

August 5, 2024

Attorney General Andrew Bailey
Supreme Court Building
207 W. High Street
P.O. Box 899
Jefferson City, MO 65102

Re: Your Letter of August 2, 2024

Dear AG Bailey:

Life Time, Inc. (“Life Time”) is in receipt of your letter dated August 2, 2024 regarding Missouri law governing female locker room access. As you know, one particular former member at the Ellisville facility has recently become the subject of much public discussion. Life Time is a wellness pioneer that helps people live healthier, happier lives. Life Time operates in scrupulous compliance with the law in every jurisdiction it operates. As such, Life Time welcomes the opportunity to clear up some misconceptions around this issue. As described below, Life Time has and will continue to comply with applicable Missouri law while offering our members and guests entertaining, educational, friendly, and inviting experiences of uncompromising quality that empowers everyone to live health and happy lives.

About Life Time

Our business is focused on delivering high-quality, full-service health and fitness experiences in our large athletic clubs. We own or lease, and directly operate, more than 175 athletic facilities across more than 40 major markets in 30 states in the United States, including in West County, Missouri and Frontenac.

Life Time follows all state and local laws on locker room and bathroom use. In states and areas that permit use based on gender identity, members and guests may use the locker rooms and bathrooms that correspond to their gender identity. In states and areas that are silent on gender identity, members and guests must use the locker room and bathroom that correspond to the gender identified on their license, ID, or birth certificate. Further, our Guest and Club Policies dictate the expectation of proper etiquette in our locker rooms. Members and Guests must err on the side of modesty and cover up with a towel or appropriate clothing.

Our Practices

Among the Missouri laws we must comply is the Missouri Human Rights Act, § 213, *et seq.*, RSMo. which governs discrimination in, among other areas, places of public accommodation. § 213.010 RSMo. Under the MHRA, while discrimination in public accommodations does not

include protections for gender identity, sex discrimination is expressly prohibited. *See* § 213.065 RSMo. The Missouri Supreme Court's interpretation of sex discrimination in bathrooms and locker rooms is clear on this point. Should a place of public accommodation restrict or provide inferior access to such bathrooms or locker rooms based on legal sex, and use that person's sex as a contributing or motivating factor in the denial of use of their public accommodation, this would satisfy the first, second, and third elements Missouri Human Rights Act claim. *R.M.A. by Appleberry v. Blue Springs R-IV Sch. Dist.*, 568 S.W.3d 420, 424-29 (Mo. 2019). This expressly applies to transgender individuals in receipt of a government issued document reflecting transition to a different legal sex when the recipient's genitalia reflects their birth sex. *Id.*, 568 S.W.3d at 427, fns. 7-9; *See also R.M.A. v. Blue Springs R-IV Sch. Dist., No. WD 85778*, 2024 WL 2820583, at *7 (Mo. Ct. App. June 4, 2024), reh'g and/or transfer denied (July 23, 2024) (“[T]he Missouri Supreme Court plainly held that the term “sex” as used in section 213.065 is not limited to biological sex alone, and is not “determined [solely] by the genitalia [an individual] displayed at birth.” *R.M.A.* at 427 n7.) Our clubs operating in Missouri comply with Missouri law.

Recently, a prospective member presented a Driver's License issued by the Missouri Department of Revenue (DOR). That Missouri-issued ID advised us (and the public) that the prospective member's sex was female. Under Missouri Law, this individual's legal sex is female. Accordingly, her membership entitled her to all of the accommodations available to her under Missouri law, including, but not limited to access to the Women's Locker Room. Had the State of Missouri issued the prospective member a driver's license that identified them as male, Life Time would have directed the prospective member to Men's Locker Room. Life Time's policy is to rely on the state-assigned gender. To do otherwise would put us in violation of the Missouri Human Rights Act. As a matter of fact, the only case law quote in your letter reads, “[A] person's right to use public restrooms is about as fundamental a right as one can imagine, probably equal or more fundamental than speech rights.” (quoting *State v. Beine*, 162 S.W.3d 483, 487 (Mo. Banc 2005)).

Our reliance on the state-issued driver's license was also quite reasonable. The Missouri DOR oversees Missouri's driver licensing needs, including the Driver License Bureau which issues, renews, suspends, and reinstates driver and nondriver licenses and driver permits. *See* <https://dor.mo.gov/about/>. On the DOR website, the Missouri government features Form 5532 – Gender Designation Change Request Form (revised 12-2022) whereby a Missourian can request a license from the DOR changing their license to either Male or Female. <https://dor.mo.gov/forms/5532.pdf>. An applicant filling out Form 5532 must attest, under penalty of perjury, and have a medical or social service provider's signature, also under penalty of perjury, as to the applicant's gender. *Id.* Curiously, the DOR inventory removed Form 5532 from its searchable index available at <https://dor.mo.gov/forms/>, when the searchable index did feature the form as of July 24, 2024:

Form Number	Form Title	Date
551	Vehicle Examination Certificate	3/21/2023
5522	No Tax Due Request	12/16/2021
5529	Request for Substitute Forms Approval	9/15/2014
5532	Gender Designation Change Request Form	12/14/2022
558	Military Information	1/31/2022
5593	Identity Theft Declaration	5/26/2017

See: <https://web.archive.org/web/20240724035249/https://dor.mo.gov/forms/>. That Gender Designation Change Request is still available today online at the DOR website here: <https://dor.mo.gov/forms/5532.pdf>.

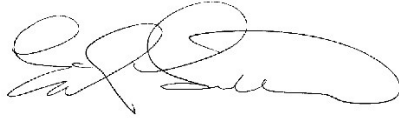
Your letter also mentions *State v. Gairardier*. We agree that case remains good law on criminal trespass in restrooms, but this is not a criminal trespass matter. *Gardarier*'s facts addressed a legal male who made no claim to be a woman. The facts here are the opposite. The state identified the prospective member as a woman. *Gairardier* went into a convenience store and was smoking even though signs declared that the store owner did not allow smoking. He then went into a clearly-labeled women's restroom and continued to smoke inside a stall. A clerk went into the restroom and asked him to stop smoking. He continued to smoke and stayed in the women's room for about two hours. The police arrested *Gardarier* for trespass under § 569.140 which makes it a crime to knowingly enter or remain "unlawfully" in a building or structure. In this situation, Missouri law and Life Time provided access and gave permission for the individual to be in the building and in the women's locker room. There is no case for trespass.

Life Time knows the Attorney General has responsibility for enforcing the merchandising practices laws. We take our obligations under those laws seriously. Life Time is unaware of any statute or caselaw whereby providing a transgender female access to the women's locker room is a violation of Mo. Ann. Stat. § 407.020 or similar statutes in that Chapter. Further, each membership agrees to our Member Use Agreement and Life Time's Guest and Club Policies that expressly state, "...In states and areas that are silent on gender identity, members and guests must use the locker room and bathroom that correspond to the gender identified on their license, ID, or birth certificate. If you are unaware of your state or local laws, please contact your local Life Time club for more information." We clearly advised our members that we rely on the Missouri government when assigning locker rooms and bathrooms. There is no logical argument that our prospective Members and Guests were misled as to whether a transgender, legal female would be provided access to the Women's Locker Room.

* * * * *

We trust that this information resolves your inquiry and thank you for your commitment to the safety and security of our Members, Guests and Team Members in Missouri.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erik Lindseth', with a large, stylized flourish at the end.

Erik Lindseth | Senior Vice President and General Counsel
Life Time, Inc.
2902 Corporate Place,
Chanhassen, MN 55317