

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

CODY FLACK,
SARA ANN MAKENZIE,
MARIE KELLY, and
COURTNEY SHERWIN,

Plaintiffs,

v.

WISCONSIN DEPARTMENT OF
HEALTH SERVICES and
LINDA SEEMEYER, in her official capacity
as Secretary of the Wisconsin Department of
Health Services,

Defendants.

Case No. 3:18-cv-00309-wmc

Judge William Conley

DECLARATION OF KATHY ORIEL, MD, MS

I, Kathy Oriel, MD, MS, declare as follows:

1. I am a board-certified family physician and board-certified addiction medicine physician with 25 years of experience in providing medical care to transgender individuals. I submit this declaration in my capacity as a primary care provider who treats many transgender Wisconsin residents, including a number of patients on Wisconsin Medicaid. My CV, attached as Exhibit A, summarizes my professional qualifications.

2. I earned my MD from the University of Missouri in 1992 and my MS in Population Health with an emphasis in epidemiology from the University of Wisconsin-Madison in 1997.

3. I was a faculty member at the University of Wisconsin School of Medicine and Public Health (UWSMPH) from 1995-2017. During that time, I supervised medical care of

resident physicians for transgender patients, and regularly lectured to practicing physicians, resident physicians, and medical students in a variety of specialties.

4. In 2017, I opened a solo practice, Oriel Medicine S.C., in Madison, Wisconsin, to focus on providing care to the LGBTQ community. I am a Past President and board member of the national Gay and Lesbian Medical Association. I have published on several topics, including gender medicine. I speak regionally and nationally to medical professionals and mental health professionals on the care of transgender individuals, including for the World Professional Association for Transgender Health (WPATH) in the Gender Education Initiative (GEI), the Wisconsin Medical Society, the Society of Teachers of Family Medicine, and the American Medical Student's Association. I have also received over \$1 million in grant funding to work on improving health disparities for LGBTQ people in Wisconsin.

5. I estimate that over the course of my career, I have evaluated over 500 transgender individuals for consideration of medical and/or surgical treatment of gender dysphoria. My treatment of gender dysphoria is consistent with the WPATH Standards of Care.

6. In my clinical experience, gender dysphoria is an eminently treatable condition. Medical treatment for gender dysphoria is regarded as medically necessary by all professional medical organizations. With such care, transgender people live healthy, productive lives. Without access to medical treatment, a transgender person is unable to physically appear to others as they see themselves. This is referred to as 'passing' in the community. If a trans person cannot pass, they face substantial occupational, relationship, and personal safety risks. These barriers are substantively compounded when combined with the low income of medical assistance and bias experienced by trans people from all income levels.

7. As a primary care provider for transgender individuals, I have been able to bear witness to the powerful therapeutic effect that medical treatment affords transgender individuals with gender dysphoria.

8. I have provided hormone therapy and recommended surgical treatment to many transgender individuals who were previously on psychiatric medications and/or admitted for weeks each year to inpatient psychiatric hospitals for suicidality. Medically treating their gender dysphoria has minimized their suicidality and their need for psychological mediations. One of those individuals, for example, is now happily married, works full time, receives health insurance from his employer, and often speaks publicly about how receiving treatment for his gender dysphoria improved his life. Similarly, I care for many individuals who are in long-term recovery from heroin, cocaine, alcohol, and other substances. A key factor in their recoveries has been medical treatment for their gender dysphoria. For those patients, having their bodies finally match their gender identities has empowered them to stay away from substances.

9. These patients' experiences contrast with others I have treated who were so desperate for gender-confirming medical care that they took matters into their own hands – patients who had received the message that their care and their worth was not equal to those of cisgender patients. I have personally cared for two persons who attempted self-castration. One of the individuals had to be rushed to emergency services to stop her bleeding. And even while she was in the operating room because of her life-threatening act of desperation, the doctors would still not provide her with an orchiectomy.

10. I have also cared for scores of people who have obtained hormones illicitly because they lacked insurance coverage for those treatments. One person took such large doses of testosterone that he was admitted to the psychiatric hospital for a life-threatening manic

episode. One transgender woman took such large doses of estrogen she suffered a life-threatening blood clot which traveled to her lungs. Another patient had been taking hormones illicitly for years, and finally gained health coverage that covered her hormones. Because she couldn't get treatment for gender dysphoria, she avoided seeking health care altogether for many years. I diagnosed breast cancer at the first visit which would likely have been detected far earlier had she felt able to access appropriate, nondiscriminatory medical care years before.

11. While gender-confirming surgeries and medical treatments for gender dysphoria are not a panacea, these treatments have changed my patients' lives. Providing medical care for gender dysphoria, and seeing the ways my patients lives have improved, has been the most rewarding part of my medical career—and I delivered babies for 20 years.

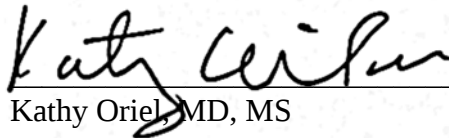
12. The human stories I offer above are additional evidence that appropriate medical care for transgender individuals is not cost-prohibitive when compared to the very real costs of not providing that care.

13. As an experienced physician focusing on transgender health, I have also seen first-hand the devastating effect that the Wisconsin Medicaid 'transsexual' exclusion has on the health of an already vulnerable group of people. Without access to medical treatment, many of my transgender patients are unable to physically appear to others as they see themselves. This causes them substantial psychological distress and an increased risk of suicide, as well as risks to their safety, jobs, and relationships. Several of my trans patients, including two who were enrolled in Wisconsin Medicaid, have lost their lives to suicide. One of the two Wisconsin Medicaid enrollees, who lost his life three or four years ago, had been seeking – and unable to obtain – top surgery shortly before he died.

14. As a physician, I have been trained to provide the best possible care to my patients. The Wisconsin Medicaid exclusion is a flagrant barrier to my ability do so. The exclusion intrudes on the doctor-patient relationship and limits my ability to provide my patients with treatments I know would alleviate their gender dysphoria and suffering. Eliminating the exclusion would undeniably allow me to provide my patients with better, clinically appropriate medical care.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 25th day of October, 2018.


Kathy Oriel, MD, MS

EXHIBIT

A

KATHY ORIEL, MD, MS

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Professional Experience:

2017-present **Owner/Physician, Oriel Medicine S.C.** a solo family medicine and addiction medicine practice in a personal, unassuming setting.

2008-2017 **Residency Program Director** UW-Madison Family Medicine Residency

Responsible for the curriculum, supervision, educational oversight, compliance, recruitment, evaluation and training of a 16-14-14 family medicine residency program: trainees at 6 hospitals and five continuity ambulatory sites. Facilitate direction and supervision for six residency staff and over 20 faculty family physicians.

2006-2008 **Medical Director, Family Medicine Inpatient Service**, University of Wisconsin Hospital and Clinics. Responsible for quality of care, resident educational experience, attending physician feedback, negotiations with University of Wisconsin Hospitals and Clinics, teambuilding with UWHC hospital administration, nursing staff on D6/6, consultant services and JCAHO compliance.

2005-2006 **Medical Director, Community Living Alliance**

Community Living Alliance is a nonprofit care organization for people with disabilities, primarily people with spinal cord injuries and neurologic disorders, who are dual eligible.

1999-2005 **Medical Director, UW Health Northeast Family Medical Center:**

Responsible for oversight of all medical operations including quality, patient satisfaction and access; resident and faculty performance evaluations; oversight of clinic manager, nurse practitioners and psychotherapist; guide clinic-based resident experiential and curricular education, partner with clinic manager to oversee yearly planning and budgetary processes.

2003-2005 **Director, UW Family Medicine Academic Fellowship**

Helped create a two- year post-graduate experience for family physicians interested in careers in academic family medicine. Planned curricular, clinical, and teaching experience to enhance teaching, clinical, scholarly and leadership skills.

**1995-2017 Associate Professor (CHS) Family Medicine and Community Health
University of Wisconsin Family Medicine Teaching Faculty:**

Served as family physician for a diverse group of patients at Northeast Family Medical Center; teach and supervise resident physician care in the family medical center; mentor resident physicians, medical students, and junior faculty; participate in formal resident curricula including motivational interviewing for behavioral change, colposcopy, gynecologic topics, domestic violence, health disparities for lesbian, gay and bisexual people, and culturally appropriate health care

SSM Health: St. Mary's Hospital Leadership

2008-2017: Medical Executive Committee

University of Wisconsin Medical Foundation Leadership (1200+ physician group)

2008-2011 UW Hospital and Clinics, Physician Oversight Committee

2008-2009 Member, UWSMPH Funds-flow oversight committee

2006 Consultant, physician satisfaction: Worked with Dr. Grossman, UWMF CEO to better understand contributors to physician satisfaction and burnout within the UWMF. In collaboration with UWMF physician committees and staff, made recommendations to enhance physician satisfaction and work place environment

2004-2008 Chair, UWMF Compensation Development Committee

2006 Chair, UWMF Operations Committee taskforce on satisfaction

2001-2005 Director, University of Wisconsin Medical Foundation Board (UWMF). Elected by physician peers to provide oversight, governance and strategic direction for the University of Wisconsin's 1200 physician multi-specialty group.

2005 Executive Committee, University of Wisconsin Medical Foundation Board, elected by the UWMF Board of Directors.

National Service

Gay and Lesbian Medical Association

1994-2000 Board of Directors

2000 Immediate Past President

1999 President

1998 President-elect

Honors

2017	Baldwin Lloyd and William Scheibel Excellence in Family Medicine Education
2011	Best Doctors in America
2007	Diverse and Resilient Community Service Award for contributions on behalf of Lesbian, Gay, Bisexual and Transgender Youth
2004, 2006	"Top Doc" Madison Magazine
2006	Rainbow Alliance for Youth Leadership Award
2004	UW Department of Family Medicine "Excellence Award", for contributions in leadership
2002	Mark Hansen Lectureship: outstanding performance for junior faculty member, UW Department of Family Medicine and Community Health
1998	Baldwin Lloyd Excellence in Family Medicine Education
1997	William Scheckler Best Faculty Publication

Education

1997	University of Wisconsin--Madison, MS Population Health, Epidemiology
1992	University of Missouri--Columbia School of Medicine, MD
1983-1987	University of Missouri--Columbia BA, Biology

Postgraduate Education

7/95 - 6/96	Research in Family Medicine Fellowship University of Wisconsin School of Medicine
7/92-6/95	St. Paul Ramsey Medical Center, St. Paul, Minnesota Family and Community Medicine Residency

Certification

1995-2027	Diplomate, American Board of Family Medicine
2018-2027	Diplomate, Addiction Medicine (ABPM)
1995-present	Wisconsin Medical License #36704
2000-present	Neonatal Advanced Life Support
2001-present	Advanced Life Support in Obstetrics

Professional Organizations

American Academy of Family Physicians
 American Society of Addiction Medicine
 Wisconsin Association of Addiction Medicine
 Wisconsin Academy of Family Physicians

Grant Funding

Oriel, KA with Diverse and Resilient: Awarded \$400,000 to "Reducing Alcohol Abuse among LGBTQ Youth in Wisconsin." Wisconsin Partnership Program Implementation Grant. 2013 Description: This project replicates a culturally-competent alcohol harm reduction and prevention model tailored for LGBTQ youth in Milwaukee, Appleton and Green Bay - increasing access for LGBTQ youth ages 14-20 to interventions that support a reduction in binge and underage drinking.

Oriel, KA with Diverse and Resilient, Inc. (Chippewa, Dane, La Crosse, Milwaukee counties) awarded \$426,976 to "Reducing Tobacco Use Among LGBT Populations in Wisconsin." Wisconsin Partnership Program Implementation Grant, 2007. Description: Reduce tobacco use through prevention and smoking cessation strategies for lesbian, gay, bisexual and trans-gender adults in four regions in Wisconsin.

Oriel, KA with Diverse and Resilient: Awarded \$48,760 to "Preventing Substance Abuse Among LGBTQ Youth in Wisconsin." Wisconsin Partnership Program Development Grant. 2006. Description: Develop a pilot program to increase knowledge, awareness, resources, and capacity to prevent and reduce alcohol and other drug use among lesbian, gay, bisexual and trans-gender and questioning youth in Wisconsin.

Oriel, KA with Diverse and Resilient: Awarded \$47,483 to "Reduce Health Disparities within the LGBT Populations in Wisconsin." Wisconsin Partnership Program Development Grant. 2006. Description: Advance the knowledge gained on health disparities among LGBT Populations in Wisconsin."

Oriel, KA with Diverse and Resilient awarded \$25,000 to "Planning Grant to Reduce Health Disparities within LGBT populations in Wisconsin." Wisconsin Partnership Program Development Grant. 2004. Description: improve the integration of lesbian, gay, bisexual and transgender health issues into community health goals. Create a comprehensive three-year plan with identified strategies to address health disparities among LGBT populations throughout Wisconsin.

Publications: Book Chapters

Oriel KA, *Intimate Partner Violence in Same-Sex Relationships in Family Violence: What Health Care Providers Need to Know*, Sudbury, MA: Jones and Bartlett Learning, 2012.

Oriel KA, *Primary Care of Lesbian Women in ACP Handbook of Women's Health*, New York: American College of Physicians, 2009.

Publications: Peer Reviewed Journals

Oriel KA, The Impostor Phenomenon in Family Medicine Residents, *Family Medicine*, 2004;36(4):248-52.

Oriel KA, Medical Care of Transsexual Patients, *Journal of the Gay and Lesbian Medical Association*. 2000; 4:185-94.

Oriel KA, Schrager S. Abnormal Uterine Bleeding. *American Family Physician*. 1999;60:1371-82.

Oriel KA, Hartenbach EM, Remington PL. Trends in United States Ovarian Cancer Mortality 1979-1995. *Obstetrics and Gynecology* 1999;93:30-33.

Oriel KA, Fleming, MF. Screening men for partner violence in a primary care setting: A new strategy for detecting domestic violence. *Journal of Family Practice* 1998;46:493-498.

Oriel KA, Madlon-Kay DJ, Govaker D, Mersy DJ. Gay and Lesbian Physicians in Training: Family Practice Program Directors' Attitudes and Students' Perceptions of Bias, *Family Medicine*, 1996; 28:720.

Publications: Book Reviews

Oriel KA. JAMA. 2004; 291:886. *Book review: Caring for Lesbian and Gay People: A Clinical Guide.* Peterkin and Risdon, 378 pp, 2003.

Presentations: Sample, Recent Invited Presentations

“Providing Sensitive care for Transgender Patients at High Risk for HIV”, Wisconsin PreP working group; Midwest Aids Training & Education Center, Madison, WI, October 24, 2018.

“Healthcare Issues for Trans and Non-binary Humans”, University of Wisconsin School of Law Symposium, March 2018.

“Ethical Considerations in the Care of Transgender Patients”, Unitypoint Meriter Hospital Annual Ethics Symposium; Madison, WI November 3, 2017

Effective Care for Transgender Patients, University of Wisconsin Physician Assistant Training Program; May, 2017, 2015

Care for Transgender Patients, University of Wisconsin School of Medicine and Public Health (UWSMPH) Patient Doctor and Society Course, April 2017, 2016, 2015

Primary Care for Transgender Patients, WPATH Global Education Initiative, Minneapolis, MN, March 2017.

Best Practice in Caring for Transgender Patients with Cancer, Paul Carbone Cancer Center Grand Rounds; Madison, WI, January 2017

“Gender in Medicine” St. Mary’s Hospital Annual Physician Update; Madison, WI January 2016

“Gender Identity Practices at School and Work: Madison College Faculty and Staff All Campus Presentation; Madison, WI May 2016

“Health Disparities in LGBTQ Youth”, University of Wisconsin School of Medicine and Public Health (UWSMPH) Seminars in Pediatrics, Madison, WI. September 2009.

“Health Disparities in the LGBT Communities”, UWSMPH Topics in Internal Medicine, Madison, WI. May 2009.

“The Impostor Syndrome in Physicians”, American Medical Association’s Biannual Meeting on Physician Well-being, Chicago, IL. October 2004.

“End of Life Issues for Lesbian, Gay, Bisexual and Transgendered People”, Donald and Marilyn Anderson Hospice Annual Forum, Madison, WI October 2004.

Presentations: Refereed Programs

“Getting to Yes: Negotiating with your Hospital CEO.” Family Medicine Program Directors

Workshop. Kansas City, Missouri. June 2010

"The Impostor Phenomenon in Family Medicine Residents." Society of Teachers of Family Medicine Annual Conference. Atlanta September 2004.

"Medical Care of the Transsexual Patient." Society of Teachers of Family Medicine Annual Conference. Atlanta September 2004.

"Medical Care of the Transsexual Patient." Gay and Lesbian Medical Organization Annual Conference. New Orleans, September 2001.

"Screening men for partner violence in a primary care setting: A new strategy for detecting domestic violence". Society of Teachers of Family Medicine Annual Spring Conference. Chicago, Illinois, April 1998.

"Teaching Behavioral Change--And Loving It". Society of Teachers of Family Medicine Annual Spring Conference. Boston, Massachusetts, May, 1997.

"Teaching Motivational Interviewing to First Year Medical Students". Society of Teachers of Family Medicine Pre-doctoral Conference, Orlando, Florida, April, 1997.

"Lesbian and Gay Physicians in Training: Family Practice Residency Directors Attitudes", Gay and Lesbian Medical Association Annual Meeting, Montreal, Quebec, Canada, August, 1996.

"Reflections on Old Doc Rivers", Society of Teachers of Family Medicine Annual Spring Conference, San Francisco, California, May 1996.

"Lesbian and Gay Physicians in Training: A Survey of Family Practice Residency Directors and Residency Applicants", Society of Teachers of Family Medicine Annual Spring Conference, New Orleans, Louisiana, May, 1995.

"The Inclusive Definition of Family: Lesbian, Gay, and Bisexual Issues on Both sides of the Stethoscope", AAFP's National Conference of Family Practice Residents, Kansas City, Missouri. August, 1994

Medical Resident Seminars and Presentations, Medical Student Presentations and Lectures and Physician Assistant Lectures not included but available upon request