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with permission of John R. Garza)
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been filed this April 12, 2019, through the Court's ECF system, which will send a notice of electronic filing to all parties and counsel of record, including the following:

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
CHRISTOPHER DOYLE, LPC, LCPC

Plaintiff

v.

Civil Action No.
1:19-cv-00190-dkc

LAWRENCE J. HOGAN, JR., et al.

Defendants

_____ /

The deposition of KIMBERLY CHRISTINE LANG, Ph.D. was held on Thursday, March 28, 2019, commencing at 9:07 a.m., at the Office of the Attorney General, 300 West Preston Street, Suite 302, Baltimore, Maryland 21201, before Robert A. Shocket, a Notary Public.

REPORTED BY: Robert A. Shocket

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13 ALSO PRESENT: Morgan Clipp, Esquire

14 Office of the Attorney General

15 (Present after lunch recess)

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PROCEEDINGS

Whereupon,

KIMBERLY CHRISTINE LANG, Ph.D.

called for examination, having been first duly sworn to tell the truth, the whole truth and nothing but the truth, was examined and testified as follows:

EXAMINATION BY MR. GANNAM:

Q. Good morning.

A Good morning.

Q. I'm Roger Gannam and I represent the plaintiffs in the lawsuit of Doyle versus Hogan. And we're here today to take your deposition. I suppose you understand that already?

A I do.

Q. Great. I'm going to go over a couple of ground rules to just get us started and then we'll get into the questions. First of all, we're making a written transcript through the court reporter. So it's very important that all of your answers be verbal, out loud as opposed to, you know, nodding your head or shaking your head.

1 A I understand.

2 Q. Great. It's also important that if I ask a
3 question and you don't understand it for some reason
4 that you let me know. Is that okay?

5 A Certainly.

6 Q. If I ask a question and you answer it I
7 will assume that you understood it.

8 A Thank you.

9 Q. And also in normal conversation we may tend
10 to anticipate each other's responses but it's very
11 important that you let me finish my question before you
12 answer and likewise I will do my best to let you finish
13 your answer before I ask my next question. Is that
14 okay?

15 A Certainly.

16 Q. And you know if we mess that up we may
17 remind each other throughout the day. Is that okay?

18 A Of course.

19 Q. Your lawyer may object to some questions
20 that I ask. And if your lawyer objects, the generally
21 you should go ahead and answer the question after the

1 objection unless your lawyer tells you not to answer.

2 Is that okay?

3 A Correct.

4 Q. And we are, you know, this is not a
5 marathon on an endurance contest. We can take breaks
6 if we need to. I would just ask that if a question is
7 pending that you answer the question before you take a
8 break.

9 A Understood.

10 Q. Great. Do you have any questions for me
11 before we start?

12 A Not at this time.

13 Q. Okay. I want to go over a couple of
14 definitional things just because I might use some
15 terminology and I want to make sure we're on the same
16 page. When I say the state I'm talking about the state
17 of Maryland. Is that okay?

18 A Yes.

19 MS. ELLIS: I want to impose an objection.
20 The state of Maryland for this purpose is the executive
21 branch. It's not the judiciary or the legislative

1 branch.

2 Q. And when I say SB 1028 do you know what I'm
3 talking about?

4 A I do.

5 Q. Okay. And I may refer to SB 1028 as the
6 Youth Mental Health Protection Act or the House version
7 which was HB 902 or I might just refer to it as the
8 counseling ban. Is all that understandable?

9 A Understood.

10 Q. The ban that's the subject of this lawsuit.
11 When I use the term LGBT it's an acronym or an
12 abbreviation for lesbian, gay, bisexual, transgender.
13 Do you understand that?

14 A I do.

15 Q. And if I use SOCE or S-O-C-E, I'm referring
16 to sexual orientation change efforts. Do you
17 understand that?

18 A I do.

19 Q. And, okay. Let's proceed then. Please
20 state your name and address for the record, please.

21 A May I ask, is that my work address or my

1 home address?

2 Q. Just take your work address, is fine.

3 A Okay. Kimberly Christine Lang, L-A-N-G.

4 And my work address is 4201 Patterson Avenue,

5 Baltimore, Maryland 21215.

6 Q. And it's Dr. Lang, correct?

7 A Yes, sir.

8 Q. And you hold a Ph.D.?

9 A I do.

10 Q. And what is that subject matter?

11 A Policy sciences.

12 Q. Can you just sort of give me a summary of
13 your education after high school?

14 A My undergrad was at Towson, formally Towson
15 State University here in Baltimore, in social sciences.
16 I have a master's degree from Loyola College in
17 Maryland, here in Baltimore, and that was
18 administration supervision, and the Ph.D. is from
19 University of Maryland Baltimore County in policy
20 sciences.

21 Q. You're a native Marylander?

1 A I am.

2 Q. And did I say Marylander right?

3 A Close enough.

4 MR. GANNAM: Okay.

5 MS. ELLIS: Some people would say

6 "Merliner".

7 MR. GANNAM: Gotcha. Being from Florida,
8 you know, Floridian just seems easier to say but --

9 BY MR. GANNAM:

10 Q. All right. So, can you kind of give me a
11 kind of a summary, thumbnail sketch of your
12 professional career after college?

13 A I worked for ten years with Anne Arundel
14 County Public School System here in Maryland, taught
15 school, and also worked with new teachers, spent 14
16 years at the White House in various positions, and then
17 came here to Maryland Department of Health for the last
18 two years.

19 Q. When did you begin at the Maryland
20 Department of Health officially?

21 A Would have been July of 2017.

1 Q. And what position did you take when you
2 first started working for the Department of Health?

3 A I worked with Maryland Department of Health
4 and their legislative group or GA.

5 Q. What does GA mean? Is that what you said,
6 GA?

7 A It's the legislative group.

8 Q. Okay. And is that still the position you
9 hold now?

10 A No. I am now the Director of Occupations
11 Boards and Commissions -- Health Occupations Boards and
12 Commissions.

13 Q. Did you have any positions in between that
14 first position and your current position?

15 A No, sir.

16 Q. How long have you been in your current
17 position?

18 A A little over a year.

19 Q. Do you recall the month that you began in
20 this position?

21 A It would have been October 2018 -- October

1 2017.

2 Q. Okay.

3 A I'm sorry.

4 Q. I was going to say the math wasn't working
5 out with that.

6 A I'm sorry.

7 Q. Now it works. Okay.

8 A I apologize.

9 Q. No worries. Okay. And in your -- or let
10 me strike that. Have you ever been involved in doing
11 any advocacy for LGBT organizations or causes at any
12 point?

13 MS. ELLIS: Could you -- I'm going to
14 object that it's not clear. The question is not clear
15 as to what time period or in what function. Are you
16 asking about her job responsibilities?

17 Q. Have you personally been involved in
18 advocacy for any LGBT causes ever?

19 A Forgive me. I believe that we were
20 discussing my personal -- I'm sorry -- my work
21 background, not my personal issues.

1 MR. GANNAM: Well, the depositions are
2 generally when it comes to background information
3 pretty wide-ranging but the issue I'm going to is we're
4 dealing with an LGBT rights issue and I'm entitled to
5 ask questions that get to any potential for bias in
6 testimony or responses. So, so that's why I'm asking
7 the question.

8 MS. ELLIS: I object. It's completely
9 irrelevant what her personal views are or activities
10 are on any given issue.

11 MR. GANNAM: Well, we disagree. So the
12 question stands.

13 MS. ELLIS: And you can choose whether or
14 not you wish to disclose your personal views.

15 A No, I have not.

16 BY MR. GANNAM:

17 Q. And in a related question, have you ever
18 been involved in any, personally in any advocacy
19 relating to the subject of conversion therapy?

20 MS. ELLIS: Same objection.

21 A No, I have not.

1 Q. You mentioned your degrees. Do you hold
2 any other kind of professional licensures or
3 certifications?

4 A I am licensed in the state of Maryland as
5 an educator.

6 Q. And have you ever been involved in any --
7 strike that. Have you ever held any positions
8 professionally that were in the counseling or mental
9 health field?

10 A No, I have not.

11 Q. All right. Going to your current position
12 of Director of Health Occupations -- I'm sorry. Could
13 you say that again, what your current position is?

14 A Director of Health Occupations Boards and
15 Commissions.

16 Q. Thank you. In that current position can
17 you sort of describe your responsibilities?

18 A I'll read my job description if that's
19 acceptable.

20 Q. Please.

21 A The Director of Health Occupations Boards

1 and Commissions serves as the liaison between the
2 Office of the Secretary and the 22 health occupations
3 boards and commissions. The director assists in
4 keeping the senior leadership of both the Maryland
5 Department of Health and Boards and Commissions,
6 informed of important and sensitive topics. The
7 director also serves as a conduit between and among the
8 various MDH administrations and boards, helping to
9 ensure open avenues of communication by frequently
10 attending the public session of Boards and Commissions
11 meetings.

12 Q. And what are you reading from?

13 A This is my job description.

14 Q. Is that an official job description
15 published by the State of Maryland?

16 A It was provided to the executive directors
17 of the Boards and Commissions and to their board
18 chairs. So I don't believe you would be able to find
19 it on a website but it is a public document.

20 Q. And who created it?

21 A It was in consultation with the HR

1 department.

2 Q. HR department of?

3 A Maryland Department of Health.

4 Q. Okay. So it would be fair to say that's a
5 Maryland Department of Health document, your
6 understanding?

7 A I believe so.

8 Q. I mean it wasn't created by any government
9 entity outside the Maryland Department of Health?

10 A No, sir.

11 Q. And going forward if I say the department
12 will you understand I mean the Department of Health?

13 A Yes, sir.

14 Q. Okay. And now that you've read it do you
15 concur that those are your responsibilities?

16 A I do.

17 Q. And what did you do for the Department of
18 Health when you first joined prior to your current
19 position?

20 A I worked with the legislative office.

21 Q. And what does that entail or what did it

1 entail?

2 A Worked with various bills that were being
3 considered, to see the possible impact that it would
4 have on the Maryland Department of Health.

5 Q. And in that position did you have an
6 opportunity to become familiar with the Maryland
7 legislative process, generally speaking?

8 A In general.

9 Q. And, you know, as you sit here today do you
10 remain familiar in general with the Maryland
11 legislative process?

12 A In general.

13 Q. And are you familiar with the process
14 involved in the passage and enactment of the counseling
15 ban that we're here to talk about today?

16 A As far as public documents are concerned,
17 yes.

18 Q. And by public documents what are you
19 talking about?

20 A The publicly available documents for the
21 bill, the information that was introduced to the

1 legislature, possible amendments that were introduced
2 at the floor vote.

3 Q. Did you have any involvement in the
4 enactment of the bill apart from what's reflected in
5 the public record?

6 A Nothing.

7 Q. And did the Maryland Department of Health,
8 you know, contribute any commentary or advice or other
9 information to the legislative body in connection with
10 the counseling ban?

11 A Not to my knowledge, aside from what might
12 be in the public record.

13 Q. Did any of the individual health occupation
14 boards or commissions that you are responsible for
15 communicating with provide their own commentary or
16 information to the Maryland legislative body in
17 connection with the conversion therapy bill?

18 A Not to my knowledge.

19 Q. Did you review any documents to prepare for
20 your testimony today?

21 A I did.

1 Q. And what did you review?

2 MS. ELLIS: To the extent that you reviewed
3 documents at my request, that I directed you to
4 documents, please don't disclose that fact. That's
5 privileged information. If you recall a document you
6 looked at you can tell him.

7 A Reviewed the publicly available information
8 on the bill, reviewed the publicly available on the
9 Boards and Commissions websites.

10 Q. Anything else?

11 A Not to my recollection.

12 Q. And for the record you have a notebook.
13 Looks like maybe it's a two-inch, three-inch binder of
14 papers in front of you. What does that notebook
15 contain?

16 A It is the information that I believe was
17 provided to counsel.

18 MS. ELLIS: Are you referring to your
19 counsel or that counsel?

20 THE WITNESS: I'm sorry. To opposing
21 counsel.

1 BY MR. GANNAM:

2 Q. Meaning information provided to us?

3 A Correct. Bill filings, and I also have
4 copies of relevant sections of the publicly available
5 documents on Boards and Commissions websites.

6 Q. Is there anything to your knowledge in that
7 notebook that was not produced to counsel for Mr.
8 Doyle?

9 A The only thing that I'm aware of are some
10 notes that I put together for myself including my job
11 description.

12 Q. Anything else?

13 A Not to my knowledge.

14 Q. When you said notes for yourself regarding
15 your job description, do you have other notes that you
16 prepared regarding other subject matters?

17 A Summary statements from other parts of the
18 notes -- I'm sorry -- from other parts of the
19 documents.

20 Q. Summary statements that you authored
21 yourself?

1 A Correct.

2 Q. And what was your purpose in preparing
3 these summary statements?

4 A Nerves.

5 Q. And did you refer to any of these summary
6 statements to refresh your recollection for purposes of
7 your testimony today?

8 A Yes.

9 Q. And did any of those statements, summary
10 statements that you reviewed in fact refresh your
11 memory or your recollection for purposes of your
12 testimony today?

13 A I've not referred to them yet but I hope
14 they would if the need arises.

15 Q. So I would ask you in case it's not obvious
16 to me if you would let me know if I've asked you a
17 question and you refer to notes in order to answer.

18 A I understand.

19 Q. About how long would you say you spent
20 reviewing documents to prepare for your testimony
21 today?

1 A Several hours over the last two weeks.

2 Q. And by several hours you mean three or four
3 or more or less than that?

4 A Sir, I would approximate five.

5 Q. Fair enough. Did you speak to anyone in
6 preparation for your testimony today?

7 A Yes.

8 Q. And I'm going to ask you who you spoke to
9 and if the answer is your lawyer or one or more
10 lawyers, I'm not asking you to disclose anything you
11 spoke about with them but just who you spoke to. So
12 with that in mind, with whom did you speak to prepare
13 for your testimony today?

14 A My lawyers.

15 Q. Anyone else?

16 A Not to my recollection.

17 Q. And just for the record did you speak to
18 anyone in the governor or the attorney general's office
19 to prepare for your testimony today?

20 A No, sir.

21 MS. ELLIS: Objection. To clarify, I am in

1 the attorney general's office as is Mr. Felter so you
2 did speak with two lawyers.

3 MR. GANNAM: Understood.

4 MS. ELLIS: I want the record to be clear.
5 Thank you.

6 BY MR. GANNAM:

7 Q. Apart from the lawyers that are in the room
8 with us today, did you speak with any other
9 representative from the attorney general's office?

10 A No, sir.

11 Q. And about how long did you spend speaking
12 to your lawyers about your testimony today? Again,
13 without telling me what you talked about.

14 A I would say a total of one to two hours.

15 Q. And over what period of time?

16 A Two separate days, as I recall.

17 Q. And were those days recently?

18 A Yes, sir.

19 Q. When were they?

20 A One day this week and I believe one day
21 last week.

1 Q. When did you first become aware that you
2 would testify in this case?

3 A I believe it was the week prior to our
4 discussions. So I would estimate three weeks ago, two
5 and a half weeks, somewhere in that area.

6 Q. And back to your discussions you had with
7 your lawyers. Was anyone else present in those
8 discussions besides your lawyers?

9 A Yes.

10 Q. Who else was there?

11 A I'm going to have to lay it on counsel. I
12 don't remember the young lady's name.

13 MS. ELLIS: A law clerk in our office was
14 there.

15 THE WITNESS: Thank you.

16 MS. ELLIS: The same law clerk that was,
17 attended the deposition on Tuesday.

18 BY MR. GANNAM:

19 Q. So apart from that one other person, the
20 law clerk identified by your lawyer, was anyone else
21 present in those meetings?

1 A No, sir.

2 Q. Have you ever given a deposition before?

3 A No, sir.

4 Q. Is it the most fun thing you've ever done?

5 A No, sir.

6 Q. A couple preliminary questions I forgot to
7 ask. Are you currently under, have any medical
8 condition or are taking any medicines that would affect
9 your ability to testify truthfully today?

10 A No, sir.

11 MR. GANNAM: Could I just, do you mind if I
12 just mark the stickers and add them myself?

13 COURT REPORTER: Oh, sure, that's fine.

14 MR. GANNAM: I can just kind of get in the
15 rhythm that way. I can start with 1.

16 (Plaintiff's Exhibit 1 was marked for
17 purposes of identification.)

18 BY MR. GANNAM:

19 Q. All right. I'm showing you a document I
20 marked as Plaintiff's Exhibit 1. Here's a copy for
21 counsel. This long distance might be an issue. This

1 is a public LinkedIn profile for Kim L. Is this your
2 LinkedIn profile?

3 A It appears to be, yes.

4 Q. And is the -- and I'm mainly focused on the
5 first page that lists the experience with the Maryland
6 Department of Health. Are those statements that are
7 printed there accurate?

8 A Yes, sir.

9 (Plaintiff's Exhibit 2 was marked for
10 purposes of identification.

11 BY MR. GANNAM:

12 Q. I'm handing you a document I marked as
13 Plaintiff's Exhibit 2, a copy for counsel. This
14 document is titled Plaintiff's Notice of Taking
15 Deposition of State of Maryland. Did I read that
16 correctly?

17 A It appears to be the statement.

18 Q. And have you seen this document before?

19 A I don't recall seeing that specific
20 document.

21 Q. Can I ask you to turn to page 3 of the

1 document?

2 A I apologize. I have seen that.

3 Q. Okay. Is there a copy in your book in
4 front of you?

5 A There is.

6 Q. Okay.

7 A I apologize.

8 Q. Oh, no worries. Can you turn to page 3 of
9 the document?

10 A Yes, sir.

11 Q. At the top it reads: "Matters for
12 Examination." Do you see that?

13 A I do.

14 Q. And what follows are or is a listing of
15 thirteen subject areas. Have you read those subject
16 areas before today?

17 A Yes, sir.

18 Q. And is it your understanding that you are
19 here to testify today regarding those thirteen listed
20 subject areas?

21 A Yes, sir.

1 MS. ELLIS: I just want to impose a, I
2 guess more of a statement than an objection. As you
3 know, based on our previous conversations, Mr. Gannam,
4 it is my position and my client's position that the
5 topics 1 through 6, 1 through 7 and 9 are covered by
6 legislative privilege except to the extent there are,
7 there is information in the publicly available record
8 relating to those topics.

9 MR. GANNAM: And I hear and understand your
10 objection. And for the record, we disagree as to the
11 extent or propriety of evoking the legislative
12 privilege for those same subjects. And I'm sure we
13 will discuss it further through objections in the
14 course of the deposition.

15 BY MR. GANNAM:

16 Q. So Dr. Lang, do you understand that as a,
17 as the designee pursuant to this notice of deposition
18 that you answer questions today not only based on your
19 personal knowledge but you're answering for the noticed
20 deponent which is the state of Maryland?

21 MS. ELLIS: And again I would interpose the

1 objection that this is the executive branch of the
2 state of Maryland for whom she is providing testimony.
3 The governor, neither the governor nor the attorney
4 general, the defendants in this litigation, have any
5 authority to compel the legislative branch or the
6 judicial branch of the state of Maryland to participate
7 or provide information for this deposition.

8 MR. GANNAM: And through the record, for
9 the record, it is the plaintiff's position that the
10 plaintiff has sued the state of Maryland through the
11 two named officers, Governor Hogan and Attorney General
12 Frosh and that the deposition notice is to the state of
13 Maryland and the expectation is for a witness to
14 testify on behalf of the state of Maryland.

15 BY MR. GANNAM:

16 Q. And your counsel, Dr. Lang, just made an
17 objection or statement regarding who you are here to
18 testify for today. Is it your understanding that you
19 are here to testify today on behalf of the state of
20 Maryland or on behalf of some subdivision of the state
21 of Maryland?

1 A

2 MS. ELLIS: If you have any understanding.

3 A To the extent that I am aware, on behalf of
4 the State.

5 Q. And so for the record, the answer that you
6 provide is binding for the entity for whom you are here
7 to testify for. Do you understand that?

8 MS. ELLIS: And I have the same objection
9 and statement about the, there is absolutely no
10 authority to provide testimony on behalf of the
11 judicial branch or the legislative branch of the state
12 of Maryland. We don't have that authority.

13 Q. And so my question stands. Do you
14 understand that you are here to testify and that your
15 answers are binding for the entity that you are here to
16 testify for today?

17 A Yes.

18 Q. And do you understand that if your answer,
19 for example, to a question is "I don't know," that that
20 answer means that the entity for whom you are
21 testifying doesn't know the answer?

1 MS. ELLIS: I would object to that
2 characterization. Go ahead and answer it to the best
3 of your ability.

4 A To the extent to which I am aware, I will
5 testify.

6 Q. Okay. And so but my question was, do you
7 understand that when you say "I don't know," that also
8 is binding on whatever entity you are here testifying
9 for today?

10 MS. ELLIS: I have the same objection. You
11 can answer.

12 A Yes.

13 MR. GANNAM: All right. Now I'm handing
14 you a document I will mark as Plaintiff's Exhibit 3.

15 (Plaintiff's Exhibit 3 was marked for
16 purposes of identification.)

17 MR. GANNAM: And just so I don't have to
18 keep saying it, for the record, when I hand you an
19 exhibit I'm also handing you a copy for your counsel.

20 THE WITNESS: I understand.

21 MR. GANNAM: And if you see that I don't,

1 let me know because I want to make sure that --

2 MR. MIHET: She'll let you know for sure.

3 MS. ELLIS: Yeah, I will let you know too.

4 BY MR. GANNAM:

5 Q. This document is Defendants' Response to
6 Plaintiff's First Set of Interrogatories. Did I read
7 that correctly?

8 A Yes, sir.

9 Q. And have you seen this document before?

10 A I have.

11 Q. And will you look at the, page 15 of the
12 document?

13 A Yes, sir.

14 Q. And is that your signature on page 15?

15 A It is.

16 Q. And did you understand that you were
17 verifying these answers on behalf of the, the -- well,
18 let's see. I'll just, let me just read it. It reads:
19 "I, Kimberly C. Lang, Ph.D., am duly authorized to
20 execute these answers to interrogatories under oath on
21 behalf of the Defendants, the Governor of Maryland and

1 the Attorney General of Maryland in their official
2 capacities." Did I read that correctly?

3 A Yes, you did.

4 Q. And is that your understanding that you in
5 fact were executing the answers on their behalf?

6 A Yes.

7 Q. Will you look at page 2, specifically item
8 number 2 beginning at the top of the page?

9 A Yes, sir.

10 Q. And I'll read it for the record. The
11 Defendants, the Governor of Maryland and the Attorney
12 General of Maryland in their official capacities object
13 to definition number 11 as overly broad. The governor
14 and the attorney general construe the term legislative
15 record to include only materials that are publicly
16 available, all of which are listed below, and they will
17 respond to these requests for admission based on these
18 materials. Did I read that correctly?

19 A You did.

20 Q. And the listing of materials, items A
21 through T below, do you see that?

1 A I do.

2 Q. And did you participate in preparing this
3 list of materials?

4 A I reviewed them before I signed the
5 document.

6 Q. And did, you know, verify or execute the
7 interrogatory answers based on the qualification in
8 this item number 2 that the term legislative record is
9 construed to mean only these listed materials?

10 MS. ELLIS: Objection. Your instructions
11 which we've complied with were that the objections were
12 the legal, were the lawyers and the lawyers signed
13 based on, for the objections.

14 Q. And my question is not did you make the
15 objection but in answering the interrogatories and
16 signing those answers on behalf of the defendants in
17 this case, did you understand the term legislative
18 record to mean only these listed A through T?

19 A Yes.

20 Q. To your knowledge have all of the items
21 listed A through T been produced to counsel for Mr.

1 Doyle in this litigation?

2 A I believe so, yes.

3 Q. Have you personally reviewed all of the
4 items listed in A through T?

5 A Yes.

6 Q. So going forward when I say the legislative
7 record, for the sake of understanding between us, will
8 you understand that I'm referring to the items listed A
9 through T?

10 A Yes.

11 Q. Earlier today you spoke of publicly
12 available information about the legislature's enactment
13 of SB 1028 or the counseling ban. Do you recall doing
14 that?

15 A I do.

16 Q. And when you talk about the publicly
17 available information, are you referring to the same
18 set of items that are identified here as items A
19 through T?

20 A I do, yes.

21 Q. And are you aware of any publicly available

1 documents that relate to the enactment of SB 1028 that
2 are not included in this listing A through T?

3 A No.

4 Q. Now, as you sit here today, regarding all
5 of the interrogatory answers contained in this
6 document, are you aware of any inaccuracies in the
7 answers as you sit here today?

8 A No.

9 MS. ELLIS: I would note for the record
10 that in 2 what you read, where the last, last line,
11 last two lines of the introductory paragraph, instead
12 of request for admission it should say answers to
13 interrogatories.

14 MR. GANNAM: Thank you.

15 MS. ELLIS: Or respond to these
16 interrogatories.

17 THE WITNESS: Actually, could we pause for a
18 moment?

19 MR. GANNAM: Want to take a break?

20 THE WITNESS: I just want to take a look at
21 something -- okay. Counsel, I don't want to waste your

1 time. To my recollection there is a page in the
2 legislative record that was provided to us that
3 appeared to be completely unrelated to the bill we're
4 discussing. And I made a notation. I don't know if
5 it's important. I would be happy to flip through it if
6 we take a break and try to identify it.

7 BY MR. GANNAM:

8 Q. So this is a document that's in the, this
9 destination of materials as the legislative record that
10 you believe is not related to SB 1028?

11 A Yes, sir. It looked to me like it was
12 testimony from another bill.

13 Q. Okay. Well, thank you for letting me know.

14 A I don't know if that's important.

15 Q. I may ask you to identify it later. And
16 feel free to look for it on a break if you want to.

17 A That's fine. Thank you.

18 (Plaintiff's Exhibit 4 was marked for
19 purposes of identification.)

20 BY MR. GANNAM:

21 Q. All right. I'm handing you a document I

1 have marked as Plaintiff's Exhibit 4.

2 A Thank you.

3 Q. This document is Defendants' Response to
4 Plaintiff's Requests for Production of Documents. Did
5 I read that correctly?

6 A You did.

7 Q. Have you seen this document before?

8 A I have.

9 Q. And did you participate in preparing this
10 response?

11 A I reviewed the information.

12 Q. Okay. Looking at item number 2 on page 2
13 it contains a similar listing of items A through T. Do
14 you see that?

15 A I do.

16 Q. Is that the same listing of items that is
17 in the interrogatory answers that we spoke about in
18 Exhibit 3?

19 A Without comparing line by line, I believe
20 it is.

21 Q. Now, in terms of compiling the documents

1 that were provided by defendants' counsel to Mr.
2 Doyle's counsel, did you participate in that process?

3 THE WITNESS: Would you repeat that, please?

4 MR. GANNAM: Can you read it back?

5 (The reporter read back as requested.)

6 A In compiling, no.

7 BY MR. GANNAM:

8 Q. What about in identifying the documents
9 that should be produced?

10 A Identifying, no.

11 Q. So what was your involvement, if any, in
12 that process of producing documents to Mr. Doyle's
13 counsel?

14 A I reviewed the information.

15 Q. Meaning the documents themselves?

16 A Yes, sir.

17 Q. But you didn't pull those together or tell
18 anyone to gather them or anything like that?

19 A No, sir.

20 Q. Do you know who was responsible for that?

21 A Through counsel's office. I don't know if

1 counsel personally conducted the search or not.

2 Q. So apart from counsel you're not aware of
3 any personnel within the Department of Health who, you
4 know, physically took part in gathering documents or
5 identifying documents to be produced?

6 A No, sir, I'm not aware.

7 Q. So as you sit here today are you aware of
8 any documents that the defendants sought or looked for
9 to produce to Mr. Doyle's counsel that were not located
10 or could not be found?

11 A No, sir.

12 MS. ELLIS: To clarify, with respect to the
13 witness's last answer, just to make sure you
14 understand, counsel, the response to request for
15 production number 14 does indicate that the defendants
16 are still working and the defendants' counsel is still
17 working to determine whether there's any documents and
18 once I learn that, we will promptly supplement our
19 production.

20 MR. MIHET: Do you expect to learn that
21 before the preliminary injunction hearing?

1 MS. ELLIS: I hope so. You know, there are
2 limits. But I am, those documents, to determine
3 whether there are any responsive documents,
4 non-privileged responsive documents there's active work
5 going on and as soon as I, as soon as I get them I will
6 be producing them to the extent that they are
7 responsive and to the extent they exist.

8 MR. GANNAM: I wouldn't normally ask to
9 take a break this early but I'm about to sort of switch
10 into a different subject. So if it's okay can we just
11 do maybe a five-minute break?

12 MS. ELLIS: That's fine. That's fine.

13 (There was a break in the proceedings from
14 9:50 a.m. to 10 a.m.)

15 MR. GANNAM: All right. We can go back
16 on.

17 (Plaintiff's Exhibit 5 was marked for
18 purposes of identification.)

19 BY MR. GANNAM:

20 Q. All right. I'm showing you a document I
21 have marked as Exhibit 5.

1 A Thanks.

2 Q. For identification purposes, this reads at
3 the lower right-hand corner, a Bates number of MD 0179
4 through MD 0191. And this is a document produced by
5 the defendants to the plaintiff. And at the top left
6 it reads SB 1028 and below that it says, entitled,
7 "Health Occupations - Conversion Therapy for Minors -
8 Prohibition and in parentheses Youth Mental Health
9 Protection Act." Did I read all that correctly?

10 A Yes, sir.

11 Q. And have you seen this document before?

12 A I have.

13 Q. What is this?

14 A This is a part of the publicly available
15 record on the bill in question.

16 Q. That category of the legislative record
17 that we talked about earlier?

18 A Yes, sir.

19 Q. And are you familiar with the contents of
20 this document?

21 A I've reviewed it.

1 Q. And I want to go to the second page. There
2 is a listing, under the heading document name there's a
3 listing, there are several amendments and then an
4 analysis and then text. Do you see that?

5 A I do.

6 Q. And then finally votes. Did I read all
7 that correctly?

8 A I believe so.

9 Q. So what is this list describing or
10 referring to?

11 A Sir, at the risk of being blunt, I think
12 it's describing exactly what's written, just the
13 information that's available in the bill.

14 Q. And to your knowledge is this listing here
15 a complete listing of the various recall steps or
16 stages in the enactment of SB 1028?

17 A To my knowledge, yes.

18 Q. So, for example, the first item there says
19 "Amendments, Senate-Senator Salling" and then a number
20 "263124/01 rejected." Did I read that correctly?

21 A You did.

1 Q. And if I flip the page do I see in fact
2 that amendment that is referred to in that first line
3 there?

4 A That appears to be correct, yes.

5 Q. And that number at the top left of the
6 amendment SB 1028/263124, that corresponds to that same
7 number on that first line item on the previous page
8 correct?

9 A It does.

10 Q. So at least through the end of this
11 document, and I'll say for the record it was produced
12 in this form, at least, as being a complete document.
13 The last item in this document appears to begin four
14 pages from the end. MD 0188 is the Bates number. Can
15 you turn to that?

16 A Yes, sir.

17 Q. It says, "Department of Legislative
18 Services, Maryland General Assembly, 2018 Session,
19 Fiscal and Policy Note." Did I read that correctly?

20 A Yes, sir.

21 Q. And if you could turn back to that second

1 page, the listing of items, does that correspond to the
2 line item that says, "Analysis, fiscal and policy
3 note"?

4 A I agree it appears to, yes.

5 Q. And is everything in between that fiscal
6 and policy note and that Salling amendment that we have
7 already looked at correspond to all the line items
8 between those same two items on the second page there?

9 A Without reviewing each page it appears to
10 be, yes.

11 Q. Just so I'm oriented to what's here.

12 A Yeah.

13 Q. Okay. Great. So this, going back to page
14 2 it refers to a total of seven amendments, one of
15 which was adopted and all the rest were rejected. Am I
16 interpreting that correctly?

17 A That's what I see as well, yes.

18 Q. And to your knowledge were there any other
19 amendments proposed to SB 1028 before its enactment
20 besides what's listed here?

21 A Not to my knowledge, no.

1 Q. And to your knowledge is there a video or
2 audio record of the disposition or the result of each
3 of these proposed amendments?

4 A I will caveat with I believe so. I have
5 listened personally to some of the testimony that was
6 given on the floor so I have firsthand knowledge of
7 some of it and I would assume that the others would
8 have it as well.

9 Q. Do you have any reason to believe that
10 there is not audio or video for each of the amendments?

11 A No, I have no reason to believe that.

12 Q. Are there written transcripts of the same
13 floor proceedings or committee proceedings where these
14 amendments were discussed?

15 A There again, sir, I have firsthand
16 knowledge of some it. I would assume that there would
17 be for the rest of it as well.

18 Q. Written transcripts?

19 A I believe so.

20 Q. And do you know who holds those or where
21 they're located?

1 A I know that the audio information was
2 pulled from the publicly available website. And I'm
3 certain we can find the citation for it. And if there
4 would be a written transcript I would assume it would
5 be located there as well.

6 MS. ELLIS: There is, to my knowledge, no
7 written transcripts of the committee hearings or the
8 floor proceedings.

9 THE WITNESS: Just the audio?

10 MS. ELLIS: To my knowledge.

11 MR. GANNAM: Thank you for that.

12 BY MR. GANNAM:

13 Q. So I'll ask the witness. Are you aware of
14 a procedure for requesting a written transcript of any
15 of the Senate or House proceedings in connection with
16 SB 1028?

17 A I am not personally aware of how to request
18 that.

19 MR. GANNAM: Counsel, do you know if
20 there's a --

21 MS. ELLIS: There are none. There are no

1 written transcripts.

2 MR. GANNAM: I mean, but is there a process
3 to make a request for one and have one prepared either
4 for a fee or not?

5 MR. MIHET: From an audio transcript that
6 exists.

7 MS. ELLIS: Not to my knowledge. And this
8 is what you get. I mean I will confirm that but that's
9 my understanding.

10 MR. GANNAM: I appreciate that, yeah. It
11 wouldn't be the first government entity that doesn't
12 make that available.

13 THE WITNESS: And for the record what I was
14 referring to, I have seen some quotes written down from
15 testimony that was given. That is the written part
16 that I am referring to.

17 MR. GANNAM: I understand. Thank you.

18 BY MR. GANNAM:

19 Q. Going back to page 2 of the document, in
20 the items that are votes starting with "Vote, Senate
21 Committee Education Health and Environmental Affairs,"

1 do you see that?

2 A I do, sir.

3 Q. And then below that it says, "Vote, House
4 Committee Health and Government Operations." Do you
5 see that?

6 A I do.

7 Q. Besides those two committee votes are there
8 any other or were there any other committee votes on SB
9 1028 or any version of it?

10 A Not that I'm aware of, no.

11 MR. GANNAM: If you would keep this page 2
12 to Exhibit 5 open, you know, nearby as I pass you these
13 next couple because we'll refer back to it.

14 (Plaintiff's Exhibit 6 was marked for
15 purposes of identification.)

16 MR. GANNAM: I'm now handing you Exhibit 6.

17 THE WITNESS: Thanks.

18 BY MR. GANNAM:

19 Q. And Exhibit 6 continues sequentially in the
20 Bates numbering at the lower right, MD 0192 and goes to
21 MD 0197. This document at the top says, "Senate Bill

1 1028." In the introductory material below that, it
2 says, "By Senators Madaleno and others," and then it
3 says "introduced and read first time, February 5,
4 2018." Do you see that?

5 A I do.

6 Q. Does this document correspond to page 2 of
7 Exhibit 5 where it says, "Text, First, Health
8 Occupations - Conversion Therapy for Minors -
9 Prohibition"?

10 A It appears to, yes.

11 Q. And would another way referring to that be
12 the version of the bill printed for the first reader?

13 A Yes.

14 MR. GANNAM: Okay. All right. I'm now
15 handing you a document I'm marking as Exhibit 7.

16 (Exhibit 7 was marked for purposes of
17 identification.)

18 BY MR. GANNAM:

19 Q. And again this proceeds sequentially in the
20 page numbering. It begins MD 0198 and goes through MD
21 0203. Did I say that correctly?

1 A You did.

2 Q. And this item also reads Senate Bill 1028
3 at the top. It says "by Senators Madaleno and others."
4 And there's a strike-through and an addition changing
5 it from "and Zucker" to "Zucker and Young." Do you see
6 that?

7 A I do.

8 Q. And would this correspond then to the --
9 going back to Exhibit 5, page 2, the second text item
10 that says "Third, Health Occupations - Conversion
11 Therapy for Minors?"

12 A Yes.

13 Q. And would another way of referring to this
14 be the third reader version of the bill?

15 A It would be.

16 Q. And even though I'm using that terminology,
17 I won't represent that I understand it completely. Can
18 you tell me the difference between the first reader and
19 a third reader?

20 A It would reflect any amendments, which is
21 the area, part of the document that you referred to

1 with the strike-through. If there had been other
2 amendments it would incorporate those as well.

3 Q. And is the general process for the adoption
4 of a bill in Maryland for each bill to go through a
5 first, second and third reader before adoption?

6 A That's correct.

7 Q. And to your knowledge -- strike that. Did
8 SB 1028 go through a first, second and third reader
9 before adoption?

10 A It did.

11 MR. GANNAM: All right. The next item will
12 be Exhibit 8.

13 (Plaintiff's Exhibit 8 was marked for
14 purposes of identification.)

15 BY MR. GANNAM:

16 Q. This document continues sequentially with
17 the page number MD 0204 to MD 0209. Do you see that?

18 A I do.

19 Q. And this one reads at the top: "Lawrence J.
20 Hogan, Junior, Governor," and then below that Chapter
21 685 and below that in parentheses Senate Bill 1028. Do

1 you see that?

2 A I do.

3 Q. Does this correspond to the, on Exhibit 5,
4 page 2, the third text item that reads: "Chapter,
5 Health Occupations - Conversion Therapy for Minors -
6 Prohibition"?

7 A It does.

8 Q. And is this the final or enacted version of
9 SB 1028?

10 A A copy of it, yes.

11 Q. So between Exhibits 6, 7 and 8, the first
12 reader version, the third reader version, and the final
13 reader version, were there any other publicly available
14 versions of SB 1028?

15 A No.

16 Q. Who originally proposed the SB 1028?

17 A It would go back to the sponsors of the
18 bill.

19 Q. And do you know who the original sponsor
20 was or original sponsors if there was more than one?

21 A Sir, it's written on the first reader,

1 Senators Madaleno, Ferguson, Guzzone, Kagan, Lee,
2 Manno, Pinsky, Smith and Zucker.

3 Q. And that was on Exhibit 6, the first
4 reader?

5 A Yes, sir.

6 Q. Were any one or more of those listed
7 sponsors responsible for drafting SB 1028 the first
8 time?

9 MS. ELLIS: Objection. Instruct the
10 witness not to answer. It's covered by the legislative
11 privilege.

12 Q. Was SB 1028, the original version, created
13 wholly by or drafted wholly by one or more Maryland
14 senators or was the text copied from some other source?

15 MS. ELLIS: Objection. Instruct the
16 witness not to answer. Legislative privilege.

17 Q. Did any person or organization outside of
18 the Maryland legislature provide draft language or
19 proposed language for SB 1028 before it was put into
20 the first reader version?

21 MS. ELLIS: Same objection and instruction.

1 MR. MIHET: For the record can we assume
2 that the witness will abide by counsel's instruction
3 and save the time and not ask her whether she will
4 comply with the instruction?

5 MS. ELLIS: You can ask her.

6 THE WITNESS: Yes.

7 MS. ELLIS: I think she will abide by it.

8 MR. MIHET: So when instructed not to
9 answer we understand that you in fact will decline to
10 answer?

11 THE WITNESS: Correct.

12 MR. MIHET: Even if we don't confirm that
13 for each question?

14 THE WITNESS: Correct.

15 MR. MIHET: Okay.

16 MS. ELLIS: I would ask counsel to confine
17 questioning to one counsel, please. I think that's the
18 general rule.

19 MR. MIHET: Generally, yes. This was just
20 to tidy up the record.

21 (Plaintiff's Exhibit 9 was marked for

1 purposes of identification.)

2 MR. GANNAM: I'm handing you now Exhibit 9.

3 THE WITNESS: Thanks.

4 BY MR. GANNAM:

5 Q. This document is numbered MD 0102, just one
6 page. At the top it reads: "Floor Sheet, SB 1028,
7 Youth Mental Health Protection Act." Did I read that
8 correctly?

9 A You did.

10 Q. What is this document?

11 A It's essentially a summary.

12 Q. A summary of SB 1028?

13 A Yes, sir.

14 Q. Who prepared this document?

15 MS. ELLIS: Objection. Legislative
16 privilege, instruct the witness not to answer.

17 Q. Was it prepared by a member of the Maryland
18 Senate?

19 MS. ELLIS: Same objection and instruction.

20 Q. What is the purpose of this document in the
21 legislative process?

1 MS. ELLIS: If you know.

2 A Again I'll refer back to it's a summary of
3 the information in the bill.

4 Q. And when would this summary have been used
5 in the process from the first reader through enactment?

6 MS. ELLIS: Objection. Same objection and
7 instruction.

8 Q. This document is in the publicly available
9 legislative record, correct?

10 A Correct.

11 Q. At what point did it enter into the
12 legislative record?

13 MS. ELLIS: Same objection and instruction.

14 MR. GANNAM: I'm just going to say for the
15 record I think we're going too far with the legislative
16 privilege. This is a publicly available document. I
17 think I'm entitled to ask when it became publicly
18 available in the legislative process.

19 MS. ELLIS: It's in the bill file, counsel,
20 as I think I have told you before, and is listed in our
21 objections. It's part of the Senate bill, Senate bill

1 file.

2 MR. GANNAM: And again for the record, it
3 is our position that it's appropriate for us to ask
4 questions about documents that are in the bill file.

5 BY MR. GANNAM:

6 Q. Did all legislators who considered SB 1028
7 have access to this document?

8 MS. ELLIS: Objection. Same objection and
9 instruction.

10 Q. This document is called a floor sheet,
11 correct?

12 A Correct.

13 Q. Is a floor sheet used in, generally
14 speaking, in the enactment of other statutes in the
15 state of Maryland?

16 MS. ELLIS: Objection. Same instruction.

17 Q. Is it common in the legislative record of
18 other Maryland legislation for there to be a document
19 called a floor sheet?

20 MS. ELLIS: If the witness knows.

21 MR. GANNAM: I just want to say for the

1 record, we were only asking questions that, to find out
2 if the witness knows and it is improper for counsel to
3 instruct the witness to answer only what she knows
4 because it suggests that she may, should answer that
5 doesn't know.

6 MS. ELLIS: Do you need the question
7 repeated?

8 THE WITNESS: I don't think so. This would
9 be more informal than my counsel is going to appreciate
10 but I have seen floor sheets before. When this
11 particular floor sheet was produced I would need to go
12 back and look. I don't have a date stamp on this so I
13 can't answer that. It would also assume that folks in
14 the legislature have an equal opportunity to review
15 this but again I don't have firsthand knowledge of that
16 so I can't testify to that.

17 BY MR. GANNAM:

18 Q. Is any legislator entitled to submit a
19 floor sheet in connection with proposed legislation?

20 MS. ELLIS: Objection. Instruct the
21 witness not to answer. Same objection and instruction.

1 MR. GANNAM: So just so I'm clear, I'm
2 talking about the process of enacting legislation in
3 the state of Maryland. And the question is can any
4 legislator submit a floor sheet as a matter of right or
5 privilege in connection with any proposed legislation
6 in the state of Maryland. I'm not asking could anyone
7 have in connection with SB 1028.

8 MS. ELLIS: Same objection and
9 instruction.

10 (Plaintiff's Exhibit 10 was marked for
11 purposes of identification.)

12 MR. GANNAM: I'm showing you a document I
13 marked as Exhibit 10.

14 THE WITNESS: Thanks.

15 BY MR. GANNAM:

16 Q. This is numbered, the orientation is
17 different but at the, I guess as oriented at the upper
18 right it says MD 0163 to MD 0164. Do you see that?

19 A I do.

20 Q. And the title of this document is
21 Education, Health and Environmental Affairs, 3/72018.

1 18. Did I read that correctly?

2 A You did.

3 Q. Are you familiar with this document?

4 A I am.

5 Q. What is this?

6 A It is testimony that was given on behalf of
7 the bill that's being considered.

8 Q. And was this testimony delivered in the
9 Education, Health and Environmental Affairs Committee
10 of the Senate?

11 A It would have been, yes.

12 Q. Whose handwritten notes are on this
13 document?

14 A I don't know.

15 Q. And just for the record, by handwritten
16 notes I'm referring to, you know, under the title of
17 the document it appears to be handwritten LBGTQ in all
18 caps, do you see that?

19 A I see that. I see the underlining. I see
20 the checkmarks. I don't know where that came from.
21 And I think it would be safe that we can make some

1 assumptions but I don't know.

2 Q. Is this document with the handwritten notes
3 in the public record; in other words, is this version
4 showing these handwritten notes the version that's in
5 the publicly available record on this bill?

6 A It was provided in the bill file so yes, I
7 believe so.

8 Q. Now, based on your understanding of the
9 legislative process who would you assume or suppose
10 these marks were made by?

11 MS. ELLIS: Objection. Calls for
12 speculation.

13 MR. GANNAM: You can answer.

14 A I would assume that it would be someone
15 obviously who is within the room at the time.

16 BY MR. GANNAM:

17 Q. And looking at the columns we see type,
18 panel bill sponsors, the first entry. Do you see that?

19 A I do.

20 Q. And the next column says "position" and
21 under that, and this, it's kind of this first section,

1 there's five entries, all say FAV. Do you see that?

2 A I do.

3 Q. Does that mean favorable towards the bill?

4 A Yes.

5 Q. And then the third column says "testified".

6 Do you see that?

7 A I do.

8 Q. And these first five entries all say oral,

9 is that correct?

10 A It does.

11 Q. Does that mean that someone appeared in

12 person to this committee and testified orally where

13 indicated?

14 A I believe it expresses the intent that
15 someone said that they would testify orally. I would
16 assume the checkmark that is next to it means that they
17 did in fact do that.

18 Q. And so as a matter of example in the first
19 line just reading across from left to right the type is
20 panel dash bill sponsor, position FAV, testify oral
21 with a checkmark, name Senator Madaleno. Did I say

1 that correctly?

2 A Yes, sir.

3 Q. And would that indicate that Senator
4 Madaleno gave oral testimony in favor of the bill in
5 this committee?

6 A I was not there personally. I would assume
7 that's what this means.

8 Q. Moving down to about, well, let's say most
9 of the way down the page, the third entry up from the
10 bottom, the type is individual, the position is UNF,
11 the "testify" is "both," and the name is Mary Beth
12 Waddell. Do you see that?

13 A I see it.

14 Q. In that position field where it says UNF,
15 does that mean unfavorable?

16 A I would assume so, yes.

17 Q. And in the testify field where it says
18 "both," does that mean both oral and written?

19 A That would be my assumption, yes.

20 Q. And looking at this document are you able
21 to tell whether Mary Beth Waddell did in fact appear to

1 give oral testimony at the committee meeting?

2 A I do not see an indication.

3 Q. So would it be fair to say we can't tell
4 for sure from this document whether she did or didn't?

5 A Given the assumptions that we've apparently
6 agreed to before, yes, I can't tell.

7 Q. And the entry above that for Alan
8 Kittleman, do you see that?

9 A I do.

10 Q. And also in the "testify" it says "both"
11 and the handwritten mark appears to be the letter A.
12 Do you see that?

13 A I see that.

14 Q. Do you know that means?

15 A I do not. And I do not see a key that
16 would indicate what that means.

17 Q. Apart from this document that we have
18 marked as Exhibit 10, is there any other public record
19 of who either testified or intended to testify
20 regarding the Education -- I'm sorry -- regarding SB
21 1028 in the Education, Health and Environmental Affairs

1 Committee?

2 A The audio recording should reflect this.

3 Q. And so apart from the, this Exhibit 10 any
4 audio recording of the committee proceedings, are there
5 any other documents that would reflect who testified or
6 intended to testify on behalf or regarding the SB 1028?

7 A Not that I'm aware of.

8 Q. And wherever there was --

9 A And forgive me, counsel. We're speaking
10 just about oral testimony?

11 Q. I'm glad you asked. I was going to say,
12 wherever it's indicated that written testimony was
13 provided or intended to be provided, is that written
14 testimony in the public legislative record for these
15 committee proceedings?

16 A It should be; yes, sir.

17 Q. So, understanding, of course, if someone
18 didn't submit it, it wouldn't be there but to the
19 extent it was actually submitted to the committee, is
20 it in the public record?

21 A It should be, yes.

1 Q. And just as a matter of process, when a
2 written document is submitted to, for example, the
3 Education, Health and Environmental Affairs Committee,
4 how is that written document distributed or is it
5 distributed to the members of the committee?

6 MS. ELLIS: Objection. Instruct the
7 witness not to answer. Same objection.

8 MR. GANNAM: Same objection based on the
9 legislative privilege?

10 MS. ELLIS: Correct. And the same
11 instruction.

12 BY MR. GANNAM:

13 Q. So do senators who are on the Education,
14 Health and Environmental Affairs Committee have access
15 to written testimony that is submitted to that
16 committee?

17 MS. ELLIS: Same instruction and objection.

18 A So would a senator have to rely on what
19 goes into the public record to be able to see written
20 testimony submitted to the committee or is there
21 another method for senators to get that information?

1 MS. ELLIS: Same objection and instruction.

2 Q. How does someone go about submitting
3 written testimony to the Education, Health and
4 Environmental Affairs Committee in connection with a
5 proposed bill?

6 MS. ELLIS: You can answer.

7 A Okay. If testimony is being provided there
8 is, for lack of a more elegant term, a point person for
9 each committee that collects the information.

10 Q. And can that information be submitted
11 electronically, by email, for example?

12 A My firsthand knowledge is that someone
13 physically walks the information, a hardcopy, if you
14 will, to the committee. I'm not aware of an electronic
15 transfer.

16 Q. When you say someone walks into the
17 committee, from where do they take it to the committee?

18 A I'm not trying to be cute or blunt but
19 literally wherever their office happens to be they walk
20 it into the committee.

21 Q. So would that be the --

1 A To the committee offices. Excuse me.

2 Q. I think I follow you but just so we're
3 clear. Who is either by name or title the person who
4 would receive written testimony submitted to the
5 Education, Health and Environmental Affairs Committee?

6 A I certainly wouldn't be able to provide a
7 name because I don't know. I would assume the title is
8 administrative assistant or something along those
9 lines.

10 Q. So is there one person responsible for
11 receiving that information?

12 A Yes.

13 Q. And when you say a person would then walk
14 it to the committee offices, is that the same person
15 we're talking about?

16 A It would be, yes.

17 Q. And I believe you testified earlier that
18 this publicly available information to the extent it's
19 in the public legislative record is available on the
20 Internet for any member of the public to access?

21 A I'm sorry. Could you repeat that.

1 Q. I believe you testified earlier that the
2 documents that are in the publicly available
3 legislative record are available on the Internet to any
4 member of the public who wants to access it?

5 MS. ELLIS: Objection.

6 MR. GANNAM: You can answer.

7 A Counsel, I'm going to say yes with the
8 caveat that I don't know if there is a lag time and if
9 there is how significant it would be between when
10 someone submits and when it's available to the public.

11 BY MR. GANNAM:

12 Q. Okay. And fair enough. So to the extent
13 something is -- I'll strike that. If I asked this
14 before forgive me. Is there any other record of the
15 oral and written testimony either provided or intended
16 to be provided to the Education, Health and
17 Environmental Affairs Committee regarding SB 1028
18 that's not reflected on this document, Exhibit 10?

19 A Counsel, I don't think I can testify on
20 something that I'm unaware if it exists or not.

21 Q. Do you have reason to believe that there

1 would be oral or written testimony submitted to the
2 Education, Health and Environmental Affairs Committee
3 that's not reflected on this Exhibit 10?

4 A Again I think that's speculation but I'm
5 not aware of anything else.

6 Q. Are you aware of any other document in the
7 public legislative record of SB 1028 that would reflect
8 other testimony given to the Education, Health and
9 Environmental Affairs Committee besides what's on this
10 document?

11 A I am not aware, no.

12 (Plaintiff's Exhibit 11 was marked for
13 purposes of identification.)

14 MR. GANNAM: I'm now handing you Exhibit
15 11.

16 THE WITNESS: Thank you.

17 BY MR. GANNAM:

18 Q. Again the orientation is a little
19 different. This one, it would be on the lower left is
20 the page number MD 0095 to MD 0096. Do you see that?

21 A I do.

1 Q. And this document is titled Health and
2 Government Operations 3/1/2018, and below that HB 0902,
3 Delegate Cullison. Do you see that?

4 A I do.

5 Q. Does this refer to the House of Delegates
6 Health and Government Operations Committee?

7 A Correct.

8 Q. And HB 0902 is the same counseling ban we
9 have been discussing up to this point as SB 1028,
10 correct?

11 A It is.

12 Q. So basically would it be fair to say this
13 is a record of committee proceedings in the House of
14 Delegates on the same piece of legislation?

15 A Yes, sir.

16 Q. And on this document -- have you seen this
17 before?

18 A I believe I have, yes.

19 Q. Would this document serve the same purpose
20 for the House Health and Government Operations
21 Committee as Exhibit 10 served for the Senate

1 Education, Health and Environmental Affairs Committee?

2 A Yes, sir.

3 Q. And do you know who the author of the
4 handwritten marks on this document is?

5 A As with the previous document, no, I'm not
6 aware.

7 Q. And these are perhaps more cryptic than the
8 others. Do you know what the lines mean that are, that
9 appear down the column here?

10 A My counsel would probably say speculation.
11 No, I don't.

12 Q. So just for example then, the first entry,
13 the type is panel dash bill sponsor, position FAV,
14 testify oral, name, Delegate Cullison. Did I read all
15 that correctly?

16 A You did.

17 Q. And does that indicate that Delegate
18 Cullison either testified orally or had intended to
19 testify orally at this committee proceeding for the
20 Health and Government Operations Committee?

21 A Yes, sir. I believe it indicates the

1 intent.

2 Q. And where the testify column reads, oral or
3 both, or written, would those terms mean the same thing
4 as they meant on Exhibit 10 for the Senate committee?

5 A They should, yes.

6 Q. And the same for the position abbreviation
7 FAV and UNF, would those mean favorable and unfavorable
8 as they did on Exhibit 10 for the Senate committee?

9 A They should, yes.

10 Q. And is there any oral or written testimony
11 or proposed oral or written testimony to the Health and
12 Government Operations Committee on HB 902 that's not
13 reflected on this document marked as Exhibit 11?

14 A Counsel, as with the previous conversation,
15 I can't testify to something I'm not aware of. No, I
16 don't know of anything else that exists.

17 Q. Do you have any reason to believe there is
18 oral or written testimony or proposed testimony to the
19 Health and Government Operations Committee on HB 902;
20 that's not reflected on this document?

21 A No, I have no reason to believe it.

1 Q. Can I ask you to go back to Exhibit 3 which
2 is the interrogatory answers?

3 A Yes.

4 Q. Will you turn to page 4? It's
5 Interrogatory Number 1.

6 A Yes, sir.

7 Q. I'll read the question. It says, "If your"
8 -- the second paragraph. "If your response to RFA1 is
9 anything other than an unqualified admission then for
10 each complaint in the legislative record of SB 1028
11 that a minor was harmed by any SOCE counseling provided
12 within the state of Maryland identify, for definition
13 number 9, the person or persons making the complaint,
14 the date of the complaint, the nature of the conduct
15 and harm alleged in the complaint, the person receiving
16 the complaint, the person allegedly providing the SOCE
17 counseling, the location of the SOCE counseling, the
18 date of the SOCE counseling, the nature of the SOCE
19 counseling and the person allegedly harmed." Did I
20 read that correctly?

21 A You did.

1 Q. What follows is a response that contains an
2 objection and then the answer begins with the word
3 "without". Do you see that?

4 A I do.

5 Q. So the answer reads: "Without waiving these
6 objections, see MD 0011, M.D. 0057, MD 0063, MD 0138,
7 MD 0152 to MD 0153 for information responsive to this
8 interrogatory." Did I read that correctly?

9 A You did.

10 Q. It says "See also statement of Meagan
11 Simonaire made during the floor proceedings on April 4,
12 2018 in the House of Delegates from time stamp 2 hours
13 55 minutes, 7 seconds, to time stamp 3 hours, 2
14 minutes, 24 seconds." Did I read that correctly?

15 A You did.

16 Q. Now, as you sit here today is that still an
17 accurate answer to Interrogatory Number 1, subject to
18 the objections stated by counsel?

19 A Yes, sir.

20 Q. Did you select the documents to identify in
21 this interrogatory answer beginning with MD 0011?

1 A I did not personally select them. I did
2 review them.

3 Q. Okay. So -- strike that. Do the documents
4 identified here as MD 0011 through MD 0153 -- one, two,
5 three, four -- five documents reflect the totality of
6 complaints in the legislative record of SB 1028 that a
7 minor was harmed by SOCE counseling in the state of
8 Maryland?

9 THE WITNESS: Would you repeat that, please?

10 MR. GANNAM: Can you read it back?

11 (The reporter read back as requested.)

12 A So they reflect the testimony to that.

13 BY MR. GANNAM:

14 Q. Testimony that's in the public record?

15 A Correct.

16 Q. Regarding minors harmed by SOCE in the
17 state of Maryland?

18 A Correct.

19 Q. Are there any other -- strike that. Do
20 these documents reflect all of the testimony in the
21 public record or the legislative record of SB 1028 --

1 MS. ELLIS: Objection. You're
2 misrepresenting the interrogatory answer.

3 Q. Let me finish my question, please. Do
4 these documents reflect all of the testimony in the
5 legislative record regarding or indicating that a minor
6 was harmed by SOCE counseling provided in the state of
7 Maryland?

8 MS. ELLIS: Objection. You're
9 misrepresenting the interrogatory answer.

10 MR. GANNAM: You can answer.

11 A Counsel, again forgive me. The numbers
12 correspond to the publicly available record for the
13 testimony.

14 BY MR. GANNAM:

15 Q. And so this is not the entire legislative
16 record, correct, these documents identified in response
17 to Interrogatory Number 1?

18 A I'm sorry. I've gotten lost in the
19 question.

20 Q. The legislative record you testified
21 earlier is items A through T on page 2 of this

1 document?

2 A Right.

3 Q. So these five documents that are identified
4 here by Bates number, would you agree with me that's
5 not the entire legislative record for SB 1028, it's
6 some smaller set of documents within that record?

7 A It is not the entire record.

8 Q. So my question is, are the documents
9 identified in response to number one all of the
10 documents in the legislative record that reflect a
11 minor who was harmed by SOCE counseling in the state of
12 Maryland?

13 MS. ELLIS: And the same objection.

14 A Assuming I understand the question that's
15 being asked, yes.

16 Q. Is there any part of the question you don't
17 understand?

18 A Am I allowed to restate the question to
19 make sure I understand what's being asked?

20 Q. You may, sure.

21 A You're asking if these are the documents

1 that are used to support the response plus the
2 objection that's being listed?

3 Q. Not exactly. Maybe I'll ask it this way.
4 Are there documents in the public legislative record of
5 SB 1028 that reflect a minor who was harmed by SOCE
6 counseling in the state of Maryland besides these
7 documents identified in response to Interrogatory
8 Number 1?

9 A I don't believe so. I'm sorry. I probably
10 made this much more complicated.

11 MS. ELLIS: No, you didn't.

12 THE WITNESS: I'm sorry.

13 BY MR. GANNAM:

14 Q. What is the statement of Meagan Simonaire
15 during the floor proceedings on April 4, 2018 in the
16 House of Delegates that is identified in the last
17 sentence?

18 A I've listened to that. I don't know that
19 it would be proper for me to provide a summary of that.
20 It's publicly available.

21 Q. Tell me what you remember about it. I

1 understand, I mean you have told me you can't repeat it
2 word-for-word. I understand that. But what do you
3 recall about it?

4 A In general she participated in some kind of
5 conversion therapy and had an unpleasant experience.

6 Q. Did she say in that statement where she
7 participated in conversion therapy?

8 A Counsel, I don't recall.

9 Q. And did she say what occurred in any
10 conversion therapy she may have participated in?

11 A Again counsel, I don't recall.

12 Q. Did she say how old she was when this
13 occurred?

14 A That was exactly what I was struggling to
15 remember as these questions started rolling out. I
16 don't remember. I would assume but I don't know for a
17 fact.

18 Q. So do you have any knowledge of Delegate
19 Simonaire's experience with conversion therapy beyond
20 whatever she said on the public record at this time
21 stamp that's identified here?

1 A No, sir.

2 Q. And am I correct that you didn't speak to
3 Delegate Simonaire about her statement?

4 A I don't believe I have ever spoken to the
5 delegate so no, I didn't.

6 (Plaintiff's Exhibit 12 was marked for
7 purposes of identification.)

8 Q. I'm showing you a document that I have
9 marked as Exhibit 12.

10 A Thanks.

11 Q. This is a collection of documents from the
12 documents produced by defendants' counsel to Mr.
13 Doyle's counsel. It begins with the document numbered
14 MD 0011. It ends with MD 0153. And I will represent
15 that it contains the five documents identified in
16 defendants' answer to Interrogatory Number 1. Will you
17 take a look at the page numbers or the document numbers
18 and compare it to the interrogatory number 1 answer and
19 confirm that that's the case?

20 A They do seem to correspond except with the
21 caveat that 0064 is a continuation of what starts on 63

1 and that number does not seem to be noted here.

2 Q. Okay. Would you agree that 064 does appear
3 to be the second page of 063?

4 A I agree.

5 Q. And would it be correct to assume you did
6 not intend to indicate in the answer to number 1 that
7 064 didn't belong?

8 A Again having not personally put this
9 together I would agree that it's the same document,
10 just the second page.

11 Q. Okay. Great. Now, to the extent that
12 Interrogatory Number 1 asked for identification of any
13 minor harmed by SOCE within the state of Maryland and
14 the understanding that the answer says simply see these
15 documents for information responsive to the
16 interrogatory, I would like to go through these with
17 you and see if you can point out for me where any of
18 these documents identifies a minor who was harmed by
19 SOCE in the state of Maryland, starting with MD 0011.
20 And if you have to read the document to find it, that's
21 fine. But starting with that one, can you point to me

1 where in this document it identifies a minor who was
2 harmed by SOCE in the state of Maryland?

3 A Counsel, for Exhibit 4-10, it in general
4 appears to be a father testifying on behalf of a
5 transgender child and it seems to infer that there is
6 harm. I could not point to a specific sentence.

7 Q. What part of it do you believe infers that
8 there was harm?

9 A I think starting in paragraph 3 relating to
10 gender being confusing and maybe a bit upsetting.

11 Q. Anywhere else?

12 A The final paragraph, again not specifically
13 but in general that the child does not need to be
14 converted or repaired.

15 Q. Okay. Is there anywhere in this document
16 that identifies a specific minor who was harmed or
17 claims to have been harmed by conversion therapy in the
18 state of Maryland?

19 A Again counsel, at the risk of appearing
20 unfriendly, I think I answered that.

21 Q. Well, what is the answer; was the answer no

1 or yes?

2 A That in general it seems to point to it but
3 I would not be able to underline a specific sentence
4 for you.

5 Q. And have you told me everywhere where you
6 believe it in general referrals to --

7 MS. ELLIS: Objection. Asked and answered.

8 Q. I understand you have a right to object but
9 I would appreciate it if you would let me finish my
10 question before you object.

11 MS. ELLIS: I apologize. I thought you had
12 finished.

13 Q. Have you told me all the points in this
14 document or places in this document that you believe
15 generally infer that harm had occurred to a minor?

16 A Yes, sir.

17 Q. Will you look at the second page? It's
18 numbered MD 0057. Can you show me where, anywhere in
19 this document it refers to a minor who has been harmed
20 or claims to have been harmed by SOCE therapy in the
21 state of Maryland?

1 A Counsel, if I may?

2 Q. I'm sorry?

3 A If I may?

4 Q. Yeah, please.

5 A It appears the second paragraph is
6 referring to the different associations that have
7 deemed conversion therapy of minors harmful.

8 Q. And so just so we're clear, my question is,
9 does this document indicate that any minor in Maryland
10 has been harmed by SOCE counseling or claims to have
11 been harmed by SOCE counseling in Maryland?

12 A In Maryland specifically, no, I couldn't
13 underline that.

14 Q. And in this document does it identify any
15 minor, any specific minor who has been harmed by SOCE
16 counseling anywhere outside of Maryland?

17 A Counsel is referring to associations and
18 without the documents from those specific associations
19 I wouldn't be able to draw a specific conclusion, no.

20 Q. The next document is MD 0063 to MD 0064,
21 appears to be a letter from The Trevor Project. Do you

1 see that?

2 A I do, sir.

3 Q. Can you show me anywhere in this document
4 that refers to any specific minor who was harmed or
5 claims to have been harmed by SOCE in the state of
6 Maryland?

7 A Counsel, the first paragraph, again it
8 refers back to the different associations and in
9 paragraph -- 1, 2, 3 -- 4 it mentions The Trevor
10 Project and 1,237 Maryland youth in crisis and the
11 calls that they are receiving.

12 Q. All right. I'll read the sentence that I
13 believe you're referring. It says, "The Trevor Project
14 has been contacted by over 1,237 Maryland youth in
15 crisis in the past year." I did read that correctly?

16 A You did, sir.

17 Q. Does that sentence refer to conversion
18 therapy in any way?

19 A The letter doesn't specify.

20 Q. The next sentence says, "These youth call
21 us considering suicide and needing someone to speak to

1 when they feel alone and scared." Did I read that
2 correctly?

3 A You did.

4 Q. The next sentence, not all of these youth
5 are victims of conversion therapy but all have been
6 wounded by a culture that allows the idea of a choice
7 of one's sexual orientation to permit violence,
8 bullying, and family rejection. Did I read that
9 correctly?

10 A I agree that's a statement in the letter,
11 yes.

12 Q. Now, taking those three sentences together,
13 does this letter tell us that any minors in Maryland
14 have been harmed or claimed to have been harmed by
15 conversion therapy in Maryland?

16 A Counsel, this is public testimony. All I
17 can agree to is what's in the letter.

18 Q. And so based on your reading of the letter
19 does that identify any minors in the state of Maryland
20 who have been harmed or claimed to have been harmed by
21 conversion therapy?

1 A I do not see a specific reference.

2 Q. The next document begins at MD 0138,
3 appears to be a letter from www.spdocs.net, pediatrics
4 and internal medicine. Do you see that?

5 A I do.

6 Q. In this letter do you see anything that
7 identifies a minor who is harmed or claims to have been
8 harmed by conversion therapy in the state of Maryland?

9 A Counsel, before we go any further with
10 this -- and this will come as a surprise to my own
11 counsel -- the letterhead reflects a doctor that has in
12 the past treated my father. I don't know if I should
13 appropriately comment on this.

14 MS. ELLIS: I think that's fine.

15 THE WITNESS: I think we're fine but --

16 BY MR. GANNAM:

17 Q. Which doctor is that?

18 A Jeffrey Schmidlein, who I actual think
19 thought was retired by now. But what do I know?

20 Q. Okay. Thank you for the disclosure. Have
21 you -- let me ask. Have you discussed anything in this

1 letter with Dr. Schmidlein?

2 A I haven't discussed this with Dr.
3 Schmidlein or Dr. Hackett or Dr. Ginsburg. My father
4 knows where I am today but he doesn't know the content.

5 Q. So would it be fair to say you haven't had
6 any discussions with any author of this letter or any
7 doctor identified in this letter regarding this subject
8 matter?

9 A None. But as I testified earlier, this is
10 my first deposition and I want to make sure I'm doing
11 everything I should do.

12 Q. Great. I appreciate the disclosure. So
13 we'll continue then. Is there anything in this letter
14 that indicates or identifies a minor who was harmed by
15 conversion therapy or SOCE counseling or claims to have
16 been so harmed in the state of Maryland?

17 A Counsel, in the first paragraph it refers
18 to, quote, one such young man -- I assume that's one --
19 was sent to a summer camp for conversion therapy only
20 to leave camp with his self-esteem damaged immensely.
21 I'll concede it doesn't say that the young man was in

1 Maryland but if the doctor is practicing in Maryland, I
2 think we can infer that.

3 Q. Okay. Does the letter reveal what practice
4 or what therapy this young man experienced that's
5 called conversion therapy in the letter?

6 A Again this is public testimony. All I can
7 testify to is what's in the letter and I see conversion
8 therapy in quotations but no specific definition.

9 Q. And would you agree with me where although
10 it identifies him as a young man it does not indicate
11 specifically the age of this young man?

12 A I agree that there's no age.

13 Q. Is there anything in the public legislative
14 record of SB 1028 or the House counterpart that
15 indicates the legislature considered banning only a
16 residential or summer camp style version of what's
17 called conversion therapy?

18 MS. ELLIS: Objection. Legislative
19 privilege. Instruct the witness not to answer.

20 Q. My question regards specifically the public
21 record so I don't think the objection --

1 MS. ELLIS: And I'll add the record speaks
2 for itself.

3 BY MR. GANNAM:

4 Q. So based on that, can you answer, is there
5 anything in the public record showing that the
6 legislature considered banning only a residential or
7 summer camp style conversion therapy program as opposed
8 to all conversion therapy as defined in the statute?

9 MS. ELLIS: Same objection and instruction.

10 Q. Isn't it true there is nothing in the
11 public record indicating that the legislature
12 considered a ban of only residential or summer camp
13 style of conversion therapy as opposed to the ban that
14 they did enact in SB 1028?

15 MS. ELLIS: Objection to form. You can
16 answer it if you can.

17 A To my recollection I did not see any
18 reference to camps.

19 Q. And besides camps any kind of residential
20 program, any reference to that?

21 MS. ELLIS: Same objection.

1 A To my recollection I did not see that.

2 Q. And so it is true then that there is
3 nothing in the public record that refers to residential
4 or summer camp style conversion therapy programs?

5 MS. ELLIS: Objection to form. Asked and
6 answered.

7 MR. GANNAM: You can answer.

8 A I agree that I do not see that.

9 BY MR. GANNAM:

10 Q. And you testified earlier that you did
11 review the legislative record and you have now said you
12 didn't see it. Would it be fair to say that it's not
13 in there?

14 MS. ELLIS: Objection. Asked and answered
15 and objection to form.

16 A Yes.

17 Q. In the second paragraph here --

18 A We're still on Exhibit 6-41?

19 Q. Yes.

20 A Thank you.

21 Q. And just for the record Exhibit 6-41 is

1 also MD 0138?

2 A Yes, sir.

3 Q. Okay. The second paragraph begins, "The
4 Youth Mental Health Protection Act." Do you see that?

5 A I do.

6 Q. It goes on to say, "HB 902/SB 1028 would
7 protect LGBT youth from so-called conversion therapy, a
8 range of dangerous and discredited practices that
9 falsely claim to change a person's sexual orientation
10 or gender identity or expression. These practices are
11 based on the false premise that lesbian, gay, bisexual,
12 transgender or queer (LGBTQ) is a mental illness that
13 needs to be cured, a theory which has been rejected by
14 every major medical and mental health organization."
15 Did I read that correctly?

16 A Yes, sir.

17 Q. Is there anything in the public record
18 indicating that the legislature considered banning only
19 conversion therapy based on the assumption that being
20 LGBTQ is a mental illness as opposed to banning
21 conversion therapy as it is currently defined in SB

1 1028?

2 A Sorry, counsel. Is there anything in the
3 public record?

4 Q. Correct, differentiating conversion therapy
5 based on the assumption that LGBTQ is a mental illness
6 as opposed to conversion therapy that is not based on
7 that assumption?

8 A Not to my recollection.

9 Q. Let's look if the next document. It's MD
10 0152 to MD 0153, also numbered Exhibit 6-55 to Exhibit
11 6-56. Do you see that?

12 A I do.

13 Q. And at the top it indicates it's from Kate
14 MacShane, MED, MSW, LCSW-C. Did I read that correctly?

15 A You did.

16 Q. And in this letter from Kate MacShane does
17 it indicate anywhere or reflect a minor who was harmed
18 by SOCE counseling in the state of Maryland or a minor
19 who claims to have been so harmed?

20 A Counsel, it appears in the second paragraph
21 approximately halfway down essentially starting with

1 the line "therapeutic relationship" and for most of the
2 remainder of the paragraph.

3 Q. All right. Let me catch up to you. Just a
4 moment here.

5 A Sure.

6 Q. So the sentence beginning "The therapeutic
7 relationship" is what you're talking about?

8 A Essentially; yes, sir.

9 Q. Okay. Well, I'll read from there. "The
10 therapeutic relationship should be one in which all
11 people have confidence that they will not be condemned,
12 exploited or harmed. Unfortunately, many of my clients
13 have experienced family members, teachers, doctors and
14 even previous therapists trying to dissuade and even
15 prevent them from being themselves." Did I read that
16 correctly?

17 A Yes, sir.

18 Q. Now, does that, do those two sentences
19 specifically refer to conversion therapy or SOCE
20 counseling?

21 A I can only testify to what's in the

1 sentence.

2 Q. So would you agree with me it doesn't
3 reference specifically conversion therapy or SOCE
4 counseling?

5 MS. ELLIS: Objection.

6 A I believe there are inferences but the
7 words conversion therapy, no, sir.

8 Q. The next sentence begins, "Imagine seeking
9 help from a professional and being told that the path
10 to healing is to destroy, ignore or deny a part of
11 yourself that you couldn't change even if you wanted
12 to." Did I read that correctly?

13 A Yes, sir.

14 Q. And then "I have personally treated people
15 who identify as survivors of conversion therapy and I
16 can attest that it can take years to overcome the
17 traumatic violation of trust that this type of therapy
18 represents." Did I read that correctly?

19 A Yes, sir. And if I may, taken in totality
20 with the other sentences, that's what I was referring
21 to.

1 Q. Okay. Now, does this letter reveal what
2 practices or words are included within this author's
3 concept of conversion therapy?

4 MS. ELLIS: Objection. The letter speaks
5 for itself.

6 A Counsel, as with the other responses, I can
7 only testify to what's in the letter.

8 Q. And so in the letter does it explain or
9 describe what practices or statements by a counselor or
10 a therapist constitute conversion therapy in this
11 author's view?

12 MS. ELLIS: Same objection.

13 A I do not see a word-for-word definition;
14 no, sir.

15 Q. I read where it refers to or it suggests,
16 "Imagine seeking help from a professional and being
17 told that the path to healing is to destroy, ignore or
18 deny a part of yourself that you couldn't change even
19 if you wanted to." Do you see that part?

20 A Yes, sir.

21 Q. Does any part of the public record of SB

1 1028 reflect a discussion or consideration by the
2 legislature of banning only conversion therapy that
3 involves telling a patient that the path to healing is
4 to destroy, ignore or deny a part of yourself that you
5 couldn't change even if you wanted to?

6 MS. ELLIS: Objection.

7 A Word-for-word to cross-reference, no.

8 Q. Apart from any word-for-word correlation in
9 the public record, are you aware of any part of the
10 public record that indicates the legislature considered
11 banning something less than the ban that was adopted in
12 the definition of SB 1028, for example, a ban that only
13 would apply to telling a child to change something the
14 child couldn't change?

15 MS. ELLIS: Objection. There's nothing in
16 the record or there's no testimony that you have
17 elicited from the witness regarding the definition in
18 the bill or the now statute. And so your question is
19 vague, ambiguous and probably all of the other
20 objections that's Mr. Mihet made to every question in
21 Tuesday's deposition.

1 MR. MIHET: Are you incorporating those
2 objections by reference as a fully stated herein?

3 MS. ELLIS: Correct. As well as objecting
4 to the form of the question.

5 MR. GANNAM: So subject to that objection,
6 will you read the question back, please?

7 (The reporter read back as requested.)

8 MS. ELLIS: Objection to all of the
9 unwarranted assumptions in that question and it's vague
10 and I think pretty incomprehensible.

11 THE WITNESS: I'll give it a shot.

12 MS. ELLIS: Okay.

13 A I am aware that there were, I will
14 characterize it as a handful -- we can go back and take
15 a look at the actual of number of amendments proposed,
16 some of which would have been restrictive -- strike
17 that -- more narrow, and all except one where it
18 expanded the number of co-sponsors did not pass. And
19 that is the only information that I'm aware of.

20 MR. GANNAM: Let's take a break.

21 (There was a break in the proceedings from

1 11:18 a.m. to 11:29 a.m.)

2 MR. GANNAM: All right. Let's go back on.

3 BY MR. GANNAM:

4 Q. All right. Can I ask you to refer back to
5 Exhibits 6, 7 and 8? These are the first reader, third
6 reader, and final versions of SB 1028. I want to start
7 with Exhibit 8, which is the final, and go to page 5 of
8 that document, which is also numbered MD 0208.

9 A I'm sorry, counselor. Which document?

10 Q. Exhibit 8.

11 A Yep.

12 Q. The final version.

13 A Okay.

14 Q. On page 5, also numbered MD 0208.

15 A Yes, sir.

16 Q. So we're looking at page 5 of the final
17 version, the enacted version of SB 1028, correct?

18 A Yes, sir.

19 Q. And I want to refer to the, under the
20 heading 1-212.1, which I understand is where it's
21 actually numbered within the Maryland statutes, is that

1 correct?

2 A Yes, sir.

3 Q. In Chapter 685 of the Health Occupations
4 Article, correct?

5 A Yes, sir.

6 Q. So in, beginning in item A, it's followed
7 by the number 1 and it says, "In this section the
8 following words have the meanings indicated." Did I
9 read that correctly?

10 A You did.

11 Q. And in number 2 has three subparts, Roman
12 numerals I, II and III, correct?

13 A It does.

14 Q. So Roman numeral I one reads: "Conversion
15 therapy," in quotes, "means a practice or treatment by
16 a mental health or child care practitioner that seeks
17 to change an individual's sexual orientation or gender
18 identity." Did I read that correctly?

19 A You did.

20 Q. And under that it reads: "Conversion
21 therapy," in quotes, "includes any effort to change the

1 behavioral expression of an individual's sexual
2 orientation, change gender expression, or eliminate or
3 reduce sexual or romantic attractions or feelings
4 toward individuals of the same gender." Did I read
5 that correctly?

6 A You did.

7 Q. Now, would you look at the corresponding
8 definitions in the first reader and third reader
9 versions of the bill and tell me if there are any
10 differences in the definition between the bills.

11 A No change, sir.

12 Q. So would it be fair to say that the version
13 of SB 1028 that was enacted did not include any changes
14 in the definition of conversion therapy from its first
15 reader version to the final version?

16 MS. ELLIS: Objection to form.

17 MR. GANNAM: You can answer.

18 A I agree there's no change.

19 BY MR. GANNAM:

20 Q. I want to look at, if you would go back to
21 Exhibit Number 5, which is the packet of documents

1 containing part of the legislative history of SB 1028.

2 A I have it.

3 Q. And we discussed how on the second page it
4 refers to several proposed amendments. Do you see
5 those?

6 A I see the references, yes.

7 Q. And there are three Senate amendments that
8 were rejected. It's the first, second and fourth line
9 items. Do you see that?

10 A I do.

11 Q. And I believe you testified earlier that
12 that corresponds to the first, second and fourth pages
13 following page 2, correct?

14 A Correct.

15 Q. Understanding that the record indicates
16 these amendments were rejected, does the record
17 indicate any reason why the amendments were rejected?

18 MS. ELLIS: Objection. Legislative
19 privilege.

20 MR. GANNAM: And instruction not to answer?

21 MS. ELLIS: Correct.

1 BY MR. GANNAM:

2 Q. Does the public record reflect the reason
3 why any of these amendments were rejected?

4 A The documents that we have before us for
5 the public record do not. There may be something on
6 the audio recordings of floor debate that may reflect
7 that.

8 Q. Are you aware of any of those audio
9 recordings disclosing or publicly stating a reason for
10 the rejection of any of the amendments?

11 A I'm not personally aware of it.

12 Q. Did you listen to the audio recording of
13 proceedings relating to these three amendments in
14 preparation for your deposition today?

15 A Not to the amendments, no.

16 Q. So let me ask the question a little
17 different. Let's look at MD 0181 which is the first of
18 the three amendments that we're talking about here.

19 A I have it.

20 Q. By Senator Salling. Do you see that?

21 A Yes, sir.

1 Q. Understanding that the public record
2 reflects this amendment was rejected, what is the
3 reason or reasons why the legislature rejected this
4 amendment?

5 MS. ELLIS: Objection. Instruct the
6 witness not to answer. It's covered by the legislative
7 privilege.

8 Q. And the next one is MD 0182 by Senator
9 Simonaire. Understanding the public record reflects
10 that this amendment was rejected, what is the reason or
11 reasons for the rejection of this amendment?

12 MS. ELLIS: Same objection and same
13 instruction.

14 Q. And skipping one to go to MD 0184, also by
15 Senator Simonaire, understanding the public record
16 reflects that this amendment was rejected, what is the
17 reason or reasons why the Senate rejected this
18 amendment?

19 MS. ELLIS: Same objection and instruction
20 to the witness. I would also note that voting records
21 would show that it was rejected but, you know, beyond

1 that, I don't think there's anything in the public
2 record.

3 Q. On the next page, MD 0185, is a House
4 proceeding -- or strike that. MD 0185 appears to be an
5 amendment offered by Delegate Parrott in the House of
6 Delegates, is that correct?

7 A It does.

8 Q. And does the public record also reflect
9 that this amendment was rejected?

10 A It does.

11 Q. What is the reason or reasons why this
12 amendment was rejected by the House of Delegates?

13 MS. ELLIS: Same objection and instruction.

14 Q. And the next page is MD 0186, also a
15 proposed amendment by Delegate Parrot. Does the public
16 record reflect that this amendment was rejected?

17 A It does.

18 Q. And what is the reason or reasons why this
19 amendment was rejected by the House of Delegates?

20 MS. ELLIS: Same objection and instruction.

21 Q. And then MD 0187, also a proposed amendment

1 by Delegate Parrott, does the public record reflect
2 that this amendment was rejected by the House of
3 Delegates?

4 A It does.

5 Q. And what is the reason or reasons why this
6 amendment was rejected by the House of Delegates?

7 MS. ELLIS: Same objection and same
8 instruction.

9 A I think, counsel, in the interest of full
10 disclosure I'm sure my counsel is saying I'm going
11 further than I need to. Delegate Parrott and I went to
12 high school together. I don't believe I've seen him in
13 20 years.

14 MR. GANNAM: Is there anyone you don't know
15 in these documents? Strike that.

16 MS. ELLIS: Maryland is a small state,
17 counsel, and Baltimore is frequently referred to as
18 "Smalltimore," so.

19 MR. GANNAM: We come from a "small big
20 town" ourselves so I understand.

21 By MR. GANNAM:

1 Q. So the six amendments that we just covered,
2 three in the Senate and three in the house, is it
3 correct that there are no reasons why these amendments
4 were rejected?

5 MS. ELLIS: Objection. Mischaracterizes
6 the witness's, the mischaracterizes your former
7 questions, and the fact that I objected and instructed
8 the witness not to answer.

9 MR. GANNAM: And so just so I'm clear, that
10 this is a new question. I'm not characterizing any
11 former question.

12 BY MR. GANNAM:

13 Q. Is it true that there are no reasons why
14 any of these six amendments was rejected?

15 MS. ELLIS: Objection. It's covered by the
16 legislative privilege.

17 MR. MIHET: Are you instructing --

18 MS. ELLIS: Instruct the witness not to
19 answer.

20 MR. GANNAM: All right. I'm going to
21 attempt to play some audio that was produced to us in

1 this case. And I say attempt because it's always a
2 gamble at a deposition to do something like this.

3 COURT REPORTER: And I'll just put "audio
4 played" in the transcript?

5 MR. GANNAM: Well, it's not a lot but I
6 would ask that if it's possible for you to attempt to,
7 I understand there may be some limitations. Since we
8 don't have a written transcript of this audio
9 otherwise.

10 COURT REPORTER: Okay.

11 MR. GANNAM: For the record this is the
12 audio file produced by the defendants identified as, by
13 the file name SEN underscore 03272018 underscore 1.
14 And I will play beginning at time stamp 2 hours and 6
15 minutes, 49 seconds through time stamp 2 hours, 10
16 minutes, 56 seconds. So something in the neighborhood
17 of about four minutes of the proceeding. And just to,
18 I will represent to the extent it's not clear from the
19 audio, this is the three Senate amendments, two from
20 Senator Simonaire and one from Senator Salling, just to
21 give you, orient you to what I am proposing to play.

1 And you can -- let's see. Can we go off for a minute?

2 (A discussion was held off record.)

3 BY MR. GANNAM:

4 Q. All right. So it lacks the precision so
5 let me start it exactly where I wanted. So for the
6 record I'm starting at 2:06:42.

7 CHAIRPERSON: The Senator may begin to
8 explain his amendments.

9 SENATOR SIMONAIRE: Thank you. During
10 committee we had debates about this bill, and there
11 were terms brought out that there's torture camps,
12 beatings and so forth. We heard on the floor today
13 that the sponsor believes there is abuse, child abuse.
14 So what this bill does is says let's go after those who
15 are abusing. And this amendment basically says keep
16 the definition as is and adds that it is also abuse as
17 defined in the criminal law or is coercive. We have
18 heard the floor leader several times say coercive,
19 coercive. Apparently there is nothing in this bill
20 that says it has to be coercive. You could have a
21 parent and child go and say we want this treatment to

1 help us work through this issue because of our
2 religious beliefs that they don't believe that they are
3 of the same identity or sexual orientation and they
4 won't help. This bill will prohibit it. But if it's
5 done in an abusive manner this amendment would say
6 let's stop the abuse. So we've heard about abuse.
7 We've heard about coercion. This just says that this
8 has to be part of the definition, not just a broad one
9 that would sweep everybody in that's not coercive and
10 that is not abusive.

11 CHAIRPERSON: The question before us is the
12 amendment offered by the Senator from the 31st. The
13 Chair recognizes the Chair of the Committee.

14 A SENATOR: Yes. We reject the amendment.

15 CHAIRPERSON: All right. By voice vote
16 those who accept the amendment?

17 VOICES: Aye.

18 CHAIRPERSON: Those who oppose?

19 VOICES: No.

20 CHAIRPERSON: Roll call?

21 A SENATOR: Please.

1 CHAIRPERSON: Gentleman wants a roll call.
2 Clerk will call the roll.

3 VOICE: Mr. President --

4 CHAIRPERSON: Clerk will take the call.
5 Thirteen in the affirmative, 33 in the negative. I
6 think we have a preview of coming attractions. Any
7 further amendments the bill? At this time the Chair
8 recognizes again the Senator from the 31st.

9 MR. GANNAM: I'm going to stop right there
10 at 2:08:50 and represent that this first amendment that
11 was discussed is the amendment at MD 0184 within
12 Exhibit 5, which on page 2 of Exhibit 5 is the fourth
13 line item amendment from Senator Simonaire.

14 BY MR. GANNAM:

15 Q. Now, in that audio that we just played from
16 the Senate floor, did you hear any reason given for the
17 rejection of the amendment?

18 A As with the other testimony I can only
19 agree to what I'm hearing or seeing and it appeared to
20 be a simple floor vote. I did not hear any discussion.

21 Q. And are you aware of any other portion of

1 the legislative record of SB 1028 that discloses a
2 reason for rejecting this amendment?

3 A I'm not aware of any.

4 MR. GANNAM: I'm going to resume the audio.
5 And this one for the record is the amendment identified
6 on page 2 of Exhibit 5 as the second line item, and so
7 it appears on page MD 0182.

8 CHAIRPERSON: Pages -- Senator may explain
9 his amendment.

10 SENATOR SIMONAIRE: Thank you, Mr.
11 President. This is a very simple bill. We have almost
12 four or five pages of whereas's saying we why we need
13 this bill. There is adding some whereas clauses from
14 the exact same studies that are referenced in the bill.
15 This is not expanding it. And basically what these
16 studies said in addition to what was in the whereas
17 clause was that you should work collaboratively with
18 those in the religious circles and those and their
19 families who are dealing with this issue, and then it
20 also asserts that they respect the rights of
21 individuals to privacy, confidential self-determination

1 and autonomy. So I would add that they would put this
2 in the whereas since we have so many already. Thank
3 you.

4 CHAIRPERSON: Amendment offered by the
5 Senator from the 31st. All in favor say aye.

6 VOICES: Aye.

7 CHAIRPERSON: All opposed?

8 VOICES: No.

9 CHAIRPERSON: Looks like the no's have it.

10 BY MR. GANNAM:

11 Q. All right. I'll stop the audio at 2:09:49,
12 and ask you regarding this amendment at MD 0182 with
13 these proposed whereas clauses, did you hear any reason
14 given in the audio for rejecting the amendment?

15 A I heard a voice vote taken. I did not hear
16 any debate.

17 Q. And are you aware of any other portion of
18 the public legislative record of SB 1028 that discloses
19 any reason for rejecting this amendment?

20 A I am not aware.

21 MR. GANNAM: All right. I'll resume the

1 audio where we left off at 2:09:49. Going to the
2 amendment proposed by Senator Salling, which is on page
3 2 of Exhibit 5, the first line item, and it appears on
4 the very next page of Exhibit 5 at MD 0181.

5 CHAIRPERSON: Any further amendments to the
6 bill that's titled? Senate Chair recognizes the
7 Senator from Dundalk.

8 SENATOR SALLING: Okay. Do I explain the
9 amendment, Mr. President?

10 CHAIRPERSON: Yes, sir.

11 SENATOR SALLING: Thank you. Now, this
12 amendment will provide for protection for those who are
13 questioning. It will also provide for religious
14 exemptions. In 2014 a similar bill was offered, as we
15 talked about, was House bill 91 by Delegate Cardin.
16 These are very similar to the language offered to that
17 bill. It has religious protection which are not in the
18 current bill which would allow, provide to refer
19 religious leaders. Thank you, sir.

20 CHAIRPERSON: Question before the body is
21 the amendment from the Senator from the 6th legislative

1 district. Chair recognizes --

2 A SENATOR: Yes, Mr. President, ladies and
3 gentlemen of the Senate, we reject the amendment
4 because the religious organizations are not a part of
5 this bill.

6 CHAIRPERSON: On the amendment offered by
7 the Senator from the 6th, all in favor say aye.

8 VOICES: Aye.

9 CHAIRPERSON: All opposed?

10 VOICES: No.

11 CHAIRPERSON: Looks like the no's have it.

12 BY MR. GANNAM:

13 Q. I stopped the audio at 2:10:56. And
14 regarding this amendment that was rejected, the
15 amendment at MD 0181, did you hear on the audio any
16 reason given for the rejection?

17 A I heard one statement.

18 Q. And apart from that one statement are you
19 aware of any other portion of the public record of SB
20 1028 disclosing a reason for rejecting this amendment?

21 A I am not aware of anything else.

1 Q. And as I heard the one statement, a Senator
2 said that the reason for rejection of the amendment was
3 that religious persons are not covered by SB 1028. Am
4 I characterizing that fairly?

5 MS. ELLIS: I would object. I think the
6 language was different. The language on the audio was
7 different from your characterization of it.

8 MR. GANNAM: Okay. Fair enough.

9 BY MR. GANNAM:

10 Q. How did you understand the reason that was
11 given?

12 A That religious organizations were not
13 involved.

14 Q. And when you say not involved you mean not
15 covered by the bill?

16 A Correct.

17 Q. Meaning that any religious organization
18 that would perform what's defined as conversion therapy
19 in the bill would not be prohibited by the bill from
20 doing so, correct?

21 A I can't expound on anything that's not on

1 the recording.

2 Q. Apart from that one reason that we did
3 hear, were there any others that you heard on this
4 recording?

5 A No, sir.

6 Q. And you're not aware of any others in the
7 public record?

8 A I'm not.

9 BY MR. GANNAM:

10 Q. All right. I want to change gears a little
11 bit and talk about the interpretation of the enacted
12 ordinance. Let's go back to, for reference, the
13 enacted version of the statute which is Exhibit 8.

14 A Yes, sir.

15 Q. And going back to page 5, also numbered MD
16 0208, to the definition, where it says, "Conversion
17 therapy means a practice or treatment by a mental
18 health or child care practitioner that seeks to change
19 an individual's sexual orientation or gender identity
20 and then conversion therapy includes any effort to
21 change the behavioral expression of an individual's

1 sexual orientation, change gender expression, or
2 eliminate or reduce sexual or romantic attractions or
3 feelings toward individuals of the same gender." Did I
4 read that correctly?

5 A You did.

6 Q. With respect to gender identity and how
7 it's defined or how it states here that conversion
8 therapy means a practice that seeks to change an
9 individual's gender identity and that it includes any
10 effort to change the behavioral expression of -- I'm
11 sorry -- to change gender expression, what efforts to
12 change gender expression or gender identity are banned
13 by this statute as it's defined here; can you give me
14 an example?

15 A Sir, I can testify to what's on the page.
16 As far as the intent, I believe that's a judicial
17 decision on anything that's not expressly discussed.

18 Q. Is gender identity as a term defined
19 anywhere were in SB 1028?

20 A I do not see a definition.

21 Q. What about the term gender expression?

1 A I do not see a definition.

2 Q. So as a licensed counselor in Maryland who
3 may be covered by this statute, for example, Mr. Doyle,
4 the plaintiff in this case, I believe he's entitled to
5 know how the state interprets the statute, what
6 practices it intends to ban. And so I want to go back
7 to my question. Can you give me an example of a
8 practice that would seek to change an individual's
9 gender identity or change an individual's gender
10 expression that would be banned by the statute?

11 A Again, sir, my testimony would be the same.
12 I can testify to what's before me, what the law
13 specifically says. Anything after that it's my
14 understanding would be a judicial decision.

15 Q. So I'm going to give you an example, a
16 hypothetical. So suppose a prepubertal child, say
17 around 10 years old, was born biologically a boy but
18 has expressed a female gender identity. Would this
19 statute prohibit a therapist from encouraging that
20 child to embrace his given male body or biological male
21 body and to align with a male gender role?

1 A Again, I'm not able to speculate on that.
2 That's a hypothetical and I wouldn't be able to do
3 that. If it's not specifically written in the law, I
4 can't testify to anything after that.

5 Q. Well, has the state either at any level be
6 it the Department of Health or one of the subsidiary
7 boards that regulate the various professions issued any
8 rules or guidelines or any help at all with how this
9 statute is to be interpreted?

10 A Interpretation, again my answer would be
11 same.

12 MS. ELLIS: I think if you listen to,
13 listen to the question, if you could have, if you could
14 read back the question, Mr. Court Reporter.

15 (The reporter read back as requested.)

16 A Again with the word interpretation my
17 testimony stands. If you're asking enforcement --

18 BY MR. GANNAM:

19 Q. The question is, have there been any
20 published guidelines or rules to assist in
21 understanding what the statute means?

1 A Not to my awareness.

2 Q. Have there been any rules or guidelines
3 created or published with respect to enforcing SB 1028
4 by the government?

5 A The board would handle a complaint as
6 unprofessional, unprofessional conduct.

7 Q. And when you say the board, what board are
8 you talking about?

9 A Any board that would be involved in
10 conversion therapy.

11 Q. I want to go to page 6 of the -- I'm
12 sorry -- actually starting at the bottom of page 5.
13 It's item C, begins a mental health or child care
14 practitioner. Do you see that?

15 A I do.

16 Q. I'll read the whole thing. "A mental
17 health or child care practitioner who is engaged in
18 conversion therapy with an individual who is a minor
19 shall be considered to have engaged in unprofessional
20 conduct and shall be subject to discipline by the
21 mental health or child care practitioner's licensing or

1 certifying board." Did I read that correctly?

2 A You did.

3 Q. How many licensing or certifying boards are
4 involved with potentially enforcing SB 1028?

5 A Potentially four.

6 Q. And what four are those?

7 A Make sure I got it right. It's easier to
8 go to my notes if that's okay.

9 Q. Sure.

10 A Professional counselors and therapists,
11 nursing physicians and psychologists. I'm sorry. And
12 social work. I apologize. There are five.

13 Q. So those are five separate boards,
14 professional counselors and therapists?

15 A Yep.

16 Q. Nurses?

17 A Yes, sir.

18 Q. Physicians?

19 A Yes, sir.

20 Q. Social workers?

21 A Yes, sir.

1 Q. And what was the last one?

2 A Psychologists.

3 Q. Psychologists, okay. So each of those has
4 its own jurisdiction over the professionals who are its
5 constituents, correct?

6 A Yes, sir. They are independent.

7 Q. And so SB 1028 authorizes those boards to
8 -- or strike that. Are those boards responsible for
9 enforcing is SB 1028 with respect to their respective
10 constituencies?

11 A With respect to their practitioners, yes.

12 Q. Is there any other government agency or
13 body in the state of Maryland that has enforcement
14 authority under SB 1028?

15 A No, sir.

16 Q. Which of those five boards has jurisdiction
17 over the plaintiff, Christopher Doyle?

18 A I believe Mr. Doyle is a therapist so he
19 would fall under the Board of Professional Counselors
20 and Therapists.

21 Q. Has the Board of Professional Counselors

1 and Therapists issued any guidelines or memoranda
2 explaining how it intends to interpret or enforce SB
3 1028?

4 A The Board of Professional Counselors and
5 Therapists like the other four boards I mentioned
6 before would consider that unprofessional conduct if a
7 complaint was brought to them.

8 Q. Because that's what SB 1028 says, right?

9 A Correct.

10 Q. But has the Board of Professional
11 Counselors, for example, itself published any
12 guidelines or rules identifying what kinds of things
13 count as unprofessional conduct as they interpret that
14 term?

15 A If I'm understanding the question
16 correctly, for conversion therapy specifically?

17 Q. No. Just unprofessional conduct in
18 general.

19 A I don't have it in front of me. I believe
20 that there is a general list but I don't have it in
21 front of me.

1 Q. Okay. So, does the board of Professional
2 Counselors and Therapists, has it identified by rule or
3 guideline what specific practices by a professional
4 counselor or therapist would be considered conversion
5 therapy under SB 1028?

6 A Not to my knowledge.

7 Q. Does the Board of Professional Counselors
8 and therapists intend to put forth any guidelines or
9 rules on the subject of conversion therapy?

10 A Sir, that's speculation. I can't answer
11 that.

12 Q. So I'm not asking you to speculate. I'm
13 asking, have you heard or do you know of any expressed
14 intent by that board to put forth such rules or
15 regulations?

16 A There again, I can't answer that. Do I
17 have personal knowledge? No.

18 Q. And sort of understanding your capacity
19 here also testifying on been on behalf of the
20 defendants, I want to ask you to, I want you to
21 understand I'm asking not just based on personal

1 knowledge. I'm just asking the question. Have any of
2 these boards expressed any intent -- I'm sorry -- has
3 the Board of Professional Counselors and Therapists
4 expressed any intent to issue rules or regulations
5 regarding conversion therapy?

6 A Again underscoring that these boards are
7 independent, I am not aware of any.

8 Q. And that's the same for all five boards?

9 A Yes, sir.

10 Q. Given your role in the Department of Health
11 with respect to these boards, at what point in the
12 usual process, if there is a usual process, would you
13 become aware of an intention to promulgate rules or
14 guidelines by one of these boards?

15 A I regularly attend the public meetings of
16 these boards. I certainly would not testify that I'm
17 at every meeting, but as my schedule allows, I do
18 attend the public meetings and it would probably be
19 somewhere in that public meeting.

20 Q. And would you have access to that
21 information before it becomes public in your role

1 within the Department of Health?

2 A I believe that would be privileged
3 conversation but in this case I do not have any
4 knowledge of it.

5 Q. In SB 1028 itself, if we could go back to
6 the statute, item E on page 6 reads: "The Department
7 shall adopt regulations necessary to implement this
8 section." Did I read that correctly?

9 A You did.

10 Q. Has the Department of Health adopted any
11 regulations necessary to implement SB 1028?

12 A I'm not aware of any.

13 Q. Has the department indicated any intent to
14 adopt regulations on the subject?

15 A My answer to that, sir, would be the same
16 as what I previously said with the boards. If there is
17 public discussion, that would probably be the point at
18 which I would become aware. I think any other
19 discussion would be privileged. Having said all of
20 that, I'm not aware.

21 Q. I want to ask to you look at Exhibit 2,

1 which is the deposition notice in this case.

2 A Thank you. Yes, sir.

3 Q. Would you go to page 4 and look at item 10.

4 A Yes, sir.

5 Q. These are the subjects which this
6 deposition notice covers. Item 10 reads: The
7 interpretation, application, and enforcement of SB 1028
8 by the government of the state of Maryland."

9 A Yes, sir.

10 Q. Did I read that correctly?

11 A You did.

12 Q. So is it your understanding that you are
13 here to testify today on that subject matter in item
14 10?

15 A That is my understanding.

16 Q. So I want to go back to the interpretation
17 question. I have asked you one hypothetical that you
18 did not answer or attempt to answer. If I can't ask
19 you how it may be interpreted in a specific situation
20 then I'm not sure how else I can ask you about the
21 interpretation of the statute. So I'm going to try

1 again with the hypothetical, and it is this. If a
2 prepubertal child around 10 years old was born as a boy
3 biologically, has expressed a female gender identity,
4 would SB 1028 prohibit a therapist under its coverage
5 from encouraging that child to embrace his male
6 biological body and to align with male gender roles?

7 A And again, counselor, speculation. I can't
8 answer, and I will refer back to what I said
9 originally, that it would be held as unprofessional
10 conduct.

11 Q. Would the hypothetical I just explained be
12 considered unprofessional conduct under SB 1028?

13 MS. ELLIS: Objection. I don't think you
14 understand the way in which the boards enforce or
15 interpret statutes such as this. And perhaps you could
16 get more information if you asked the witness how
17 boards function with respect to alleged violations of
18 their practice act or alleged violations of some
19 statute like Senate Bill 1028.

20 MR. GANNAM: Or I could ask a witness put
21 forth under Rule 30(b)(6) who has knowledge of how it

1 would be interpreted in a given situation. It was our
2 understanding that that would be Dr. Lang. But I'll
3 ask the question.

4 BY MR. GANNAM:

5 Q. Using, for example, the Board of
6 Professional Counselors and Therapists, since that's
7 the board that has jurisdiction over Christopher Doyle,
8 how would that board approach interpreting SB 1028 for
9 purposes of enforcing it on its constituents?

10 A Counselor, if you will allow me a little
11 latitude, I'm going to reframe the question slightly
12 and you can agree or disagree if that's how we proceed.
13 The boards that I work with, specifically the 22 boards
14 for the Department of Health, they are independent
15 entities. As such they are complaint-driven. So if a
16 complaint was made to a board in your example of
17 conversion therapy, there is a complaint process then
18 that is followed. I would be happy to talk on that.

19 Q. Who can make a complaint to the Board of
20 Professional Counselors and Therapists regarding a
21 claimed violation of SB 1028?

1 A As with any complaint it would be any
2 member of the public who would be involved.

3 Q. What happens when a complaint is made?

4 A To clarify, are we speaking specifically
5 for the Board of Counselors and Professional
6 Therapists --

7 Q. For now.

8 A -- or in general?

9 Q. For now. We'll talk about the Board of
10 Professional Counselors and Therapists.

11 A Okay. If I may I'm going to refer back to
12 my notes from the publicly available website to guide
13 me along.

14 Q. Okay.

15 A If a complaint is received by in this case
16 the Board of Professional Counselors and Therapists, it
17 then goes to their Disciplinary Review Committee.
18 Whenever this committee receives the information they
19 can do one of three things. They can dismiss a
20 complaint, take informal disciplinary action, or refer
21 the complaint for an investigation. And before I go

1 any further, is this agreeable that we follow this line
2 of reasoning?

3 Q. I'll let you know if I want you to expand
4 on something or answer something different.

5 A I'm sure you will, counsel.

6 Q. So when a complaint comes in, you said
7 there's three things that can happen?

8 A Yes, sir.

9 Q. Can you just say those again just so I'm
10 sure?

11 A You bet. Dismiss the complaint. First of
12 all, it's triaged by the Disciplinary Review Committee
13 and that Disciplinary Review Committee can dismiss the
14 complaint, take informal disciplinary action, or refer
15 the complaint to an investigation.

16 Q. And is the Disciplinary Review Committee
17 always the first recipient of a complaint that comes
18 in; in other words, is it always the Disciplinary
19 Review Committee that will decide to do one of those
20 three things?

21 A Yes.

1 Q. And under what circumstances would they
2 dismiss a complaint?

3 A If they found it had no merit.

4 Q. And would they refer to any particular
5 statutes or rules or other guidelines to make that
6 determination?

7 A They certainly could.

8 Q. What is available to them to make that
9 determination in terms of statutes or rules or
10 guidelines?

11 A At the risk of sounding glib, exactly what
12 you just listed out, their statutes, their guidelines,
13 their regulations.

14 Q. Where are the Maryland regulations that
15 apply to the Board of Professional Counselors and
16 Therapists located? When I say where, I mean where
17 within the code, not physically where are they.

18 MS. ELLIS: I mean I think you've been
19 provided with those.

20 MR. GANNAM: So I'm going to show you a
21 document that I will mark as Exhibit 13.

1 (Plaintiff's Exhibit 13 was marked for
2 purposes of identification.)

3 THE WITNESS: Thank you.

4 BY MR. GANNAM:

5 Q. This document is numbered MD 0274 through
6 MD 0290. And at the top it says, "Title 10, Maryland
7 Department of Health, Subtitle 58, Board of
8 Professional Counselors and Therapists." Did I read
9 that correctly?

10 A You did.

11 Q. Does this document contain the state
12 regulations applicable to the Board of Professional
13 Counselors and Therapists?

14 A It does.

15 Q. Now, does this document that we're looking
16 at contain all of Subtitle 58 or only portions of it?

17 A I would need to go back to original
18 sourcing but it appears to be the whole thing.

19 Q. So just for the record, under that Subtitle
20 58 it reads: "Chapter 04, Hearing Procedures." And
21 then on page 9 of the document which is also numbered

1 MD 0282, there is a similar heading except it says,
2 "Chapter 09, Disciplinary Sanctions and Monetary
3 Penalties." And as I read the document, I don't see
4 any Chapters 5 through 8, for example, or anything
5 before Chapter 4. Now, based on that sort of review of
6 this document, would it be fair to assume there are
7 other chapters within Subtitle 58 that are not included
8 in this document?

9 A Again, I would need to go back to the
10 original source but I would agree that there is other
11 information here.

12 Q. So within this document that we have been
13 provided, Exhibit 13, can you sort of orient me to what
14 it tells us about how a complaint would be processed,
15 specifically anything that shows the Disciplinary
16 Review Committee, whether to dismiss a complaint, issue
17 some informal disciplinary action or refer it for
18 investigation?

19 A This is referring to the actual hearing
20 proceedings.

21 Q. So you referred to some notes to tell me

1 about the Disciplinary Review Committee. What were you
2 referring to?

3 A It is publicly available website for the
4 Board of Counselors and Therapists. And specifically
5 it's under the section labeled Complaints and
6 Disciplinary Procedure.

7 Q. And can you provide me that URL or web
8 address for that, at least the top-level domain, the
9 something ".com" or ".gov" that would give me the --

10 A Certainly. You want me to do that orally
11 now.

12 Q. Please.

13 A <https://health.maryland.gov>.

14 Q. Now, is there a lot after that?

15 A There's a little more.

16 Q. Okay. Go ahead and read me what you've
17 got.

18 A /bopc and there's more but my guess is that
19 will get you to where you're asking.

20 MS. ELLIS: And counsel, I believe that
21 those documents were also provided to you as part of

1 the production.

2 Q. All right. So I guess what my question is,
3 if a complaint comes in stating please take action
4 against Mr. Doyle, he performed conversion therapy on
5 me or on my child, what information would need to be in
6 that complaint for the Disciplinary Review Committee to
7 decide whether to dismiss it or issue informal
8 disciplinary action or refer it for an investigation?

9 A On the publicly available website there is
10 a link for an individual to make a complaint and I
11 would assume each of those questions fields would need
12 to be filled out. As far as what would happen in the
13 example that you have given me, again that would be
14 speculation.

15 (Plaintiff's Exhibit 14 was marked for
16 purposes of identification.)

17 Q. I want to show you a document I marked as
18 Exhibit 14.

19 A Thanks.

20 Q. It's numbered at the bottom. It's a little
21 difficult because there's an overlay of the page number

1 and a date but it reads MD 0370 through the end, is MD
2 0378. Do you see that?

3 A I do.

4 Q. Is this document the same document you were
5 just referring to that you were reading from in your
6 own notes?

7 A It is. And as you can see, it has the same
8 web address that I mentioned.

9 Q. So on page 2 of this document, the first
10 bolded heading says, "What is the complaint process?"
11 Do you see that?

12 A I do.

13 Q. And it says "complaints are initially
14 reviewed by the Disciplinary Review Committee or DRC of
15 the board. The DRC may recommend the following
16 actions: (1) dismiss the complaint; (2) take informal
17 disciplinary action; or (3) refer the complaint for
18 investigation." Did I read that correctly?

19 A Yes, sir, you did.

20 Q. And is that the same information you just
21 testified to a moment ago?

1 A It is.

2 Q. And you in fact took it from this very
3 document?

4 A Not from your copy of it but yes.

5 Q. From your copy of it?

6 A Correct, which appears to be word-for-word
7 the same.

8 Q. Now, if we turn several pages to the page
9 numbered MD 0374, this appears to be a complaint form.
10 Am I interpreting that correctly?

11 A I agree.

12 Q. And there are in this copy five pages to
13 the complaint form, correct?

14 A In this version, yes. My guess is if you
15 printed it in different font, give or take, it would
16 look different but yes.

17 Q. I understand. This came off the Internet
18 so it might be paginated differently online.

19 A I agree.

20 Q. Okay. But on this copy it says at the top,
21 "Department of Health and Mental Hygiene." That's the

1 Department of Health, correct?

2 A It is.

3 Q. Now, is Mental Hygiene still part of the
4 name?

5 A It is not.

6 Q. Okay. Department of Health, Board of
7 Professional Counselors and Therapists, correct?

8 A Correct.

9 Q. It's a complaint form. Section 1 says
10 "identify the type of healthcare provider." So if, for
11 example, Christopher Doyle is an LCPC and someone was
12 making complaint against him, they would check the box
13 LCPC?

14 A I would assume.

15 Q. Or at least that's what's intended by the
16 form?

17 A I would assume.

18 Q. And this form would cover complaints
19 against any of these other designations, too, correct?

20 A Yes, sir.

21 Q. So there's a place, Section 2, identify the

1 healthcare provider; Section 3, client name; Section 4,
2 identify complainant. Have I read all those correctly?

3 A You have.

4 Q. So the complainant does not have to be the
5 client in this case? At least the form would
6 accommodate a complainant who is different from the
7 client of the therapist, correct?

8 A I agree.

9 Q. Section 5 is for the dates treated; Section
10 6, relationship of complainant to client. Have I read
11 those correctly?

12 A You have.

13 Q. Section 7 asks for relationships with the
14 health provider; 8 asks for information regarding all
15 persons who have knowledge of your complaint. Have I
16 read those correctly?

17 A You have.

18 Q. Or at least summarized them correctly?

19 A Sure.

20 Q. Section 9 reads: "Nature of complaint.
21 Please describe with as much detail as possible what

1 event or events lead to the filing of this complaint.
2 Include the dates and reason for seeing the healthcare
3 provider in your description. Please type your
4 information in the space provided below. Attach
5 additional sheets if necessary." Did I read that
6 correctly?

7 A Yes, sir.

8 Q. And then there's just an open box or an
9 open field for all that information, correct?

10 A Correct.

11 Q. And then Number 10, Section 10 says "Nature
12 of complaint. Please describe with as much detail as
13 possible what events lead to the filing of this
14 complaint. Include the dates and reason for seeing the
15 healthcare provider in your description. Please type
16 your information in the space provided below. Attach
17 additional sheets if necessary." Did I read that
18 correctly?

19 A You did.

20 Q. And is that the same as Section 9?

21 A It appears to be.

1 Q. But then there's also under Section 10
2 insurance identification number, insurance company
3 name, and insurance company address, correct?

4 A I agree.

5 Q. Eleven says, "List the identity of any
6 persons to whom you have made a similar complaint.
7 Indicate when the complaint was made." Did I read that
8 correctly?

9 A Yes, sir.

10 Q. And then finally there's a Section 12 but
11 I'll skip to 13. It says, "I hereby attest that the
12 foregoing information is true to the best of my
13 knowledge and beliefs and that I am competent to make
14 theses statements." Did I read that correctly?

15 A Yes, sir.

16 Q. And the last page is a medical information
17 release, correct?

18 A Yes, sir.

19 Q. So we have just gone through all the fields
20 in the complaint. I'm going to ask you some questions
21 about it. Is this complaint specific to complaints

1 about conversion therapy as that's defined in SB 1028?

2 A It is a general complaint form specific to
3 this board.

4 Q. So any complaint regarding a provider who
5 is subject to this board's jurisdiction would be
6 submitted on the same complaint form?

7 A Yes, sir.

8 Q. And as I read it I didn't see anyplace on
9 the form to indicate specifically, meaning a check box
10 or a specific field to say whether it was from
11 conversion therapy or some other kind of therapy,
12 correct?

13 A I would assume that box 9, and for reasons
14 that I cannot explain at the moment, also box 10 would
15 allow a complainant to be as specific as they would
16 choose to be.

17 Q. When was the last time this complaint form
18 was changed?

19 A I have no personal knowledge of that.

20 Q. Have any changes been made to it since SB
21 1028 became effective in October of 2018?

1 A My counsel would probably suggest that I
2 not go this far but I would assume since the Department
3 of Health and Mental Hygiene is still across the top of
4 this and the name of the department has changed quite
5 some time ago, that this has probably not been updated
6 since the new law was passed.

7 MS. ELLIS: I was about to offer the same
8 observation and also provide the additional information
9 that the statute changing the name of the department
10 prohibited anybody in the department from tossing stuff
11 that had the Department of Health and Mental Hygiene on
12 it until you used it all up. So apparently they've not
13 used up all their or updated their website.

14 THE WITNESS: Yes. This is a web format.

15 MS. ELLIS: Right. Right.

16 THE WITNESS: I think it's safe to say that
17 this has not been updated.

18 MS. ELLIS: Right.

19 BY MR. GANNAM:

20 Q. Okay. I want to ask you -- and I'm afraid
21 I don't have a copy. I guess we could, I could request

1 your counsel to print one if we need to. But I want to
2 read from a Maryland statute. And it is the Maryland
3 Code Annotated Health Occupations Article, Section
4 17-509, titled Denial, Suspension or Revocation of
5 License. Now, have you ever read that statute or are
6 you familiar with it?

7 A I would not be able to say specifically yes
8 or no at the moment. I can flip through the code.

9 MR. GANNAM: Okay.

10 MS. ELLIS: If you have no objection I can
11 give her the --

12 MR. GANNAM: That would be fine, yes.

13 MS. ELLIS: -- copy of it.

14 MR. GANNAM: Can we just state for the
15 record what volume you are showing her?

16 MS. ELLIS: I am -- you said 17-509?

17 MR. GANNAM: Yes.

18 MS. ELLIS: I am checking the 2018
19 supplement and that is not in the 2018 supplement, and
20 turning to Section 17-509 of the Health Occupations
21 Article of the Annotated Code of Maryland -- Section

1 509.

2 THE WITNESS: Okay. Thank you.

3 BY MR. GANNAM:

4 Q. Okay. So I will read and you can confirm
5 if it's the same in your version there. "Subject to
6 the hearing provisions of Section 17-511." So far, so
7 good?

8 A Yes.

9 Q. Okay. Just making sure we're on the same
10 statute. I'll continue. "Of this subtitle the board
11 on the affirmative vote of a majority of its members
12 then serving may deny a license or certificate to any
13 applicant, place any licensee or certificate holder on
14 probation, reprimand any licensee or certificate
15 holder, or suspend or revoke a license of any licensee
16 or a certificate of any certificate holder if the
17 applicant, licensee or certificate holder:" Colon.
18 Did I read that correctly?

19 A Yes, sir.

20 Q. And then there's several items numbered
21 following that, is that correct?

1 A Yes, sir.

2 Q. And so I want to look at Number 16 which
3 reads: "Commits an act of immoral or unprofessional
4 conduct in the practice of clinical or nonclinical
5 counseling or therapy." Did I read that correctly?

6 A You did.

7 Q. So does this statute provide authority to
8 the Board of Professional Counselors and Therapists to
9 discipline one of its licensees or certificate holders
10 for committing an act of unprofessional conduct?

11 A It does.

12 Q. And is unprofessional conduct as used in
13 this statute the same as unprofessional conduct as used
14 in SB 1028 where it say that the relevant board will
15 treat conversion therapy as unprofessional conduct?

16 A Yes.

17 Q. So prior to the enactment of SB 1028 is it
18 correct that the Board of Professional Counselors and
19 Therapists already had jurisdiction to discipline its
20 licensees for acts of unprofessional conduct. Fair
21 enough?

1 A Yes.

2 Q. Okay. And the complaint form would
3 accommodate any complaint of unprofessional conduct as
4 viewed by the complainant whether or not it involves
5 conversion therapy, correct?

6 A Yes.

7 MR. GANNAM: Okay.

8 MS. ELLIS: Can we take a break soon?

9 MR. GANNAM: Let me confer with
10 my colleague.

11 MS. ELLIS: Yeah.

12 MR. GANNAM: All right. We'll take a lunch
13 break now.

14 (There was a lunch break in the proceedings
15 from 12:35 p.m. to 1:26 p.m.)

16 (Ms. Morgan Clipp entered the deposition
17 room.)

18 BY MR. GANNAM:

19 Q. All right. Dr. Lang, we were talking about
20 enforcement and had been talking about the complaint
21 form which is part of Exhibit 14 that is the complaint

1 form to the Board of Professional Counselors and
2 Therapists. Do you recall that testimony before the
3 lunch break?

4 A I do.

5 MR. GANNAM: Okay. I'm now going to show
6 you a document I'm marking as Exhibit 15.

7 (Plaintiff's Exhibit 15 was marked for
8 purposes of identification.)

9 THE WITNESS: Thank you.

10 BY MR. GANNAM:

11 Q. This is a news article from the Baltimore
12 Sun. The date is March 14, 2014. And this for the
13 record was identified on the audio recording that we
14 listened to earlier. And I'll give the file name again
15 so we don't have to go back and look it up. File name
16 has SEN underscore 03272018 underscore 1. And I guess
17 let me just for the record, we're going to designate
18 that entire audio file Exhibit 16.

19 (Plaintiff's Exhibit 16 was marked for
20 purposes of identification.)

21 MR. GANNAM: And I will after the

1 deposition provide links to the court reporter and to
2 counsel so that we all know we're talking about the
3 same file. And at time stamp 143:35 through 1:44:57
4 this article is spoken about by the Senator referred to
5 as the Senator from the 5th District. His name was not
6 indicated on the audio file.

7 MS. ELLIS: Could you please repeat the
8 time stamp?

9 MR. GANNAM: Yes. 143:35 to 144:57.

10 BY MR. GANNAM:

11 Q. So this article, the first paragraph reads:
12 "Gay rights advocates and the state legislator who
13 introduced legislation this session to ban so-called
14 gay conversion therapy in Maryland have withdrawn the
15 bill saying they will instead pursue regulatory
16 oversight of the controversial practice." Did I read
17 that correctly?

18 A You did.

19 Q. Are you familiar with the conversion
20 therapy bill that was proposed in 2014?

21 A In general.

1 Q. You have some knowledge that there was a
2 bill that was proposed and then withdrawn?

3 A Yes.

4 Q. Do you have any knowledge of the content of
5 that bill?

6 A Not specifically, no.

7 Q. And you didn't work for the Department of
8 Health in 2014?

9 A I did not.

10 Q. I want to read a couple more excerpts from
11 here and then ask some questions. On the second page
12 the first full paragraph reads: "Equality Maryland,
13 which backed Cardin's bill, said it would have
14 established a law comparable to those in other states
15 including California and New Jersey." Did I read that
16 correctly?

17 A You did.

18 Q. And I want to skip a couple paragraphs and
19 go to the paragraph that begins, in a joint statement.
20 Do you see that?

21 A I do.

1 Q. It reads: "In a joint statement Friday
2 Cardin and Equality Maryland officials said that in
3 research for the bill and in talking to several
4 organizations with expertise in regulatory protections
5 for patients, they concluded that patients who feel
6 they have been harmed by conversion or reparative
7 therapy already have avenues to complain to state
8 health occupation boards." Next paragraph.

9 "Minors or anyone advocating on their
10 behalf can file a complaint with the board, triggering
11 a vigorous investigation, the statement said. If the
12 investigation uncovers proof that a licensed healthcare
13 professional violated the standard of care then the
14 board has an array of regulatory tools to keep this
15 from happening again." Next paragraph.

16 "The statement went on, Delegate Cardin and
17 Equality Maryland are confident that the existing
18 regulatory framework provides a precise tool to protect
19 minors from this harmful therapy and we will work
20 together and with other advocates to ensure that the
21 process for filing complaints against anyone who

1 engages in these practices is transparent and widely
2 disseminated." Last paragraph.

3 "Carrie Evans, Equality Maryland's
4 executive director said the organization will work to
5 ensure LGBT youth and their parents have the
6 information they need to file complaints." Did I read
7 all that correctly?

8 A You did.

9 Q. So let me ask, first of all, have there
10 been any changes in the ability of a person wanting to
11 file a complaint against a therapist licensed under one
12 of the occupational, the health occupation boards to
13 file a complaint from March 14, 2014 to today?

14 MS. ELLIS: Objection. Relevance.

15 A You're referring specifically to conversion
16 therapy?

17 Q. No. I'm just referring to the ability to
18 file a complaint with one of the health occupation
19 boards. Is that right or that ability to file a
20 complaint any different today than it was in 2014?

21 A No, sir. The ability to file a complaint

1 to my knowledge has not changed at all. The only
2 reason I'm asking is the forms themselves may have
3 changed as we saw before. So there may be some subtle
4 differences there but as far as the right to file, no.

5 Q. Focusing on a statement made in the
6 article, the third to last paragraph that begins minors
7 or anyone, do you see that?

8 A I do.

9 Q. Now, I'm going to read the statement again
10 and ask you if this statement was made on the day
11 before SB 1028 went into effect would have it have been
12 true. And this is the statement. "Minors or anyone
13 advocating on their behalf can file a complaint with
14 the board triggering a vigorous investigation, the
15 statement said. If the investigation uncovers proof
16 that a licensed healthcare professional violated the
17 standard of care then the board has an array of
18 regulatory tools to keep this from happening again."
19 So having read that statement, would that have been a
20 true statement the day before SB 1028 took effect on
21 October 1st of 2018?

1 MS. ELLIS: Objection. Relevance.

2 A I believe the statement is at least
3 inferring that this refers to conversion therapy.
4 Taking this statement separately, I would agree, then
5 no, there has been no change. But after the bill was
6 passed into law then conversion therapy would be a
7 reason to list, if you will, for a possible violation.

8 Q. So let me ask this question then. On
9 September 30, 2018, the day before SB 1028 took effect,
10 would it have been a true statement that a minor or
11 anyone advocating on the minor's behalf could file a
12 complaint with one of the boards alleging
13 unprofessional conduct as defined in the statute that
14 we read before lunch?

15 A Yes, that would be correct.

16 Q. And is there any difference in the way that
17 that complaint would have been filed or processed from
18 September 30, 2018 to October 1, 2018 when SB 1028 took
19 effect?

20 A The actual procedure, no.

21 Q. And unprofessional conduct would be the

1 basis for a complaint on September 30th or October 1st,
2 2018 correct?

3 A That's correct.

4 Q. Do you have any basis to believe that prior
5 to the effective date of SB 1028 that there were not
6 adequate processes in place for a client or someone
7 advocating for a client to file a complaint with one of
8 the health occupational boards?

9 MS. ELLIS: Object to the form.

10 A I believe that would be a personal opinion
11 so I'm not quite sure what the relevance is.

12 Q. So can you answer the question?

13 A I can answer it in my professional capacity
14 and no, I see no problem.

15 Q. Okay. So we talked about interpretation
16 earlier and then we have now been talking about
17 enforcement so I'm going to ask us to go back to
18 Exhibit 14, which includes the complaint form and refer
19 specifically to Section 9 which is numbered MD 0376 or
20 page 3 of the complaint form and ask this. If this
21 form is submitted by a parent, and the parent includes

1 in this Section 9 where they describe the nature of the
2 complaint, if in that Section 9 the parent writes my
3 10-year-old child who was born as a boy but expressed a
4 female gender identity went to a therapist who
5 encouraged my child to embrace his male biological body
6 and to align with male gender roles, would that
7 complaint provide sufficient basis for the disciplinary
8 committee to either prescribe some kind of informal
9 discipline or so to launch an investigation into the
10 complaint for a violation of SB 1028?

11 A I believe that's speculation.

12 Q. Well, I'm asking you here as a witness to
13 testify about enforcement. Would that hypothetical
14 provide sufficient basis for, to begin an enforcement
15 action for the therapist having committed
16 unprofessional conduct, specifically conversion therapy
17 under SB 1028?

18 A Any complaint that's filed with the board
19 is considered. What happens with that complaint, that
20 is up to the board.

21 Q. You testified earlier that one outcome is

1 dismissal, correct?

2 A That would be a possible outcome.

3 Q. The other two were either administering
4 informal discipline or referring for an investigation,
5 correct?

6 A Correct.

7 Q. So my question is, would the enforcing
8 committee have a sufficient basis based on the
9 hypothetical that I gave you to conclude that
10 conversion therapy has occurred and therefore we should
11 either administer discipline or refer it for
12 investigation?

13 MS. ELLIS: Objection to form.

14 A There again, sir, there would be an
15 investigation that takes place and I would assume that
16 there could possibly be other evidence that either
17 would support or mitigate. I can't speculate.

18 Q. But as between dismissing the complaint for
19 not having any merit and taking the step of referring
20 it for further investigation, based on the hypothetical
21 that I provided, is there sufficient evidence of a

1 possible conversion therapy violation under that
2 hypothetical for it to be referred for investigation?

3 MS. ELLIS: Objection. There's absolutely
4 no evidence in the hypothetical. There's a claim.

5 A And again not being a member of the board,
6 this is speculation. We're going down a rabbit hole.
7 I don't know.

8 Q. You identified the various boards that are
9 under the Department of Health's umbrella as
10 independent, is that correct?

11 A Statutorily independent; yes, sir.

12 Q. So what does that mean exactly?

13 A It means that they are tasked by the state
14 of Maryland with enforcement of regulations that relate
15 to their own profession.

16 Q. Are these boards within the executive
17 branch of the Maryland state government?

18 A They are.

19 Q. So they're not legislative and they're not
20 judicial, correct?

21 A That's correct.

1 Q. And as executive branch agencies of the
2 state of Maryland are -- strike that. Since they are
3 executive branch agencies of the state of Maryland is
4 there any reason why you could not have spoken to any
5 of these boards or board members about how they would
6 enforce SB 1028 or any reason why one of their members
7 could not have been presented as a witness to testify
8 regarding enforcement under SB 1028?

9 MS. ELLIS: Objection. Compound.

10 A I see no reason.

11 Q. In preparing for your testimony today did
12 you discuss the issues of interpretation or enforcement
13 of SB 1028 with any members of any of the health
14 occupation boards that are within the Department of
15 Health?

16 A Again, I'll refer to my statements earlier
17 this morning of the folks that I talked to before
18 today.

19 Q. So only counsel and the legal intern were
20 the only people you spoke with regarding your testimony
21 today?

1 A Yes.

2 Q. And so just so it's clear, you did not
3 speak to anyone from any of the health occupation
4 boards for purposes of preparing for your testimony
5 today?

6 A I asked a singular general question of one
7 of our investigators, asking what the process of an
8 investigation may typically be.

9 Q. And who was that investigator?

10 A Danielle Vallone.

11 Q. And what is Danielle Vallone's job title?

12 A I literally would need to look to be
13 specific but I believe it's investigator for X number
14 of boards.

15 Q. You say X number, does that mean more than
16 one?

17 A Yes.

18 Q. Is it all of the boards that are within the
19 Department of Health?

20 A It's several.

21 Q. Would it include the Board of Professional

1 Counselors and Therapists?

2 A I don't believe she is.

3 Q. So how many boards share investigators or
4 use the same investigators?

5 A It varies.

6 Q. Are there any other shared personnel among
7 the various boards?

8 A Yes.

9 Q. What kind of personnel are shared?

10 A It could go from an executive director who
11 oversees more than one board, some of the staff members
12 who work for multiple boards.

13 Q. Who is the executive director of the Board
14 of Professional Counselors and Therapists?

15 A Kimberly Link.

16 Q. And I'm sorry. The investigator Danielle,
17 what was her last name?

18 A Vallone.

19 Q. Vallone. Why did you pick Ms. Vallone to
20 consult before your deposition as opposed to another
21 investigator?

1 A Literally she was, I travel around the
2 state pretty frequently with my current position and
3 she happened to be in the hallway the day that I was
4 thinking I should probably ask this question before we
5 have this meeting.

6 Q. What did the investigator tell you?

7 A That there is typically for an
8 investigation once it goes to the investigator, boards
9 in general will have an investigator speak to the
10 parties who would be involved, would take statements
11 and then would provide this information back to the
12 board.

13 Q. Does Ms. Link have any responsibilities on
14 any board besides the Board of Professional Counselors
15 and Therapists?

16 A Currently, no.

17 Q. What are the duties, generally speaking, of
18 an executive director of the Board of Professional
19 Counselors and Therapists?

20 A To carry out the will of the board.

21 Q. What role does the executive director play

1 in processing a new complaint when it comes in the
2 door?

3 A I'm sorry. Repeat that.

4 Q. What role does the getting executive
5 director play in the process of a new complaint that
6 comes in to the board?

7 A In general because the executive director
8 is a permanent staff member, they would be the ones
9 that would receive it from, there are other staff
10 members who provide it to them or they may sometimes
11 pull it off of the Internet, however the complaint
12 itself comes in, and they would assemble the
13 information and then pass along to either the board
14 chair or the CRC -- I'm sorry -- the intake committee,
15 they would be a conduit to get the information to the
16 next person.

17 Q. And when you say the executive director is
18 a, did you say permanent staff member?

19 A Correct.

20 Q. Does that mean an employee of the
21 Department of Health?

1 A No, sir. Of the board.

2 Q. So, and did you say Ms. Link was involved
3 in another board or not?

4 A Currently, no.

5 Q. But there are some boards that share an
6 executive director?

7 A There are some.

8 Q. And in that case who is the employer of
9 that executive director?

10 A The boards.

11 Q. The boards themselves and not the
12 Department of Health?

13 A That's correct.

14 Q. So you told me you spoke to Ms. Vallone.
15 Is there anyone else you consulted to prepare for your
16 testimony today besides meeting with counsel and then
17 consulting Ms. Vallone?

18 A No.

19 Q. And just for the record then, did you ask
20 anyone involved with any of the boards about what kinds
21 of conversations or, or say conversations between a

1 therapist and a client could be deemed to violate SB
2 2018 or could be deemed conversion therapy?

3 A I did not. And again, forgive me, this is
4 the first time I'm doing this but if we can somehow go
5 back to amend the record for my morning statement of
6 the individuals that I spoke to.

7 MS. ELLIS: That's fine.

8 THE WITNESS: That's embarrassing. I'm
9 sorry.

10 MR. GANNAM: No, no. Fair, I mean it
11 happens.

12 THE WITNESS: In the process I realized I
13 had that conversation. It certainly wasn't meant as an
14 intent.

15 BY MR. GANNAM:

16 Q. So who would be in your view the best
17 person involved with the Board of Professional
18 Counselors and Therapists to testify as to how they
19 would enforce the directive of SB 1028 to treat
20 conversion therapy as unprofessional practice?

21 MS. ELLIS: Objection to the suggestion

1 that this witness is not an appropriate witness.

2 A I would hope that I'm answering the
3 questions that you have for me.

4 Q. Okay. So, but my question is, who knows
5 more than you involved in the Board of Professional
6 Counselors and Therapists about how they would handle a
7 complaint that implicates SB 1028?

8 MS. ELLIS: If you can figure it out, you
9 can go ahead and answer.

10 A I suggest looking at the website seeing the
11 publicly available information for the names and
12 descriptions of the employees and board members.

13 Q. So apart from looking at the website are
14 you unable to answer the question?

15 A I think I did, sir.

16 Q. Well, my question is, apart from looking at
17 the website are you unable to tell me any of the names
18 of those people or that person who would be able to
19 explain how the Board of Professional Counselors and
20 Therapists would approach a complaint or enforce SB
21 1028?

1 MS. ELLIS: Objection. She's answered
2 several times the way in which, about the complaint
3 procedure. We have looked at the exhibit about the
4 complaint procedure. She's told you how the board
5 processes complaints.

6 MR. GANNAM: And my response to that
7 objection is that, and we have dealt with this same
8 issue before. The plaintiff is entitled to know how
9 the government will interpret and enforce its
10 ordinances, it's statutes or what have you. And we
11 believe that the obligation to produce a witness able
12 to testify to those things has not been met because our
13 hypotheticals have not been answered or even attempted
14 to be answered.

15 MS. ELLIS: Ms., Ms., Dr. Lang told you
16 that this was a complaint-driven process and has told
17 you how complaints are handled and that we can't
18 speculate, we don't know how a board would handle a
19 complaint. You might ask if there have been any
20 complaints. I can tell you there have not been. It's
21 a case-by-case adjudication, counsel.

1 MR. GANNAM: And I would respond again, you
2 know, for the record that we believe we're entitled to
3 know specifically what kinds of conduct would be deemed
4 to be violations or potential violations of SB 1028.
5 And I would also, well, I'll just leave it at that for
6 now. This may be, we had, actually had a number of
7 hypothetical situations that we wanted to present. I'm
8 not going to get into them now but I think this is
9 something that we may have to get the court involved
10 with to request a new designee. But we will deal with
11 that when I'm done with my questions.

12 BY MR. GANNAM:

13 Q. So before we move on, just so the record is
14 clear, I've asked the same hypothetical a number of
15 times about the 10-year-old. Do you recall that I've
16 asked that?

17 A I do.

18 Q. And you have been unable to answer
19 specifically whether that hypothetical would implicate
20 a violation of SB 1028. Would it be fair to conclude
21 that you would provide a similar answer to other

1 hypotheticals asking whether particular conduct would
2 be deemed a violation of SB 1028?

3 A That's accurate.

4 Q. Okay. When a complaint is received by --
5 we'll just stick with the example of the Board of
6 Professional Counselors and Therapists. When a
7 complaint is received by the board, I guess I need some
8 clarification. Who within the board would have the
9 authority to, for example, stop the complaint and not
10 proceed farther with it, you know, for whatever reason?
11 Would that be only the Disciplinary Review Committee or
12 would the executive director have the ability to do
13 that; how would that work?

14 A I would go back to the information that's
15 found on their website. The first triage, if you will,
16 would be the Disciplinary Review Committee.

17 Q. So if a -- strike that. How many people
18 are on the Disciplinary Review Committee?

19 A I believe it's three.

20 Q. And are there decisions whether to dismiss
21 a complaint, administer informal disciplinary action,

1 or refer it for investigation driven by a majority
2 rules approach, in other words, does it take two out of
3 three or can any one out of the three make that
4 decision?

5 A It's a committee, sir, and I'm not
6 privileged to sit in on that.

7 Q. Do they have published rules of procedure
8 that they're publicly available where we could see
9 whether they go by a majority rule basis or whether
10 only one of them could do that?

11 A I'm not aware of anything that's published.

12 Q. Is there any one or group of people within
13 the Board of Professional Counselors and Therapists
14 who's can overrule that initial determination by the
15 Disciplinary Review Committee? And I'll give an
16 example. Suppose the committee decides to dismiss a
17 complaint as having no merit. Is there any person or
18 group of persons within the board who can overrule that
19 decision?

20 A It does say that the board votes after the
21 CRC -- I'm sorry -- the DRC makes a recommendation.

1 Q. Would that include a recommendation to
2 dismiss?

3 A Apparently. It's shown as number 1 and
4 then it lists the board as voting after that so I would
5 assume, yes.

6 Q. Okay. And as far as the board itself then,
7 where it says it votes, does a simple majority become
8 the decision or the will of the board in those cases?

9 A I have seen nothing to imply otherwise.

10 Q. How many members are there on the board?

11 A I believe there are nine on there
12 currently.

13 Q. Are their names available publicly?

14 A Yes.

15 Q. Is that on the website as well?

16 A It should be.

17 Q. Does the board have a chairperson?

18 A It does.

19 Q. Do you know who that is?

20 A Counsel, if you gave me a few seconds I
21 would be able to look it up. I don't have it in here

1 right now.

2 Q. Fair enough. That's okay. You believe
3 it's in your notebook of materials?

4 A I know it is no longer in my notebook but I
5 believe I could look it up on my iPhone.

6 Q. Fair enough. That's fine.

7 A The reason why I'm hesitating, counsel,
8 just to paint an accurate picture, they change board
9 chairs I believe this time of year and I want to make
10 sure where we are.

11 Q. Okay. Your counsel alluded to this but
12 I'll ask you since you're the witness. Have any
13 complaints been submitted to any of the boards within
14 the Department of Health alleging unprofessional
15 conduct based on conversion therapy?

16 A Not to my knowledge.

17 Q. And let me ask, I'll split up my question.
18 Are you aware of any such complaints regarding
19 unprofessional conduct that involves conversion therapy
20 prior to the effective date of SB 1028?

21 A I am not aware of any.

1 Q. And are you aware of any after the
2 effective date?

3 A I am not aware of any.

4 Q. Is there any, do the -- let's start with
5 one board. The Board of Professional Counselors and
6 Therapists, does it provide statistics or summaries of
7 the complaints it has received on any kind of regular
8 basis either to the other boards or to someone within
9 the Department of Health or even to the public?

10 A If a practitioner is officially sanctioned
11 that would be public information.

12 Q. Is there any one place you could look to
13 find out whether any of the boards had sanctioned a
14 professional for unprofessional conduct based on
15 conversion therapy or would you have to consult each
16 board or each board's website, for example?

17 A As each board is independent I believe you
18 would have to look at each board.

19 Q. Let's go back to Exhibit 8 which is the
20 statute itself. Page 5 again and Section A2.

21 A Yes, sir.

1 Q. Back to the conversion therapy definition
2 where it reads: "Conversion therapy means a practice
3 or treatment by a mental health or child care
4 practitioner that seeks to change an individual's
5 sexual orientation and gender identity." I've read
6 that correctly?

7 A You have.

8 Q. So a practice or treatment that seeks to
9 change an individual's sexual orientation or gender
10 identity, does that include a practice or treatment
11 that is not initiated by the practitioner but is
12 actually requested by the client and the practitioner
13 merely agrees or facilitates what the client requests?

14 MS. ELLIS: Objection to form.

15 A As of, as with this morning I can only
16 testify to what I see on the page. I think that's an
17 interpretative question.

18 Q. Well, do you interpret it that way?

19 THE WITNESS: Legislative intent.

20 MS. ELLIS: Don't talk to me. Talk to him.

21 A It's legislative intent. I can only

1 testify to what I see on the page.

2 BY MR. GANNAM:

3 Q. Well, I think we've established you are the
4 designee on the subject of interpretation so I'm asking
5 you, is that how the statute is intended to be
6 interpreted, that a treatment or a practice that seeks
7 to change an individual's sexual orientation would
8 include a practice or treatment initiated or requested
9 by the client rather than something initiated by the
10 practitioner?

11 A I can't render an opinion on that.

12 MS. ELLIS: And I object to the question as
13 misstating the statute. I mean you're talking about
14 practices by mental health practitioners, not by --
15 perhaps I'm misunderstanding your question but not by
16 clients.

17 MR. GANNAM: Well, I --

18 MS. ELLIS: The record is what it is.

19 MR. GANNAM: But I believe I've read it
20 correctly but since you made the objection I'll try it
21 a different way.

1 BY MR. GANNAM:

2 Q. If a client presents to, a minor client
3 presents to a practitioner and that minor indicates
4 that the minor seeks to change his or her sexual
5 orientation or gender identity and in response to that
6 the practitioner does in fact assist the client in
7 seeking to change sexual orientation or gender
8 identity, is that a violation or is that conversion
9 therapy as defined here in Senate Bill 1028?

10 MS. ELLIS: Objection.

11 A A minor cannot be the one to consent to
12 therapy in the state of Maryland.

13 Q. My question isn't who consented as a legal
14 matter. I'm saying if the minor requests it, requests
15 help to change sexual orientation or gender identity
16 and the practitioner responds by doing what the client
17 asks, is that conversion therapy under is SB 1028?

18 MS. ELLIS: Objection.

19 A I believe that would be a matter for the
20 board to consider if that's unprofessional conduct.

21 Q. So you're not able to tell me?

1 A I'm not.

2 Q. Just to keep the or make the record
3 complete, underneath where it says, "Conversion therapy
4 includes any effort to change the behavioral expression
5 of an individual's sexual orientation, change gender
6 expression, or eliminate or reduce sexual or romantic
7 attractions or feelings toward individuals of the same
8 gender." Do you see that?

9 A I do.

10 Q. If a client or a minor client presents to a
11 practitioner requesting help to eliminate or reduce
12 same-sex attractions or romantic attractions towards
13 individuals of the same gender and the practitioner
14 responds by doing what the client requests, is that
15 conversion therapy under SB 1028?

16 MS. ELLIS: Objection.

17 A Counsel, in an era whenever we're debating
18 what the definition of "is" is in another case, saying
19 any effort being able to interpret that here sitting
20 across the table from you, I can only tell you what I
21 see on the page.

1 Q. And I'm asking you based on what you see on
2 the page, is that a correct interpretation of what's
3 here, that when the minor requests assistance to change
4 or reduce or eliminate same-sex attractions and a
5 practitioner responds by doing what the client asks, is
6 that conversion therapy?

7 MS. ELLIS: Objection.

8 A And my answer is going to continue to be
9 the same, that is legislative intent, that is judicial
10 review. I cannot render an opinion on that.

11 Q. And so again just for the sake of
12 completeness, is your answer the same if I asked about
13 a minor who presented to a practitioner requesting help
14 to change gender expression and the practitioner
15 responds by doing what the client asks, would that be
16 conversion therapy under SB 1028?

17 MS. ELLIS: Objection.

18 A And my response would be the same.

19 Q. That you are unable to tell me?

20 A Correct.

21 (Plaintiff's Exhibit 17 was marked for

1 purposes of identification.)

2 Q. All right. I am marking a document as
3 Exhibit 17. Because of its size I've only made one
4 copy but I'll identify it for the record. It is
5 Exhibit B to the complaint filed in this case, Document
6 1-2 on the docket. It is the report of the American
7 Psychological Association Task Force on Appropriate
8 Therapeutic Responses to Sexual Orientation. Have you
9 seen this document before, Dr. Lang?

10 A I have not.

11 Q. Have you heard of this document before?

12 A I have.

13 Q. What have you heard about it or do you know
14 about it?

15 A I know that the document exist.

16 Q. Are you familiar with the American
17 Psychological Association?

18 A By name.

19 Q. Do you agree that the APA is considered a
20 credible or mainstream organization?

21 MS. ELLIS: Objection.

1 A I have no ability to decide that.

2 Q. Are you aware that this report is
3 specifically cited in SB 1028?

4 A I am.

5 Q. Are you aware that this report is cited by
6 many of the other reports or statements that are cited
7 in SB 1028?

8 A I'm aware of that.

9 Q. Would it be fair to say based on that that
10 the state relied on the conclusions and the information
11 in this report in enacting SB 1028?

12 MS. ELLIS: Objection. Legislative
13 privilege, instruction not to answer.

14 Q. Would it be fair to say that the
15 legislature trusted the conclusions of the APA in
16 enacting SB 1028?

17 MS. ELLIS: Same objection and instruction.

18 Q. Would it be fair to say that the state
19 agrees with the APA's conclusions with respect to
20 what's defined as conversion therapy in enacting SB
21 1028?

1 MS. ELLIS: Same objection and instruction.

2 Q. Are there any conclusions of the APA in
3 this report that the state disagrees with regarding
4 SOCE or conversion therapy?

5 MR. GANNAM: To the extent that -- could
6 you clarify the time period that you are talking about?
7 Are you talking about during up until the time SB 1028
8 was enacted? Are you talking about the executive
9 branch of, or the identified defendants in their
10 official capacities?

11 Q. So I will, I'll break it up. In connection
12 with the enactment of SB 1028 are there any statements
13 or any information in Exhibit 17 that the legislature
14 disagreed with?

15 MS. ELLIS: Objection. Covered by
16 legislative privilege. Instruction not to answer.

17 Q. And are there any statements in the APA
18 report marked as Exhibit 17 that the governor of the
19 state of Maryland disagrees with?

20 MS. ELLIS: Objection. If you're talking
21 up through the enactment, legislative privilege and

1 instruct the witness not to answer. If you're talking
2 about afterwards, I would say that it's, I would object
3 that it's irrelevant.

4 Q. So I'm asking that as of March 28, 2019 are
5 there any statements in the 2009 APA report marked as
6 Exhibit 17 that the governor of the state of Maryland
7 disagrees with?

8 MS. ELLIS: Objection. Irrelevant.

9 MR. GANNAM: You can answer.

10 A I would simply refer to the statement that
11 is found in the bill that became law where they refer
12 to the document.

13 BY MR. GANNAM:

14 Q. So do you know whether the governor has
15 reached any conclusion about any statement or
16 information in the exhibit marked as 17 since the
17 enactment of SB 1028?

18 MS. ELLIS: Objection, irrelevant.

19 A I'm not aware.

20 Q. And same question for the attorney general
21 of the state of Maryland?

1 A I'm not aware.

2 MS. ELLIS: And the same objection.

3 Q. All right. I want to ask you to look at --
4 well, first, do you agree that this report marked as
5 Exhibit 17 was limited to sexual orientation change
6 efforts and did not include gender identity change
7 efforts?

8 A I'm not familiar enough with the report to
9 render a decision on that.

10 Q. If the state had wanted to ban, for
11 example, only coercive or involuntary SOCE as opposed
12 to voluntary SOCE, does the state have the authority do
13 that?

14 MS. ELLIS: Objection. What timeframe are
15 you talking about? Who are you talking about?

16 Q. I'm talking about instead of enacting SB
17 1028 as it was enacted, could the state have enacted a
18 counseling ban that only banned coercive or involuntary
19 therapy as opposed to all therapy?

20 MS. ELLIS: Objection. You can go ahead
21 and answer.

1 A I would assume as long as there's nothing
2 unconstitutional that a legislature would be allowed to
3 consider that.

4 Q. And are you familiar with the difference
5 between aversive and non-aversive therapy?

6 A No.

7 Q. In the context of SOCE?

8 A No.

9 Q. I want to go back to the notice of taking
10 deposition which is Exhibit 2 and just ask you to look
11 at page 3. And item number 1 under matters for
12 examination reads: "The state of Maryland's purported
13 interest in banning SOCE counseling for minors
14 including without limitation any complaint or other
15 evidence of alleged harm in the legislative record of
16 SB 1028." Did I read that correctly?

17 A Yes.

18 Q. And also I want to ask you about, to look
19 at number 6. It reads: "The state of Maryland's
20 efforts to narrowly tailor SB 1028 including without
21 limitation any alternative to SB 1028 which defendant

1 considered prior to enactment of SB 1028 and all
2 reasons for rejecting such alternative." Did I read
3 that correctly?

4 A You did.

5 Q. And you are the designee for these topics
6 today, correct?

7 A Yes.

8 MS. ELLIS: And I would reiterate my
9 statement that I made at the beginning of this
10 deposition that it's our position that the legislative
11 record as has been defined, and we've extensively
12 discussed, public legislative record, is the only
13 thing, only topic on which this witness is available to
14 testify, that to the extent any questions or
15 information that you are seeking goes beyond that
16 record it's covered by the legislative privilege and
17 we're not responding to those.

18 MR. GANNAM: And I'll just respond for the
19 record that no motion for protective order to enforce
20 that asserted objection has been filed to this point.

21 MS. ELLIS: No, because you recommended in

1 our conversation that we do it on a
2 question-by-question basis.

3 BY MR. GANNAM:

4 Q. I want to go back to Exhibit 8, the enacted
5 version of Senate Bill 1028, and look at the first
6 page.

7 A Yes, sir.

8 Q. The second whereas clause reads: "The
9 American Psychological Association convened a task
10 force on appropriate therapeutic responses to sexual
11 orientation that conducted a systematic review of
12 peer-reviewed journal literature on sexual orientation
13 change efforts and concluded in its 2009 report that
14 sexual orientation change efforts can pose critical
15 health risks to lesbian, gay and bisexual people
16 including" -- I'll stop right there. Have I read that
17 correctly up to this point?

18 A You have.

19 Q. Then after "including" it reads:
20 "confusion, depression, guilt, helplessness,
21 hopelessness, shame, social withdrawal, suicidal

1 intentions, substance abuse, stress, disappointment,
2 self-blame, decreased self-esteem and authenticity to
3 others, increased self-hatred, hostility and blame
4 towards parents, feelings of anger and betrayal, loss
5 of friends and potential romantic partners, problems in
6 sexual and emotional intimacy, sexual dysfunction,
7 high-risk sexual behaviors, a feeling of being
8 dehumanized and untrue to self, the loss of faith and a
9 sense of having wasted time and resources." Did I read
10 all that correctly?

11 A You did.

12 Q. In connection with the enactment of SB
13 1028, did the legislature reach any conclusions as to
14 the level of risk of -- let's just start with the first
15 outcome here -- confusion resulting from conversion
16 therapy as defined in the bill?

17 MS. ELLIS: Objection. The Exhibit 8
18 speaks for itself and the question you've asked calls
19 for information covered by the legislative privilege
20 and I instruct the witness not to answer.

21 Q. Does the public record reveal any

1 conclusion reached by the legislature regarding the
2 level or percentage of increased risk caused by
3 conversion therapy as defined in the statute for the
4 outcome of confusion?

5 MS. ELLIS: Objection. Relevance.

6 A In the public record, no.

7 Q. Same question for the outcome of
8 depression.

9 MS. ELLIS: Same objection.

10 A Same response. In the public record, no.

11 Q. What about guilt?

12 BY MS. ELLIS: Same objection.

13 A The public record, no.

14 Q. Would the answer be the same for all of the
15 outcomes listed in the remainder of the paragraph?

16 A Correct.

17 Q. In connection with passing SB 1028 did the
18 legislature undertake to determine what level of risk
19 of these various bad outcomes is involved with
20 counseling in general that does not involve conversion
21 therapy as defined in the bill?

1 MS. ELLIS: Objection. It's covered by the
2 legislative privilege and I instruct the witness not to
3 answer.

4 Q. So does the public record, public
5 legislative record of SB 1028 reflect any determination
6 by the legislature of the level of risk of bad outcomes
7 from counseling in general that does not involve
8 conversion therapy as defined in the statute?

9 MS. ELLIS: Objection. Relevance.

10 A In the public testimony from what I
11 listened to, no.

12 Q. And so isn't it also true then that the
13 public record does not reflect any comparison of the
14 relative risk of bad outcomes from what's defined as
15 conversion therapy as compared to bad outcomes from
16 therapy in general?

17 MS. ELLIS: Objection. Relevance.

18 A In comparison?

19 Q. Correct.

20 A You're looking for quantitative?

21 Q. That's correct.

1 A No.

2 Q. And so isn't it true that the state cannot
3 determine the relative difference in risk for bad
4 outcomes from what's defined as conversion therapy
5 compared to therapy in general?

6 MS. ELLIS: Objection. Form and relevance.

7 A That's speculation. I couldn't answer
8 that.

9 MR. GANNAM: All right. We've been going
10 about an hour so let's take a break.

11 (There was a break in the proceedings from
12 2:21 p.m. to 2:35 p.m.)

13 BY MR. GANNAM:

14 Q. Going back to Exhibit 17, the APA report,
15 I'm going to read a couple of statements out of it and
16 just ask questions about the public legislative record
17 in relation to those statements. So let me go to,
18 let's look at page 12 and the footnote's number 5, the
19 lower left. The print is a little small. I apologize.
20 Do you see the footnote there?

21 A I do.

1 Q. It reads: "In this report we use the term
2 sexual orientation change efforts, SOCE, to describe
3 methods that aim to change a same-sex sexual
4 orientation, e.g. behavioral techniques, psychoanalytic
5 techniques, medical approaches, religious and spiritual
6 approaches to heterosexual regardless of whether mental
7 health professionals or lay individuals including
8 religious professionals, religious leaders, social
9 groups and other lay networks such as self-help groups
10 are involved." Did I read that correctly?

11 A You did.

12 Q. Does the legislative record for SB 1028
13 indicate any discussion or attempt to differentiate
14 SOCE performed by licensed professionals from SOCE
15 performed by non-licensed persons with respect to any
16 of the conclusions that are reached in the APA report?

17 MS. ELLIS: Objection.

18 A The bill itself which has become law
19 applies only to professionals.

20 Q. So my question is, within the legislative
21 record, the public legislative record, is there any

1 indication of a discussion or consideration by the
2 legislature that differentiated between conclusions in
3 this APA report based on SOCE performed by licensed
4 professionals and SOCE performed by non-licensed
5 professionals?

6 MS. ELLIS: Objection.

7 A I believe during the floor hearing there
8 was a discussion.

9 Q. Of the difference between licensed and
10 non-licensed professionals -- or not -- licensed
11 professionals and non-licensed persons?

12 A Concerning to whom the bill, become law
13 would apply to.

14 Q. And apart from, and that would have been
15 one of the audio or video?

16 A I believe so.

17 Q. Apart from that that you recall, is there
18 anything else in the public legislative record that you
19 know of?

20 A Not of which I'm aware.

21 Q. I next want to draw your attention to page

1 9. And in the left column, the end of the second full
2 paragraph, there's a sentence that begins "Due to our."
3 Do you see that?

4 A I do.

5 Q. It reads: "Due to our charge, we limited
6 our review to sexual orientation and did not address
7 gender identity because the final report of another APA
8 task force, the Task Force on Gender Identity and
9 Gender Variance was forthcoming." Did I read that
10 correctly?

11 A Correct.

12 Q. Now, is there anything in the public
13 legislative record indicating that the legislature
14 considered the fact that this 2009 APA report did not
15 address gender identity but only addressed sexual
16 orientation?

17 MS. ELLIS: Objection.

18 A I don't believe so.

19 Q. Is there any reference in the public
20 legislative record to consideration by the legislature
21 of this other document that's identified, the, what's

1 called the forthcoming Task Force on Gender Identity
2 and Gender Variance?

3 A I'm not aware of that, no.

4 Q. Now will you flip to page 42 of the report.
5 On page 42 on the left column under the heading recent
6 studies, do you see that?

7 A I do.

8 Q. I'm going to read the first sentence and
9 just so you know I'm going to skip over the citations
10 as I read it and just read the text. It reads:

11 "Although the recent studies do not provide valid
12 causal evidence of the efficacy of SOCE or of its harm,
13 some recent studies document that there are people who
14 perceive that they have been harmed through SOCE just
15 as other recent studies document that there are people
16 who perceive that they have benefitted from it."

17 Excluding these citations did I read that correctly?

18 A Yes, sir.

19 Q. And going back to the first part of the
20 statement, where it says "The recent studies do not
21 provide valid causal evidence of the efficacy of SOCE

1 or of its harm," just focusing on that statement, is
2 there any reference in the public legislative record of
3 SB 1028 to a discussion by the legislature where it
4 disagreed with that statement that the recent studies
5 do not provide valid causal evidence of the efficacy of
6 SOCE or of its harm?

7 MS. ELLIS: Objection.

8 A I believe during floor debate there was
9 consideration given but specifically to this, no.

10 Q. And then looking over in the second column,
11 or the right-hand column under the heading summary, do
12 you see that?

13 A I do.

14 Q. The first sentence reads: "We conclude that
15 there is a dearth of scientifically sound research on
16 the safety of SOCE." Did I read that correctly?

17 A Yes, sir.

18 Q. And are you aware of any statement in the
19 legislative record, the public legislative record of SB
20 1028 that discusses or finds disagreement with that
21 statement?

1 MS. ELLIS: Objection.

2 A I'm not aware of any.

3 Q. And then moving down to about halfway down
4 that same passage, there's a sentence that begins with
5 the word "Thus". Do you see that?

6 A I do.

7 Q. It reads: "Thus we cannot conclude how
8 likely it is that harm will occur from SOCE." Did I
9 read that correctly?

10 A You did.

11 Q. Are you aware of any reference in the
12 public legislative record of SB 1028 that refers to or
13 disagrees with that statement?

14 MS. ELLIS: Objection.

15 A Again, I believe during floor debate there
16 was discussion about the issue but referring to this
17 line specifically, no.

18 Q. And do you recall what was, what were the
19 contents of that discussion that you recall about the
20 issue?

21 A If I remember the context, counselor, I

1 believe it was a discussion to clarify if this would
2 only apply to professionals.

3 Q. As opposed to unlicensed persons?

4 A Correct.

5 Q. So you don't recall any discussion about
6 the inability to conclude how likely it is that harm
7 will occur from SOCE?

8 A I don't.

9 Q. And isn't it also true that the state of
10 Maryland cannot conclude how likely it is that harm
11 will occur from SOCE or conversion therapy?

12 MS. ELLIS: Objection.

13 A I can't render an opinion on that.

14 Q. Just to clarify for the record then, are
15 you saying that you don't know if the state of Maryland
16 can conclude how likely it is that harm will occur from
17 SOCE?

18 MS. ELLIS: Objection. Asked and answered.

19 A Correct.

20 MR. GANNAM: We have no further questions.

21 MS. ELLIS: I have to go get one document

1 and then I have a few questions for the witness.

2 (There was a break in the proceedings from
3 2:44 p.m. to 2:48 p.m.)

4 EXAMINATION BY MS. ELLIS:

5 Q. Right after the first break we took this
6 morning Mr. Gannam was asking you a series of questions
7 about the process for getting testimony to the
8 committee offices. And I think it was unclear. You
9 said that the administrative assistant in the committee
10 offices received the testimony, correct, the written
11 testimony?

12 A Oh, the legislature, yes.

13 Q. Okay.

14 A That there was someone in that capacity.

15 Q. Right. And how does the testimony get to
16 the committee offices?

17 A In my experience physically someone walks
18 it over.

19 Q. And the person preparing the testimony or
20 offering the testimony provides it to the committee
21 office?

1 A Typically, yes.

2 Q. The administrative assistant or comparable
3 person doesn't go around and collect it?

4 A Not in my experience, no.

5 Q. Okay. It wasn't quite clear. Then you
6 also right after that made a reference to testimony
7 available on the Internet. Was that the oral testimony
8 in front of the committee that you were referring to?

9 A That's correct.

10 Q. Are you aware whether the written testimony
11 or the contents of the bill files are on the Internet?

12 A I believe that's how it would be requested,
13 yes.

14 Q. So you think the bill files themselves are
15 on the, available on the Internet?

16 A I believe so. I don't know.

17 Q. Showing you what we marked as Exhibit 10 or
18 Mr. Gannam marked as Exhibits 10 and 11. And he asked
19 you whether this, these two exhibits showed all of the
20 oral and written testimony that was presented to the
21 various committees. Is it, with respect to written

1 testimony, could there be written testimony in the bill
2 files that did not appear on these lists?

3 A I think it's possible.

4 Q. If you could pull up Exhibit 12. Exhibit
5 12 is -- you don't have it? Thank you. And the
6 Exhibit 12 is a series of documents that were
7 identified in one of the defendants' answers to
8 interrogatories. If you could look at the next to last
9 paragraph on the first page of this exhibit and look at
10 it and read it to yourself.

11 A Okay.

12 Q. Does that paragraph suggest that the, or
13 state that the writer of this testimony has concerns
14 about the effects on minors of conversion therapy?

15 MR. GANNAM: Objection. Leading.

16 THE WITNESS: Am I allowed to answer?

17 MS. ELLIS: Go ahead and answer.

18 A Yes.

19 BY MS. ELLIS:

20 Q. And why do you say that?

21 A It would be the, appears to be the final

1 sentence. "We need this bill and we need it now
2 because as we have seen from testimony today our kids
3 are still being subjected to this conversion therapy
4 and we need a law to stop it."

5 Q. If you could look at MD 0063, which is The
6 Trevor Project lawyer.

7 A Yes.

8 Q. Could you read the first sentence of the
9 third paragraph?

10 A "I am a survivor of the dangerous and
11 discredited idea that a therapist could change my
12 sexual orientation or gender identity."

13 Q. Thank you. And in the last paragraph on
14 the page it identifies and you were asked questions
15 about the sentence that states that there were more
16 than 1200 youth that called The Trevor Project's
17 hotline. If you could read the sentence beginning with
18 "not all" I would appreciate it.

19 A "Not all of these youth are victims of
20 conversion therapy but all have been wounded by a
21 culture that allows the idea of the choice of one's

1 sexual orientation to permit violence, bullying and
2 family rejection."

3 Q. Thank you. And does this letter, what if
4 anything does this letter say about Mr. Brinton's
5 connection if any to Maryland?

6 A It appears his future spouse works in
7 Maryland.

8 Q. And then if you could look at the last,
9 well, the last two pages. And on the last page of Ms.
10 MacShane's memo, could you read the first sentence,
11 please?

12 A Starting with "I support"?

13 Q. Uh-huh.

14 A "I support the Youth Mental Health
15 Protection Act because every day in my practice I see
16 first hand the grievous emotional harm that can be done
17 to LGBTQ young people who are forbidden, discouraged or
18 otherwise made afraid to be themselves by adults in
19 positions of authority."

20 Q. And does the, does this, do these two pages
21 indicate where Ms. MacShane practices?

1 A Maryland.

2 Q. Thank you. And I'm sure you recall the
3 many questions you got asked about interpretation of
4 Senate Bill 1028. What if any understanding do you
5 have of what entity is responsible for interpreting --
6 strike that. Let me start here. What understanding if
7 any do you have of what entity is responsible for
8 determining whether a particular set of facts violates
9 the practice act of a particular board?

10 A The boards themselves.

11 Q. And what do they base that decision on?

12 A On the information that is presented either
13 in the complaint that begins the process or in the
14 investigation if it goes to that stage.

15 Q. So in that sense what is your understanding
16 if any of who is responsible for interpreting a
17 statute that defines a particular treatment as a
18 violation of the practice act?

19 A The boards themselves.

20 Q. And how do the boards accomplish that
21 interpretation?

1 A We're speaking of five boards specifically.
2 In general it would be either through their committees
3 or through consultation among the board, the wider
4 board.

5 Q. And do they generally do that, is that
6 decision-making generally on a case-by-case basis?

7 A It is.

8 Q. And if you look at Exhibit 17, what page
9 was that footnote on that you were asked questions
10 about?

11 A It was footnote 15, if I remember.

12 MS. ELLIS: What page?

13 MR. GANNAM: Twelve. And I think it's
14 footnote 5. Well, that's -- yeah.

15 MS. ELLIS: Yeah. Okay. That's right.

16 BY MS. ELLIS:

17 Q. And you were asked questions about whether
18 there was anything in the legislative record about
19 laypersons or non-professionals. Do you recall that?

20 A Yes.

21 MS. ELLIS: Can you mark this as

1 Defendants' Exhibit 1?

2 (Defendants' Exhibit 1 was marked for
3 purposes of identification.)

4 BY MS. ELLIS:

5 Q. I'm showing you, Dr. Lang, what's been
6 marked as Defendants' Exhibit 1, which is MD 0004
7 through 5. Take a minute and look at that, and when
8 you're ready for me to ask questions.

9 A I have seen this and I do remember.

10 Q. Does this refresh your recollection that
11 there was information in the legislative record that
12 the bill would not apply to religious counseling?

13 A I do remember. And if I can clarify my
14 earlier statement, I thought the question was does it
15 specifically say so in the bill. I understand now more
16 about it.

17 MS. ELLIS: Okay. That's it. Thank you.

18 RE-EXAMINATION BY MR. GANNAM:

19 Q. To follow up, while you have Defendants'
20 Exhibit 1 in front of you from the Office of the
21 Attorney General to the Honorable Bonnie Cullison --

1 did I state that recipient correctly?

2 A Yes, sir.

3 Q. Who is Bonnie Cullison?

4 A She's a delegate.

5 Q. And does the attorney general provide legal
6 interpretations or opinions to, for example, the Board
7 of Professional Counselors and Therapists that they
8 requested?

9 A The boards each have counsel and in the
10 discussion we had earlier like some executive directors
11 or some investigators, counsel is sometimes shared
12 among different boards and these folks come through the
13 AG's office.

14 Q. So are these various counsel employed by
15 the AG's office and made available to the boards?

16 MS. ELLIS: I suspect she doesn't know the
17 structure. We are all employees of the, technically
18 employees of the attorney general although we are paid
19 by our clients. So it's a dual relationship.

20 BY MR. GANNAM:

21 Q. And I won't ask you questions on the record

1 as to the -- do you know the structure other than what
2 your counsel has just said?

3 A The thumbnail sketch she explained that,
4 yes, their funding, if you will, comes from the boards.

5 Q. We talked about earlier how SB -- or
6 actually, strike that. Before we go there. Right
7 before I asked you that last question you had just
8 answered a series of questions from your counsel
9 following the end of my questioning, is that correct?

10 A Yes.

11 Q. And prior to your answering that series of
12 questions from your counsel, did you discuss with your
13 counsel today any of those questions and their answers?

14 A No.

15 Q. We looked at SB 1028 and the fact that it
16 specifies that conversion therapy is to be considered
17 an instance of unprofessional conduct by the five
18 boards that are covered by that statute, correct?

19 A I'm sorry?

20 Q. Let me just, I'll just read it. Looking at
21 Exhibit 8 on page 6, and Exhibit 8 is the final version

1 of SB 1028. And actually I'm looking at the bottom of
2 page 5, subsection C. It reads: "A mental health or
3 child care practitioner who engaged in conversion
4 therapy with an individual who is a minor shall be
5 considered to have engaged in unprofessional conduct
6 and shall be subject to discipline by the mental health
7 or child care practitioner's licensing or certifying
8 board." Did I say that correctly?

9 A Yes, sir.

10 Q. So here we have SB 1028 is identifying a
11 specific instance of something it deems to be
12 unprofessional conduct, is that correct?

13 A Yes.

14 Q. And that would apply to the five
15 practitioners boards or occupational boards that are
16 covered by this statute, correct?

17 A It would.

18 Q. Are there any other statutes in the state
19 of Maryland that specify what is unprofessional conduct
20 for those five boards?

21 A I believe we'll go back to the Health

1 "occs," to the Health "occs" articles.

2 MR. GANNAM: Okay.

3 MS. ELLIS: Do you know whether there are?

4 THE WITNESS: I don't know. I would assume
5 they're there.

6 BY MR. GANNAM:

7 Q. And just so I'm clear, apart from a statute
8 saying you may be disciplined for unprofessional
9 conduct, are there any other statutes that apply to
10 these five boards that specify what constitutes
11 unprofessional conduct like SB 1028 specifies that
12 conversion therapy is unprofessional conduct?

13 A No.

14 MR. GANNAM: That's all I have.

15 MR. MIHET: Just for the record, we are not
16 concluding the deposition but adjourning it for the
17 purpose of seeking an order from the court with respect
18 to the privilege objections that were made that we
19 believe are improper and also with respect to what we
20 believe has been an unprepared witness on several
21 topics, the most concerning of which is the state's

1 enforcement, application and interpretation of the
2 challenged statute.

3 It is our belief particularly in a case
4 such as this one where the plaintiff is bringing a
5 pre-enforcement as applied challenge, that the
6 plaintiff is entitled to know how the state would
7 enforce and apply the challenged statute in a
8 particular situation under a particular set of facts.
9 We have litigated this issue, this exact issue in other
10 contexts and have prevailed. We have authority that we
11 intend to bring to the court on that. And so just, you
12 know, for the record, we're not concluding the
13 deposition but merely adjourning it for the purpose of
14 seeking relief from the court.

15 MS. ELLIS: And I am sure you're not
16 surprised to hear that we will vigorously contest your
17 right to continue the deposition because of an
18 unprepared witness. Regardless of what other courts
19 may have found, in Maryland administrative bodies
20 adjudicate on a case-by-case basis and can't say in
21 advance what will or will not constitute a particular

1 violation of the practice act.

2 MR. MIHET: Okay.

3 THE WITNESS: May we hold up for a second?

4 I want to ask counsel a question.

5 MS. ELLIS: I mean, is it something related
6 to the deposition?

7 THE WITNESS: Yes.

8 MS. ELLIS: Okay.

9 THE WITNESS: Can I do that in private?

10 (The witness and Ms. Ellis left the
11 deposition room and returned.)

12 MS. ELLIS: Okay. So we're done.

13 MR. GANNAM: We're done. Good.

14 (Signature reserved.)

15 (Deposition adjourned at 3:08 p.m.)

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CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary will be made on the Errata Sheet.

Kimberly Christine Lang

Date

(If needed, make additional copies of the Errata Sheet on the next page or use a blank piece of paper.)

Job #3277170

1 State of Maryland

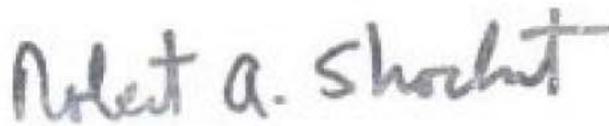
2 Baltimore County, to wit:

3 I, ROBERT A. SHOCKET, a Notary Public of
4 the State of Maryland, County of Baltimore, do hereby
5 certify that the within-named witness personally
6 appeared before me at the time and place herein set
7 out, and after having been duly sworn by me, according
8 to law, was examined by counsel.

9 I further certify that the examination was
10 recorded stenographically by me and this transcript is
11 a true record of the proceedings.

12 I further certify that I am not of counsel
13 to any of the parties, nor in any way interested in the
14 outcome of this action.

15 As witness my hand this 2nd day of
16 April, 2019.

17 

18
19 Robert A. Shocket, Notary Public

20 My Commission Expires:

21 November 23, 2022

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

CHRISTOPHER DOYLE, LPC, LCPC, individually and on behalf of his clients,)	
)	
Plaintiff,)	Civil Action No. 1:19-cv-00190-DKC
)	
v.)	INJUNCTIVE RELIEF SOUGHT
)	
LAWRENCE J. HOGAN, JR., Governor of the State of Maryland, in his official capacity, and BRIAN E. FROSH, Attorney General of the State of Maryland, in his official capacity,)	
)	
Defendants.)	
)	

PLAINTIFF’S NOTICE OF TAKING DEPOSITION OF STATE OF MARYLAND

PLEASE TAKE NOTICE that, pursuant to Rule 30, Federal Rules of Civil Procedure, Plaintiff will take the following deposition(s) upon oral examination before a court reporter or some other officer duly authorized by law to take depositions, at the date(s), time(s), and location(s) shown for the witness(es) (or at such other date(s), time(s), and location(s) as to which the parties may mutually agree), for the purpose of discovery or as evidence in this action, which depositions will be recorded by stenographic means:

WITNESS	DATE, TIME	LOCATION
STATE OF MARYLAND (Rule 30(b)(6), Fed. R. Civ. P.)	TBD (on or before April 1, 2019)	TBD

Each deposition will commence on the date and time specified and continue thereafter until the deposition has been completed.

DESCRIPTION OF MATTERS FOR EXAMINATION

Defendants, pursuant to Rule 30(b)(6), Federal Rules of Civil Procedure, will designate one or more officers, directors, or managing agents of the State of Maryland, or designate other

persons who consent to testify on behalf of the State of Maryland, regarding the matters for examination set forth below, subject to the definitions also set forth below.

DEFINITIONS

The following definitions apply to the matters for examination below:

A. The “**Legislative Record**” of a bill means all information, documents, or actions reviewed, considered, discussed, or debated in any meeting, hearing, reading, or other public proceeding on the bill in the Senate of Maryland or House of Delegates of Maryland, or any committee thereof, or any conference committee of Senators and Delegates, and any transcript or audio or video recording of any such proceeding, including without limitation all pre-filed, draft, amended, failed, passed, enrolled, or enacted versions of the bill, and all testimony, letters, correspondence, communications, data, statistics, analyses, research, position papers, investigations, reports, studies, memoranda, notes, motions, special orders, roll calls, votes, vetoes, and veto overrides.

B. “**Minor**” means an individual under eighteen (18) years of age.

C. “**SB 1028**” means Maryland Senate Bill 1028 and/or the cross-filed House Bill 0902, as enacted by the General Assembly and signed into law by Defendant Governor Larry Hogan on May 15, 2018, becoming effective October 1, 2018, and codified at Md. Code Ann., Health Occ. § 1-212.1 (West).

D. “**SOCE**” means sexual orientation change efforts, including without limitation any counseling, practice, or treatment that assists an individual in changing his or her sexual orientation or gender identity, and further including without limitation any efforts to change the behavioral expression of an individual’s sexual orientation, change gender expression, or eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex or gender.

MATTERS FOR EXAMINATION

1. The State of Maryland's purported interest in banning SOCE counseling for minors, including without limitation any complaint or other evidence of alleged harm in the Legislative Record of SB 1028.
2. Any evidence in the Legislative Record of SB 1028 that any minor within the State of Maryland was subjected to SOCE counseling against his or her will.
3. Any evidence in the Legislative Record of SB 1028 of alleged harm posed by voluntary SOCE counseling for minors who desire, request, or willingly consent to SOCE counseling.
4. Any evidence in the Legislative Record of SB 1028 of alleged harm caused by voluntary SOCE counseling for minors within the State of Maryland who desired, requested, or willingly consented to SOCE counseling.
5. Any evidence in the Legislative Record of SB 1028 that minors lack the ability to consent to voluntary SOCE counseling, or have the ability to consent to other treatments or procedures such as abortions, gender transition/reassignment, or same-sex relationship-affirming counseling.
6. The State of Maryland's efforts to narrowly tailor SB 1028, including without limitation any alternative to SB 1028 which Defendant considered prior to enactment of SB 1028, and all reasons for rejecting any such alternative.
7. All communications and coordination, between the State of Maryland and any advocacy group, regarding SB 1028 or any other effort to ban SOCE for minors.
8. Any study or research the State of Maryland conducted, commissioned, reviewed or relied upon to enact SB 1028.

9. The drafting, consideration, discussion, debate, and enactment of SB 1028 by the General Assembly and Governor of the State of Maryland.

10. The interpretation, application, and enforcement of SB 1028 by the Government of the State of Maryland.

11. The factual matters disclosed in any declaration or affidavit filed by Defendants in opposition to Plaintiff's Motion for Preliminary Injunction (Doc. 2).

12. The factual matters disclosed in any written responses, or documents produced in response, to Plaintiff's written Discovery Requests served February 16, 2019, and Defendants' disclosure efforts and sources.

13. Defendants' document production efforts and sources, for any document production pursuant to Rule 26(a)(1) or in response to Plaintiff's written Discovery Requests served February 16, 2019, including without limitation—

- a. the physical or digital/electronic locations of the documents produced;
- b. the time period(s) covered by the documents produced;
- c. the search terms used to locate potentially responsive, electronically stored documents; and
- d. the document custodian(s) consulted for responsive documents or from whom the documents were obtained for production.

Respectfully submitted,

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[†] Admitted to appear *pro hac vice*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this February 16, 2019, I caused a true and correct copy of the foregoing to be served by e-mail on the following counsel of record:

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/s/ Roger K. Gannam
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