Rules of this Court, no corporate disclosure statement is required.

2. Respondent challenges section 801.351 of the Texas Occupations Code, which states that a licensed veterinarian “may not practice veterinary medicine unless a veterinarian-client-patient relationship exists” and further provides that such a relationship “may not be established solely by telephone or electronic means.” Tex. Occ. Code § 801.351. The challenged law undisputedly prevents Respondent from maintaining an exclusively online veterinary practice. He contends that the law violates his right to free speech secured under the First Amendment of the U.S. Constitution, as applied to the States under the Fourteenth Amendment. The Fifth Circuit agreed, holding that the challenged law “primarily regulated [Respondent’s] speech” and thus warranted heightened First Amendment scrutiny. *Hines v. Pardue*, 117 F.4th 769, 778 (5th Cir. 2024). In so holding, the Fifth Circuit split with the Eleventh Circuit and the Fourth Circuit regarding the First Amendment’s application to States’ professional-practice regulations.

3. To wit, in *Del Castillo v. Secretary, Florida Department of Health*, the Eleventh Circuit held that Florida’s licensure requirement for dieticians and nutritionists imposed only an incidental burden on speech that did not implicate the First Amendment. 26 F.4th 1214, 1225-26 (11th Cir. 2022). Similarly, *Capital Associated Industries, Inc. v. Stein*, held that North Carolina’s ban on the practice of law by corporations fit into *NIFLA*’s exception for professional-conduct regulations that incidentally affect speech. 922 F.3d 198, 207-08 (4th Cir. 2019). The split the Fifth Circuit’s decision created is a prime candidate for this Court’s review and reversal. Sup. Ct. R. 10(a), (c).

4. A sixty-day extension is necessary because lead and assisting counsel for the applicants have substantial briefing and oral-argument obligations overlapping with the preparation of the petition for certiorari, including the following: *Texas v. U.S. Department*

*of Transportation*, No. 24-10470 (5th Cir.) (merits brief filed November 4); *Healthy Vision Association v. Abbott*, No. 24-10245 (5th Cir.) (oral argument held November 6); *Free Speech Coalition v. Paxton*, No. 23-1122 (U.S.) (merits brief filed November 18; oral argument in January 2025); *In re Novartis Pharmaceuticals Corporation*, No. 24-0239 (Tex.) (merits brief filed November 20); *Barnes v. Felix*, No. 23-1239 (U.S.) (amicus brief due in December 2024); *In re J.J.T.*, No. 23-1028 (Tex.) (oral argument held December 3, 2024); *Nuclear Regulatory Commission v. Texas*, No. 23-1300 (U.S.) (merits brief due January 15, 2025; oral argument in February 2025); *Guitierrez v Texas* (U.S.) (merits brief due January 17, 2025).

In addition, counsel and their support staff anticipate reduced availability due to the upcoming Christmas and New Year's holidays.

6. A sixty-day extension would not work any meaningful prejudice on any party. If the Court grants the petition, it likely would hear oral argument in fall or winter of 2025 and issue its opinion in the October 2025 term regardless of whether an extension is granted.

7. Accordingly, good cause exists for this motion, and applicants respectfully request a sixty-day extension of time within which to file a petition for a writ of certiorari, to and including Monday, February 24, 2025.

8. Applicants' counsel has conferred with Jeff Rowes, counsel for Respondent, who indicated via email on December 6, 2024, that the relief requested in this application is unopposed.

Respectfully submitted.

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December 6, 2024