

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MAXWELL KADEL, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No.
)	1:19-cv-272-LCB-LPA
)	
DALE FOLWELL, in his official)	
capacity as State Treasurer of)	
North Carolina, <i>et al.</i> ,)	
)	
Defendants.)	

AFFIDAVIT OF ALINA NEUBERGER MD, MBA

I, Alina Neuberger, of full age, and pursuant to 28 U.S.C. § 1746, hereby state as follows:

1. I have personal knowledge of the facts set forth in this Affidavit.
2. I am currently a Senior Medical Director in Medical Affairs for CaremarkPCS Health, L.L.C, including CVS Health and its corporate affiliates (collectively “Caremark”).
3. I have been employed by Caremark for approximately 5 years.

4. I am familiar with the FDA-approved indications for the testosterone products and hormonal therapies listed in the December 1, 2017 Clinical Plan Management document marked as “**Exhibit A**”.

5. None of these products and therapies are FDA approved for the treatment of gender dysphoria.

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

Executed this ___29th___ day of September, 2021 at Chatham, New Jersey.

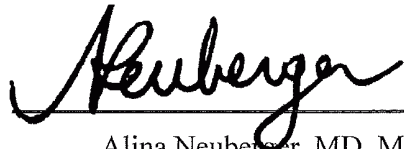

Alina Neuberger, MD, MBA

Exhibit A



Clinical Plan Management

The undersigned ("Client") and [CaremarkPCS Health, L.L.C. ("Caremark")] are parties to a Prescription Benefit Services Agreement, as amended from time to time ("Agreement"), pursuant to which Client has retained Caremark to provide certain prescription benefit management and related services with respect to Client's health benefit plan(s). Initially capitalized terms used herein and not expressly defined herein shall have the meanings given to such terms in the Agreement.

Included in the Services that may be provided by Caremark under the Agreement are certain core clinical services and programs and enhanced clinical programs and Services ("Clinical Services"). By executing and returning this Clinical Program Selection Form ("CPM"), Client confirms its election to have Caremark provide Clinical Services under the Agreement in accordance with this CPM.

This CPM is hereby incorporated by reference into the Agreement and shall form part of the Plan Design Document, defined by the Agreement and the prescription drug benefit under Client's applicable health benefit plan(s).

All Clinical Services shall be performed in accordance with the applicable criteria for such Clinical Service ("Criteria"). Unless Client elects below to use custom Criteria for one or more Clinical Services by so indicating on this CPM form, Caremark will provide each Clinical Service in accordance with its standard Criteria as in effect from time to time. Certain clinical services may only be used with standard criteria. The use of standard Criteria is part of the terms and conditions under which Caremark agrees to provide Clinical Services. Subject to the confidentiality provisions of the Agreement, such standard Criteria are proprietary and confidential information of Caremark. Such standard Criteria are not part of Client's health plan or the Plan Design Document. Caremark reserves the right to modify any such standard criteria at any time and from time to time. Modifications of Criteria will not be routinely shared with Client.

To the extent that Client elects to use custom Criteria with respect to one or more Clinical Services, client shall provide Caremark with a copy of such Criteria in writing and Caremark will provide the related Clinical Services in accordance with such written Criteria. In support of custom Criteria derived from plan benefit design or other sources available to Client, Caremark shall work with Client, when requested, in a consultative manner to review clinically-based custom Criteria for consistency with current standards of care. Client shall maintain custom Criteria to ensure alignment with plan benefit design, recommendations from other sources, and standards of care. Clients shall submit custom Criteria to Caremark for review and implementation. Frequency and timing of custom Criteria submission will be at Client's discretion. For clients that wish to implement custom UM edit(s) that have already been developed for another line of business, please indicate this within the following sections of this form.

- Special Instructions/Notes section
- Client Request-Custom section at the end of each UM edit type area

Within these sections, please indicate the following: [ENTER SPECIFIC XYZ Plan List NAME] for each of the custom edits to be implemented.

Client may elect to discontinue provision of any Clinical Service through written notice to Caremark.

By signing below, Client hereby accepts and adopts as its own the Criteria, as administered by Caremark. In the event Client elects to implement its own criteria, Client acknowledges Caremark will not evaluate and update such custom criteria for safety or efficacy and Client shall be responsible to notify Caremark of any changes to such criteria.

**I have reviewed the attached documentation and conclude all information to be correct.
(All signatures below are required)**

Client (Company) Name: North Carolina State Health Plan	Version
Client Signature:	Date: 12/06/17
Signatory Name: Client Does Not Sign CPM Form – Refer to Approval Email	
Signatory Title:	



RxClaim Only

Client hierarchy for utilization management appropriateness and SGM programs
Carrier: 0274 and 0275
Carrier – Account:
Carrier – Account – Group:
Do the selected clinical programs apply to all members or specific groups of members? <input checked="" type="checkbox"/> All members <input type="checkbox"/> Specific groups (specified below)
Please specify details here:

***Note: Not all dosage forms will accumulate across the entire class.**

RxClaim Only

Client hierarchy for Formulary Alternatives program exclusion
Formulary Alternatives provides alternatives via preferred product fields of claim response sent to pharmacies, and Real Time Benefits EHR transactions, shared with prescribers. Opting the client out will exclude the communication of alternatives through both of these communication channels.
Opt out client <input type="checkbox"/>
List Carrier – Account – Group for opt out (available at any level of CAG):
Please specify details here:

Caremark Internal Only – UM and SGM and PDPD DO NOT DELETE THIS TABLE! This is required information.

Additional Client Details and Caremark contacts	
Client FAF ID:	Client Rebate ID:
Client Type: <input checked="" type="checkbox"/> Employer <input type="checkbox"/> Stand Alone Specialty Client <input type="checkbox"/> Health Plan <input type="checkbox"/> TPA	
-To ensure notifications from the Prior Authorization and Appeals department do not violate HIPAA or other privacy regulations, it is important to determine if the client or vendor is sending the member's Social Security Number (SSN) on the eligibility file. The standard process when generating notifications is to retrieve the member identification number from the Cross Walk ID on the eligibility file. If the Cross Walk ID contains the SSN, the Prior Authorization and Appeals department will need to ensure that the Member ID is on the eligibility file is being used for notifications. If the Member ID or Crosswalk ID field contains a SSN, the other field must contain a member Identification number to generate on notifications. Please ask the account manager or Eligibility Administrator the following questions.	
Is the client or vendor sending the member's SSN on the eligibility file: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
If yes, which field will the SSN be stored? Crosswalk ID <input checked="" type="checkbox"/> , Member ID <input type="checkbox"/>	
Standard Formulary Status: <input type="checkbox"/> Opt-in with NDC Block <input checked="" type="checkbox"/> Opt-in with PA Option <input type="checkbox"/> Opt-out As of 10/15/2015, Opt-in with NDC Block will require that clients provide an exception pathway for members so please note that the option to select that offering has been removed from the CPM form.	
Client Company Name: North Carolina State Health Plan (Please list client name as it should appear on PA and Appeal letters and fax forms.)	
Client Address: 3200 Atlantic Avenue	City: Raleigh State: NC Zip: 27604
Total # of Plan Members* : 550,000	
Clinical Advisor: Renee Jarnigan/Stephanie Morrison	SAE: Brian Hemreck
Account Manager: Bree Nelson/Karyn Donohoe/Jim Loveday	Account Executive:
Specialty-CRU:	Implementation Manager:
Benefits Relationship Manager (BRM)**: Drew Anderson	
Benefits Consultation Center (BCC)**: <input checked="" type="checkbox"/> BCC RxClaim <input type="checkbox"/> BCC Recap	
Specialty Account Executive:	CRU Implementation Specialist:
Customer Care Provided by: <input checked="" type="checkbox"/> Caremark <input type="checkbox"/> Client	Customer Care Phone Number:
* Please provide Total # of Plan Members if known - this is used to project PA call volume	

**** Clinical Advisor must either list a BRM contact or select a BCC mailbox before routing this CPM form**



For NON-Grandfathered Plans (80/20 and CDHP):

Applicable Laws – UM and SGM and PDPD DO NOT DELETE THIS TABLE! This is required information for the PA & Appeals department.

1. What line of business is your client?

- Commercial, HP Commercial, Self-Insured Employer Group, Third Party Administrator (TPA) or Coalitions ➔ Go to #2
- Exchange, Small Business Health Option Program (SHOP), or Fully-Insured, Individual, or Small Group Plans (Off-Exchange) ➔ Go to #6
- Managed Medicaid, HP Dual Demo ➔ Go to #7
- Medicare, EGWP ➔ No further information is needed

2. Is your client grandfathered or a retiree-only plan?

- Yes ➔ Go to #3
- No ➔ Go to #4

3. If grandfathered or retiree-only, what laws are they subject to?

- ERISA ONLY (e.g. Self-Insured Employer Plans, ASO [Administrative Services Only], Retiree-Only Self-Insured Employer Plans, Self-Insured Union Plans) ➔ Done
- State Law ONLY (e.g. Fully-Insured Health Plan, Certain Self-Insured Government Plans) ➔ Go to #5
- ERISA & State Law (e.g. Fully-Insured Employer Plans, Retiree-Only Fully-Insured Employer Plans) ➔ Go to #5
- Other (e.g. Self-Insured Government Plans and Self-Insured Church Plans) ➔ Specify what requirements your client is subject to, including any contractual provisions relating to utilization review, prior authorization, appeals, external review: _____ ➔ Done

4. If not grandfathered, what laws are they subject to?

- ACA requirements applicable to non-grandfathered plans & ERISA (e.g. Self- Insured Employer Plan, ASO [Administrative Services Only], Self-Insured Union Plan) ➔ Done
- ACA requirements applicable to non-grandfathered plans & State law (e.g. Fully- Insured Health Plan [including Fully-Insured Government and Church Plans] Certain Self-Insured Government Plans, Exchange Plans, Individual Off- Exchange Plans and Small Group Off-Exchange Plans) ➔ Go to #5
- ACA requirements applicable to non-grandfathered plans, ERISA, & State Law (e.g. Fully-Insured Employer Plans, Fully-Insured Union Plans) ➔ Go to #5
- ACA requirements applicable to non-grandfathered plans ONLY (e.g. Self- Insured Government and Self-Insured Church Plan). ➔ Done
- ACA requirements applicable to non-grandfathered plans & Other (e.g. Self- Insured Government and Self-Insured Church Plan). ➔ Specify what laws your client is subject to, including any contractual provisions relating to utilization review, prior authorization, appeals, external review: _____ North Carolina _____ ➔ Done

5. Is your client a fully-insured health plan that operates in multiple states and subject to State of Precedence (SOP) requirements?

- Yes: Contract state. Please type state abbreviation(s): _____ ➔ Go To #7
- No ➔ Go To #7

** If Question #5 is answered "YES", then contact with Eligibility or the account team that handles eligibility will need to be notified as additional fields will need to be added to the members group profile information. This information will need to be obtained from the client and loaded into Rxclaim.**

6. Is your client a multi-state plan regulated by Office of Personnel Management (OPM)?

- Yes ➔ Go to #7
- No ➔ Go to #7

7. What state law does your client follow?

- Please type state abbreviation: _____ NC _____ ➔ Go to #8

8. Within the state law that was indicated above, does your client follow?

- State Insurance Laws (e.g. Insure or PPO) ➔ Done
- Managed Health Care Laws (e.g. HMO) ➔ Done



- Managed Medicaid Requirements (e.g. State model contracts) ➡ Done
- Medicare Medicaid Plan/Dual demonstrations Plans (e.g. Three way contract between CMS, state, and plan) ➡ Done
- Other ➡ Done. If other, please specify what laws your client is subject to: _____

For Grandfathered Plans (70/30 and 70/30 MA):

Applicable Laws – UM and SGM and PDPD **DO NOT DELETE THIS TABLE! This is required information for the PA & Appeals department.**

1. What line of business is your client?

- Commercial, HP Commercial, Self-Insured Employer Group, Third Party Administrator (TPA) or Coalitions ➡ Go to #2
- Exchange, Small Business Health Option Program (SHOP), or Fully-Insured, Individual, or Small Group Plans (Off-Exchange) ➡ Go to #6
- Managed Medicaid, HP Dual Demo ➡ Go to #7
- Medicare, EGWP ➡ No further information is needed

2. Is your client grandfathered or a retiree-only plan?

- Yes ➡ Go to #3
- No ➡ Go to #4

3. If grandfathered or retiree-only, what laws are they subject to?

- ERISA ONLY (e.g. Self-Insured Employer Plans, ASO [Administrative Services Only], Retiree-Only Self-Insured Employer Plans, Self-Insured Union Plans) ➡ Done
- State Law ONLY (e.g. Fully-Insured Health Plan, Certain Self-Insured Government Plans) ➡ Go to #5
- ERISA & State Law (e.g. Fully-Insured Employer Plans, Retiree-Only Fully-Insured Employer Plans) ➡ Go to #5
- Other (e.g. Self-Insured Government Plans and Self-Insured Church Plans) ➡ Specify what requirements your client is subject to, including any contractual provisions relating to utilization review, prior authorization, appeals, external review: _____ North Carolina _____ ➡ Done

4. If not grandfathered, what laws are they subject to?

- ACA requirements applicable to non-grandfathered plans & ERISA (e.g. Self- Insured Employer Plan, ASO [Administrative Services Only], Self-Insured Union Plan) ➡ Done
- ACA requirements applicable to non-grandfathered plans & State law (e.g. Fully- Insured Health Plan [including Fully- Insured Government and Church Plans] Certain Self-Insured Government Plans, Exchange Plans, Individual Off- Exchange Plans and Small Group Off-Exchange Plans) ➡ Go to #5
- ACA requirements applicable to non-grandfathered plans, ERISA, & State Law (e.g. Fully-Insured Employer Plans, Fully-Insured Union Plans) ➡ Go to #5
- ACA requirements applicable to non-grandfathered plans ONLY (e.g. Self- Insured Government and Self-Insured Church Plan). ➡ Done
- ACA requirements applicable to non-grandfathered plans & Other (e.g. Self- Insured Government and Self-Insured Church Plan). ➡ Specify what laws your client is subject to, including any contractual provisions relating to utilization review, prior authorization, appeals, external review: _____ North Carolina _____ ➡ Done

5. Is your client a fully-insured health plan that operates in multiple states and subject to State of Precedence (SOP) requirements?

- Yes: Contract state. Please type state abbreviation(s): _____ ➡ Go To #7
- No ➡ Go To #7

** If Question #5 is answered "YES", then contact with Eligibility or the account team that handles eligibility will need to be notified as additional fields will need to be added to the members group profile information. This information will need to be obtained from the client and loaded into Rxclaim.**

6. Is your client a multi-state plan regulated by Office of Personnel Management (OPM)?

- Yes ➡ Go to #7
- No ➡ Go to #7

Revised December 1, 2017

4

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7. What state law does your client follow?

Please type state abbreviation: _____ NC _____ ➡ Go to #8

8. Within the state law that was indicated above, does your client follow?

- State Insurance Laws (e.g. Insure or PPO) ➡ Done
- Managed Health Care Laws (e.g. HMO) ➡ Done
- Managed Medicaid Requirements (e.g. State model contracts) ➡ Done
- Medicare Medicaid Plan/Dual demonstrations Plans (e.g. Three way contract between CMS, state, and plan) ➡ Done
- Other ➡ Done. If other, please specify what laws your client is subject to: _____

For clients that wish to implement custom UM edit(s) that have already been developed for another line of business, please indicate this within the following sections of this form.

- **Special Instructions/Notes section below.**
- **Client Requested-Custom section at the end of each UM edit type area**

Within these sections, please indicate the following: [ENTER SPECIFIC XYZ Plan List NAME] for each of the custom edits to be implemented.

Special Instructions/Notes

The purpose of this CPM is to (1) remove PA for testosterone products for transgender care, (2) add PA to testosterone products for non-transgender care, (3) exclude transgender care diagnoses for Hormonal Therapies SGM (Eligard, Luron Depot, Trelstar Dep/LA/Mix, Vantas, Zoladex, Supprelin LA), (4) change NC SHP custom SGM criteria for Lupron/leuprolide to exclude transgender care/gender dysphoria effective 1/1/18.



Prior Authorization Non-Specialty (Standard, Featured) *continued*

Category	Action	PA Renewal Notification	Criteria
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Testosterone Products – Transgender Care Approvable

Select either 12-month or 36-month approval duration option.

Note: Oral testosterone agents are not approvable for transgender care. If PA on oral testosterone agents is desired, select either the 12-month or 36-month oral testosterone PA under the “Testosterone Products – No Coverage for Transgender Care” section.

36-month approval duration

Testosterone Products (Brand and Generic)	<input type="checkbox"/> Add <input checked="" type="checkbox"/> Delete <input type="checkbox"/> Change	<input type="checkbox"/> Accept <input type="checkbox"/> Decline	<input checked="" type="checkbox"/> Testosterone Products TGC 1210-A (36-month DoA)
	Target Drugs: Enanthate injection, Cypionate injection, topical gel, topical cream, topical ointment, topical solution, transdermal patch, nasal gel, mucoadhesive buccal system, propionate implant pellets		

Testosterone Products – No Coverage for Transgender Care

Select either 12-month or 36-month approval duration option.

36-month approval duration

Testosterone Products (Brand and Generic)	<input checked="" type="checkbox"/> Add <input type="checkbox"/> Delete <input type="checkbox"/> Change	<input type="checkbox"/> Accept <input type="checkbox"/> Decline	<input checked="" type="checkbox"/> Testosterone Products Non-TGC 1215-A (36-month DoA)
	Target Drugs: Enanthate injection, Cypionate injection, topical gel, topical cream, topical ointment, topical solution, transdermal patch, nasal gel, mucoadhesive buccal system, propionate implant pellets		



SGM Program Therapies (Standard)

Therapy	Drug	Total # of Existing patients	Add	Delete	Drug	Total # of Existing patients	Add	Delete
Hormonal Therapies	Select All		<input type="checkbox"/>	<input type="checkbox"/>	Previous PA with CMK or other vendor		<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Aveed		<input type="checkbox"/>	<input type="checkbox"/>	Trelstar Dep/LA/Mix		<input type="checkbox"/>	<input type="checkbox"/>
	Eligard		<input type="checkbox"/>	<input type="checkbox"/>	Vantas		<input type="checkbox"/>	<input type="checkbox"/>
	Firmagon		<input type="checkbox"/>	<input type="checkbox"/>	Zoladex		<input type="checkbox"/>	<input type="checkbox"/>
	Natpara		<input type="checkbox"/>	<input type="checkbox"/>	Supprelin LA		<input type="checkbox"/>	<input type="checkbox"/>
	Leuprolide acetate		<input type="checkbox"/>	<input type="checkbox"/>	Lupaneta		<input type="checkbox"/>	<input type="checkbox"/>
	Lupron Depot		<input type="checkbox"/>	<input type="checkbox"/>	TRIPTODUR		<input type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/> Exclude these products for transgender care diagnoses: Eligard (Eff 07/03/2016), Lupron Depot, Trelstar Dep/LA/Mix (Eff 07/03/2016), Vantas (Eff 07/03/2016), Zoladex (Eff 07/03/2016), Supprelin LA (Eff 07/03/2016).							
Comments:								

SGM Program Therapies (Client requested - Custom)

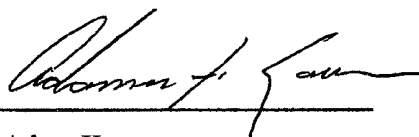
Lupron Depot Endometriosis- Fibroids NCSHP SGN 12-2016	Action: <input type="checkbox"/> Add <input type="checkbox"/> Delete <input checked="" type="checkbox"/> Change
	Drugs In Class: Lupron Depot/Leuprolide
	Criteria: Custom SGM program for NCSHP – Update criteria to EXCLUDE coverage of TGC/gender dysphoria diagnoses.

whether or not the drug at issue is subject to a prior authorization requirement.

5. Caremark will automatically adjudicate pharmacy claims without additional interventions where the drug has no PA requirement, or where the PA requirement and all other plan provisions are satisfied (including eligibility, covered drug, pharmacy network and quantity limits).
6. Where a claim for a particular drug carries no PA requirement and meets the other criteria above, that claim will be paid or otherwise fully adjudicated as appropriate. Caremark will reject a drug claim despite all plan provisions being satisfied where a drug requires a valid Prior Authorization, but none exists.

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

Executed this __29th__ day of September, 2021 at Scottsdale, Arizona.



Adam Korn

1 IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
2 Civil Action No. 1:19-cv-00272

3
4 MAXWELL KADEL, et al.,
5 Plaintiffs,

6 vs.

7 DALE FOLWELL, in his official
capacity as State Treasurer of
8 North Carolina, et al.,
9 Defendants.

10
11
12
13

* CONFIDENTIAL ATTORNEY EYES ONLY *

14
15

VIRTUAL ZOOM VIDEOTAPED DEPOSITION OF
SERGEANT DANA CARAWAY

16
17
18
19

(Taken by Defendants)
Morganton, North Carolina
Friday, September 17, 2021

20
21
22

23 Reported by Andrea L. Kingsley, RPR

24
25

1 Q. What were you studying at Piedmont
2 Community College?

3 A. Business law.

4 Q. You mentioned odd jobs. Just can you
5 describe those generally?

6 A. I worked for MDI Merchant Distributors,
7 Incorporated, filled orders for grocery stores.
8 Valdese Manufacturing and Lowes Hardware.

9 Q. When did you decide to apply to be a
10 correctional officer?

11 A. Sometime in 1993 I started applying.

12 Q. Why did you start applying?

13 A. For a career job.

14 Q. Do you know when you were hired?

15 A. My first day on duty was November 8,
16 1994. So it would have been retroactive dated back
17 to -- official hire date would be November 1, 1994.

18 Q. What was your first duty assignment as a
19 correctional officer?

20 A. Marion Correctional Institution, 3730 F
21 unit, second shift.

22 Q. What is F unit?

23 A. It was a housing unit for regular
24 population and a DART unit.

25 Q. DART, what is that?

1 A. My last assignment at Marion would have
2 been on segregation, restrictive housing.

3 Q. Where were you assigned after being
4 assigned to Marion?

5 A. Lateral transfer to Western Youth
6 Institution.

7 Q. Western what?

8 A. Western Youth Institution.

9 Q. Which I assume housed youth offenders?

10 A. We had youthful offenders from 14 and
11 inmates up to 24, 25 years old.

12 Q. What did you do there?

13 A. Correctional officer.

14 Q. Were you assigned to a particular unit?

15 A. Over my five plus, six years there,
16 there wasn't much that I didn't do. I've done from
17 regular housing to gang floors, new processing,
18 segregation, intake and processing of new inmates,
19 transportation. Everything. Western taught us to
20 do everything. And worked as an acting sergeant
21 when they was short on supervisors.

22 Q. Is it safe to say that at Western Youth
23 Institution there were not quite as defined roles
24 for correctional officers as at other facilities?

25 A. You had defined roles as being assigned

1 to floors. It's been so long I couldn't tell you
2 how long I spent on each floor, but I can tell you
3 there was not too many posts at that facility that
4 I did not work.

5 Q. How long did you work at Western Youth
6 Institution?

7 A. I left Western Youth in January of 2006.

8 Q. Why did you leave?

9 A. I was promoted to correctional sergeant
10 and transferred to Alexander Correctional.

11 Q. Where were you assigned at Alexander
12 Correctional?

13 A. I started on first shift blue unit.

14 Q. What is blue unit?

15 A. It was housing for close maximum custody
16 inmates and we had physically handicapped inmates
17 on part of the units that had wheelchairs or
18 physical disabilities or ailments.

19 Q. Can you describe generally how your
20 duties changed from being a correctional officer to
21 being a sergeant?

22 A. I went from correctional officer of
23 following state policy and procedures,
24 institutional standard operating procedures and
25 post assignment post orders to supervising inmates

1 A. I transferred to green unit.

2 Q. What is green unit?

3 A. It housed our woodworking inmates,
4 Alexander has a woodworking factory that builds
5 furniture for state industry and facilities and
6 kitchen workers.

7 Q. How long did you do that?

8 A. Until I transferred out in May or June,
9 April, May, June of 2010.

10 Q. Where did you go when you transferred
11 out?

12 A. I transferred back to Western Youth
13 Institution as a sergeant, just lateral.

14 Q. How long were you at Western Youth
15 Institution?

16 A. Until it's closure in 2013.

17 Q. Then what did you do?

18 A. When it closed, I was rifted back to
19 Alexander.

20 Q. When you say rifted, your position was
21 terminated as a part of a reduction in force; is
22 that correct?

23 A. No, sir. The facility was closed and I
24 was rifted, I kept the same position and was
25 transferred into a position of same rank at

1 Alexander and given my rift rights.

2 Q. What were your rift rights --

3 A. Rift rights was there wasn't a job
4 closer to my home and I had one year to use the
5 rift rights so that if a position would become
6 available, I could use the rift rights and I would
7 be given first priority to have a chance at the
8 position -- facility of my choosing.

9 Q. Was there ever a period that you were
10 not employed by DPS?

11 A. No.

12 Q. So in 2013 you went back to Alexander;
13 correct?

14 A. In 2013, yes.

15 Q. Where were you assigned when you were
16 assigned to Alexander?

17 A. I went back to red unit.

18 Q. How long were you in red unit?

19 A. I was on red unit until I used my rift
20 rights in July of 2014 and transferred to
21 Foothills.

22 Q. Why did you transfer to Foothills?

23 A. Foothills was a mile and a half from my
24 home.

25 Q. What position were you assigned to at

1 you let me know?

2 A. I'm sorry, one more time?

3 Q. If you see a document with someone with
4 the last name Caraway that you believe does not
5 refer to you, to a relative or someone else, will
6 you let me know?

7 A. I will.

8 Q. The question I have, if you look down
9 here where my cursor is, it says September 23, 1994.

10 A. Yes.

11 Q. Other records indicate you began your
12 service as a correctional officer in November 1994,
13 and I guess I'm curious why you would sign paperwork
14 in September of that year.

15 A. Can you roll back to the top?

16 Q. Um-hmm.

17 A. If you go back to the bottom.

18 Q. Sure.

19 A. I'm not sure. We was opening a new
20 prison, and I was getting hired on at Marion
21 Correctional Institution and -- I don't know if
22 there's a conditional alter that I signed, but I do
23 know that my initial employment date, even within
24 the state system, shows November 8 which was
25 retroactivate back to November 1, that is to my

1 understanding. I would say that this has something
2 to do when we're going through all the processing
3 paperwork for the months that it took or year that
4 it took to get on with the department at that time.

5 Q. Could you describe that hiring process?
6 That was going to be my next question. Because it
7 sounds like you -- there were meetings and the like
8 prior to your November 1994 start date. Is that
9 correct?

10 A. Yes.

11 Q. So how did you find out that there were
12 positions available with the Department of Public
13 Safety?

14 A. The department's always had vacancies.
15 That would be the easiest thing. But I was working
16 a job and I had been trying to get on with the
17 department, and a lady by the name of Jean Walker
18 had came into the business I was working at and we
19 began talking and I found out her husband was
20 Warden Walker at Marion Correctional -- was going
21 to be Warden Walker. And so I applied at Marion.

22 And some months later I got called up and they
23 scheduled an interview and then I got an interview,
24 and then an executive interview, and then later on
25 I was called and advised I got hired and got a job

1 within the department.

2 Q. You said you had an interview. Was the
3 interview with employees of Department of
4 Corrections?

5 A. With the Department of Corrections, yes.

6 Q. Then it was the Department of
7 Corrections. Was the executive interview with the
8 Department of Corrections?

9 A. The first interview was probably with an
10 administrative assistant who I don't know. And
11 then we got an executive interview with who was
12 going to be the assistant warden, Mr. Ricky
13 Anderson, and the warden Mr. Dean Walker.

14 Q. Were those two individuals in charge of
15 supervising the Marion Correctional Institute?

16 A. They were in charge of the facility and
17 opening it, seeing that it was employed and
18 staffed.

19 Q. There are some other documents here.
20 This is -- is that your signature on this page 2 of
21 this exhibit Sergeant Caraway?

22 A. Yes.

23 Q. Is your signature dated September 23,
24 1994?

25 A. That would be.

1 Q. Where is Torrid located?

2 A. My store is located in Hickory, North
3 Carolina, Valley Hills Mall.

4 Q. Have you long have you worked at Torrid?

5 A. Roughly a year and a half. Maybe a
6 little longer.

7 Q. Do you have any other employers that you
8 have reported to the Department of Public Safety?

9 A. I have no other employers that you work
10 for, no.

11 Q. Prior to your employment at Torrid, did
12 you have another employer that you reported to the
13 Department of Public Safety?

14 A. The only employer I worked for in the
15 last 27 years other than Torrid was the Department
16 of Corrections, Department of Public Safety.

17 Q. I will ask you again to look at the
18 exhibit or another document that appears to have
19 been signed by you on September 23, 1994. Is that
20 correct?

21 A. I see that, yes.

22 Q. It acknowledges receipt of an
23 administrative memorandum entitled, "Conditions of
24 continued employment." Do you know what memorandum
25 that refers to?

1 haven't looked at an updated policy for years. I
2 just know that I don't take favors, honorariums,
3 donations or gifts of any type because I work with
4 the prison system.

5 Q. I'm going to try to show you another
6 document. I'm going to ask if you can explain this
7 document to me and its purpose.

8 (SHP Exhibit 5, Salary Adjustment
9 Request, marked for identification, as of this
10 date.)

11 Q. Sergeant Caraway, is this a document
12 that reflects an increase in pay for you?

13 A. Can you scroll down please.

14 Q. Absolutely.

15 A. I don't know. I don't see any increase
16 in pay on there at all so I'm not sure.

17 Q. Do you see the language of salary
18 adjustment request?

19 A. I see a request. I'm not sure whether I
20 got any money out of it or not. That may be a
21 request but that doesn't mean I got anything.

22 Q. As a corrections officer, Sergeant
23 Caraway, are you required to maintain certification
24 with the State of North Carolina?

25 A. Yes.

1 Q. What's the agency that certifies you?

2 A. Criminal Justice Standard Commissions.

3 Q. Do you understand that that
4 certification from the Criminal Justice Standards
5 Commission is a requirement with the Department of
6 Public Safety?

7 A. Absolutely.

8 Q. Does that have an annual training
9 requirement?

10 A. It's supposed to, yes.

11 Q. You said it's supposed to. What does
12 that mean?

13 A. So we actually have a leeway of two
14 years, and with COVID, the Criminal Justice
15 Standard Commission gave everybody a waiver. So
16 there will be people that go up to three years
17 possibly without having been to their annual
18 training. But in normal years, yes, you're
19 supposed to go yearly.

20 Q. Who provides that training?

21 A. The department supplies the training and
22 it's overseen in our facility by Mr. Avery, and he
23 schedules your training yearly, and then the
24 training is conducted by OSDT and our local college
25 system and they supply instructors.

1 Q. And you participate in this training,
2 Sergeant Caraway, is that correct?

3 A. I'm required to, yes.

4 Q. Let's see if I can find the document I
5 want to show you next.

6 (SHP Exhibit 6, STS History Report,
7 marked for identification, as of this date.)

8 Q. Sergeant Caraway, can you see the
9 document on your screen marked Exhibit 6?

10 A. Yes. It's all real tiny.

11 Q. I will zoom in.

12 A. I do know what the form is, yes.

13 Q. What is this form?

14 A. That's a history of my training and
15 education record.

16 Q. These are the training that we were just
17 speaking of; is that correct?

18 A. Correct.

19 Q. So you are required as a member -- as a
20 corrections officer in the State of North Carolina
21 to attend training; is that correct?

22 A. I was required as a correctional officer
23 and I'm still required as a correctional sergeant
24 and front line supervisor to attend annual
25 training, yes.

1 Q. So these are training from 2013. But
2 these -- you testified these would have been
3 trainings arranged and provided through the
4 leadership at the institution you were at at the
5 time?

6 A. They would have been scheduled by the
7 institution, yes, but supplied by the officer of
8 staff development training.

9 Q. Did you have to pay for these training?

10 A. No. The department pays for this stuff.

11 Q. This record, the department keeps track
12 of these trainings?

13 A. Yes. There should be a record all the
14 way back to 1994 to currently.

15 Q. This record I can get as far back as --
16 1994. So it appears your first training was blood
17 borne pathogens.

18 A. That would have been my very first day
19 on November 8, 1994, at the incubation training
20 unit at Marion correctional.

21 Q. That identifies -- this document which
22 only goes through 2013 identifies over a thousand
23 hours of training provided by the Department of
24 Public Safety; is that correct?

25 A. Well, the one above it would have

1 covered -- up through 2013, I would have
2 received -- whatever date that was on the very
3 first would have been 1,075, but that particular
4 blood borne, I received three hours of certified
5 training for. But that 1,075 would have ended on
6 March 21, 2013, yes.

7 Q. Sergeant Caraway, do you recognize this
8 record?

9 A. Could you enlarge it please? Okay, hold
10 up there. Yeah, that would have been on training
11 that would have been completed towards the end of
12 May.

13 Q. Would this include additional training
14 that you received that was not reflected on the
15 prior exhibit?

16 A. Yes.

17 Q. Again, these are trainings provided by
18 the Department of Public Safety at no expense to
19 you?

20 A. Yes.

21 Q. And these are requirements of
22 maintaining your employment at the Department of
23 Public Safety?

24 A. Correct.

25 Q. Sergeant Caraway, who is your

1 supervisor?

2 A. Phillip Badgett.

3 Q. What is Mr. Badgett's title?

4 A. Correctional housing unit manager number
5 2.

6 Q. Does Mr. Badgett provide you with an
7 annual performance evaluation?

8 A. He's supposed to be placing in monthly
9 entries and every six months making an evaluation
10 and yearly evaluations, yes.

11 Q. You said he's supposed to. Has he been
12 doing that?

13 A. I'm sure you've got my records from my
14 evaluations. So probably not.

15 Q. Is anybody else responsible for doing
16 performance evaluations?

17 A. His supervisor above him is required to
18 see that he does his job.

19 Q. If you were to be recommended for an
20 increase in pay, Sergeant Caraway, would Mr. Badgett
21 have to sign off on that?

22 A. We haven't been given the merit-based
23 pay raises in year so the pay raises that we
24 receive would be given to us from the general
25 assembly or across the board. Unless I have a

1 negative rating overall, I don't know if it would
2 affect my pay or not, but to the best of my
3 recollection, Mr. Badgett has made one or two total
4 monthly entries in my evaluations in the last three
5 years.

6 Q. Does the Department of Public Safety
7 have a process to discipline employees?

8 A. They do.

9 Q. What is that process called?

10 A. There is an investigation process.

11 Q. What is Mr. Badgett's role in the
12 investigation process?

13 A. If there's wrongdoing, he's supposed to
14 report it up. He could actually give you a
15 coaching session or something within those
16 guidelines, but with actual disciplinary action, it
17 would go to our facility head, to region, then to
18 DPS headquarters in Raleigh, and then come back
19 down the chain and everybody would have to be in
20 agreement that that was a just punishment handed
21 out.

22 Q. You mentioned a number of individuals or
23 institutions involved in that decision. Are all the
24 individuals involved in that decision employees of
25 the Department of Public Safety?

1 A. Absolutely.

2 Q. Does anyone at the State Health Plan
3 have any role in that disciplinary process?

4 A. I don't know.

5 Q. Do you have any reason to believe that
6 someone at the State Health Plan does have a role in
7 that process?

8 A. I'm going to be honest with you, I don't
9 have no idea. I don't work in Raleigh. I just
10 work in my facility. So I just don't know if
11 anybody does.

12 Q. Who is LaDonna Browning?

13 A. She is our current Western Regional
14 manager.

15 Q. What does LaDonna Browning do in that
16 role?

17 A. She's over all the facilities in the
18 western half of the state.

19 Q. So is she the supervisor of the wardens
20 for the facilities in the western half of the state?

21 A. She is over it all.

22 Q. Has she been in that position since
23 2014?

24 A. No.

25 Q. What were her prior positions?

1 A. She was warden at Foothills Correctional
2 where I'm located at currently.

3 Q. Was she the warden when you were
4 transferred to Foothills Correctional Institution?

5 A. She was.

6 Q. Does she make the final decision about
7 whether to recommend that you be transferred to
8 Foothills?

9 A. She would have had input into whether or
10 not I was allowed to the come to the facility, but
11 I did have rift rights so I think I would have got
12 to come regardless.

13 Q. Sergeant Caraway, what are post orders?

14 A. Post orders are if -- I have an officer
15 assigned to work a control room, there's certain
16 responsibilities that that staff member would carry
17 out in that one post and those orders in that
18 specific post, each post would have different
19 orders so that specific post for that control room,
20 he would have orders for that spot, that's a post
21 order.

22 Q. Do you have post orders for your
23 position?

24 A. Yes.

25 Q. Those are -- I want to see if I can make

1 sure I understand. Those are the duties that you
2 are expected to carry out on a daily basis in your
3 position?

4 A. Right.

5 Q. Who issues post orders?

6 A. They're set forth by the facility. So
7 unit management would be involved, facility
8 management would be involved, and it would all have
9 to fall in guidelines with institutional standard
10 operating procedures, departmental policy and
11 procedures and state and federal laws.

12 Q. Is failure to follow post orders a basis
13 for discipline?

14 A. It could be a basis for discipline, it
15 could be.

16 Q. Sergeant Caraway, can you see my screen?

17 A. I do.

18 Q. Is this the post order that applies to
19 your position at the Department of Public Safety?

20 A. It appears so, yes.

21 Q. Your testimony is that this document
22 describes your responsibilities as a sergeant at
23 Foothills Correctional Institution; is that correct?

24 A. Correct.

25 Q. This document is -- as you can see up

1 there, it has an issue date of July 21, 2020?

2 A. I do see that, yes.

3 Q. Do you believe that's the most current
4 post order?

5 A. I'm not sure, I'm going to be honest, I
6 don't know if there's been an update since then or
7 not.

8 Q. But that's updated by the Department of
9 Public Safety; is that correct?

10 A. No. If you will scroll up all the way
11 to the bottom, that would have been signed off by
12 our current warden Theresa Jordan. So she signed
13 that one off at 7/21. So that post order would
14 have been written in-house and had to have followed
15 all the other procedures and then signed off by our
16 institutional warden.

17 Q. So the final signature on a post order
18 is the warden of the institution?

19 A. At that level for that post order, yes.

20 Q. For a post order that applies to your
21 position, it has to be signed off on by the warden?

22 A. And it could be it was the assistant
23 warden. I have occasionally seen assistant
24 wardens, it just depends who they're designated to
25 at the time. But this one appears Ms. Jordan, that

1 Q. How about the letters HBR?

2 A. No. Not that I can recall.

3 Q. Sergeant Caraway, have you ever had a
4 circumstance in which there was an error in your
5 pay?

6 A. I'm sure that's happened several times
7 in my career.

8 Q. If there were an error in your pay
9 today, who would be the person you would go to about
10 that?

11 A. Our personnel in human resources in our
12 facility.

13 Q. Is there a specific person in that job?

14 A. Well, there's four people involved. The
15 supervisor would be Mary Carter, but she has been
16 out with -- on medical leave. So in her place it's
17 been Ginger Murphy and maybe Bertie Bland which
18 would be her assistant.

19 Q. What was it --

20 A. B-E-R-T-I-E B-L-A-N-D. And Virginia
21 Murphy would be the proper name.

22 Q. If you had questions about whether you
23 had been paid for the hours you worked, you would
24 speak with one of those three individuals?

25 A. Yes.

1 break because I think we've been going for quite a
2 while.

3 (SHP Exhibit 7, Caraway Payment
4 Advice, marked for identification, as of this
5 date.)

6 Q. Sergeant Caraway, have you seen a
7 document like this before?

8 A. Yes.

9 Q. Would you refer to this as your pay
10 advice?

11 A. That would be a monthly pay stub, yes.

12 Q. Does that include various deductions for
13 benefits; is that correct?

14 A. Correct.

15 Q. You mentioned SEANC dues. Is that one
16 of the deductions there?

17 A. That is one of the deductions.

18 Q. It looks like at the top there is says
19 BYUP 8020 PT. Is that the deduction for the State
20 Health Plan?

21 A. No. That is my monthly out-of-pocket
22 expense for the State Health Plan.

23 Q. The deduction from your pay for the cost
24 of the State Health Plan?

25 A. Yes.

1 Q. SEANC insurance, what is that?

2 A. I think I have dental insurance or
3 something through SEANC, I can't rightly remember,
4 but I have some insurance through SEANC or dental
5 or vision or something, I don't remember.

6 Q. There is American Heritage Insurance
7 Company. Do you know what that is, Sergeant
8 Caraway?

9 A. I will be honest with you, I don't know
10 what that is. I did sign up for it but I don't
11 remember what it is.

12 MR. MCINNES: David, I think
13 Sergeant Caraway needs a break, I need a
14 break. Should we --

15 MR. KNEPPER: How long would you
16 like the break to be, Sergeant Caraway? Come
17 back at 2:45?

18 THE VIDEOGRAPHER: We're off the
19 record at 2:33 p.m.

20 (Recess taken.)

21 THE VIDEOGRAPHER: Back on the
22 record at 2:45 p.m.

23 Q. Sergeant Caraway, are you required to
24 wear a uniform during the performance of your duties
25 for the Department of Public Safety?

1 A. Yes.

2 Q. Do you provide that uniform yourself?

3 A. No, the department provides it.

4 Q. Is there equipment that you are required
5 to possess as an officer with the Department of
6 Public Safety?

7 A. Yes.

8 Q. What is that equipment?

9 A. Handcuffs, they give me a belt --
10 handcuffs, handcuff holster, pepper spray, pepper
11 spray holster, baton, baton holster. If I have to
12 go out on an escape or something, transport,
13 firearm, firearm holster, ammunition. Clothing and
14 boots. The only thing they don't supply is socks
15 and undergarments.

16 Q. You anticipated my second question. The
17 Department of Public Safety supplies you with that
18 equipment; correct?

19 A. Yes.

20 Q. You were not free to use your own
21 equipment in lieu of that supplied by the Department
22 of Public Safety?

23 A. No.

24 Q. Sergeant Caraway, how long have you been
25 enrolled in the State Health Plan?

1 A. Correct.

2 Q. What is your basis for that belief?

3 A. I read the news articles and seen
4 comments that he had made on the television and
5 read his comments directly out of the News &
6 Observer, out of Raleigh, they'd been posted or
7 pasted on the internet.

8 Q. Did you attend any meetings of the board
9 of trustees of the State Health Plan?

10 A. No. But I do recall that was a closed
11 door session when they decided to place -- he
12 decided to place an exclusionary rule on
13 transgender services, so had I went to Raleigh
14 regardless I wouldn't have been allowed into that
15 room to have my voice heard.

16 Q. You believe that was the end of 2017?

17 A. I believe that was sometime in the year
18 2017 that he would have placed the exclusionary
19 rule to go into affect in January 1, 2018.

20 Q. Have you ever reviewed the minutes of
21 the State Board of Trustees for the North Carolina
22 State Health Plan?

23 A. No.

24 Q. So your belief that it was a closed
25 session where this matter was discussed is based on

**Exhibit
 0004 SHP
 Caraway**

XX TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM
 LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

PLEASE PRINT OR TYPE FORM AND ATTACH A PHOTOCOPY OF YOUR SOCIAL SECURITY CARD.

Name [REDACTED] Active Register Number (To be provided by Retirement System) _____
 Address [REDACTED] (First) [REDACTED] (M.I.) [REDACTED] (Last) CARAWAY S.S. # [REDACTED]
 City [REDACTED] State [REDACTED] Zip Code [REDACTED] Birthdate [REDACTED]
 Sex: Male Female

CERTIFICATION BY EMPLOYER: We certify that the above-named person is currently serving in a position which is eligible for membership in the Retirement System previously indicated.

Employer DEPARTMENT OF CORRECTIONS Employer Code _____
 Membership Date _____ Position CORRECTIONAL OFFICER
 Authorized Signature _____ Date _____

BENEFICIARY DESIGNATION: (Please read carefully the information on the reverse.) I request the Board of Trustees to pay, in the event of my death prior to retirement:

A. The total amount of accumulated contributions standing to my credit in the Retirement System:

COMPLETE NAME	ADDRESS	RELATIONSHIP	DATE OF BIRTH
Principal: <u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>
<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>
Contingent: <u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>
<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>

B. The total amount of the death benefit provided under G.S. 135-5 or 128-27 to which I may be entitled.

COMPLETE NAME	ADDRESS	RELATIONSHIP	DATE OF BIRTH
Principal: <u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>
<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>
Contingent: <u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>
<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>

I hereby authorize the Board of Trustees to make payment to the beneficiary(ies) whom I have nominated above and agree on behalf of myself and my heirs and assigns, that payment so made shall be a complete discharge of the claim and shall constitute a release of the Retirement System from any further obligation on account of the benefit. In completing and signing this form, I acknowledge having read the information printed on the reverse. I reserve the right to change the beneficiary(ies) designated above as prescribed in the Rules and Regulations.

Signature [REDACTED] Date Sept 23, 94

NOTARY PUBLIC CERTIFICATION: State of North Carolina County of Madison

I, as a Notary Public of the said State and County, do hereby certify that [REDACTED] Caraway personally appeared before me and executed the foregoing instrument.

Witness my hand and seal this 23rd day of September, 1994 (Notary Public Seal)
 Signature of Notary John Renee Hawkins My commission expires Nov 14, 1998

ACKNOWLEDGEMENT
SECONDARY EMPLOYMENT

This is to acknowledge that I have read and understand the Department of Correction policy of Secondary Employment. I have also been provided with a form in which to request approval for secondary employment

9-23-94

(Date)

[REDACTED]

Carnegie

(Employee Signature)

R. D. L.

Witness

STATE OF NORTH CAROLINA
OFFICE OF THE STATE CONTROLLER

Payroll Section
TAX EXEMPTION CERTIFICATES

Unit: 3730
Retirement Number:

FOR PAYROLL OFFICER USE ONLY	Agency Name:		Social Security Tax Withheld:
	If the answer to the question below is 'YES', please furnish the following information		
	Last Date Employed by State	Wages Paid by State Subject to Soc. Sec. Withholding	

If a new employee, have you been employed by the state of North Carolina during the current calendar year? YES NO

Name of Previous Agency

Form **W-4** **Employee's Withholding Allowance Certificate** OMB No. 1545-0010
 Department of the Treasury
 Internal Revenue Service

1 Type or print your first and middle initial Last name *Caraway* 2 Your social security number
 Home address (number and street or rural route)
 City or town, state, and ZIP code

4 Total number of allowances you are claiming 4
 5 Additional amount, if any, you want deducted from each pay 5 \$
 6 I claim exemption from withholding and I certify that I meet ALL of the following conditions for exemption:
 • Last year I had a right to a refund of ALL Federal income tax withheld because I had NO tax liability; AND
 • This year I expect a refund of ALL Federal income tax withheld because I expect to have NO tax liability; AND
 • This year if my income exceeds \$500 and includes nonwage income, another person cannot claim me as a dependent.
 If you meet all of the above conditions, enter the year effective and "EXEMPT" here 6 19
 7 Are you a full-time student? (Note: Full-time students are not automatically exempt.) 7 Yes No

Under penalties of perjury, I certify that I am entitled to the number of withholding allowances claimed on this certificate or entitled to claim the exempt status.
 Employee's signature *Caraway* Date *Sept. 23, 19 94*
 8 Employer's name and address (Employer: Complete 8 and 10 only if sending to IRS) OFFICE OF THE STATE CONTROLLER, RALEIGH, N.C. 27603-8003
 9 Office code (optional) 10 Employer identification number 56-6023166

Form **NC-4** **NORTH CAROLINA DEPARTMENT OF REVENUE
Employee's Withholding Allowance Certificate**

1 Type or print your first and middle initial Last name *Caraway* 2 Your social security number
 Home address (number and street or rural route)
 City or town, state, and ZIP code

4 Total number of allowances you are claiming 4
 5 Additional amount, if any, you want deducted from each pay 5 \$
 6 I claim exemption from withholding and I certify that I meet ALL of the following conditions for exemption:
 • Last year I had a right to a refund of ALL State income tax withheld because I had NO tax liability; AND
 • This year I expect a refund of ALL State income tax withheld because I expect to have NO tax liability.
 If claiming exempt, the statement is effective for one calendar year only and a new statement must be completed by next February 15 and given to your employer.
 If you meet all of the above conditions, the year effective and "EXEMPT" here 6 19
 7 Are you a full-time student? (Note: Full-time students are not automatically exempt.) 7

I certify, under penalties provided by law, that the withholding allowance on this certificate do not exceed the amount to which I am entitled.
 Employee's signature *Caraway* Date SAME AS ABOVE, 19
 8 Employer's name and address (Employer: Complete 8 and 9 only if sending to NCDR) SAME AS ABOVE
 9 Employer identification number 092-100081

MARION CORRECTIONAL INSTITUTION
3730

I hereby acknowledge receipt of a copy of Administrative Memorandum: 1.07.27-88 entitled "Conditions of Continued Employment."

I understand that it is my responsibility to become familiar with and abide by these policies.

Also, I understand that a complete copy of the Department of Correction Disciplinary and Grievance Policy and Procedures are posted in the Assembly room and are available for my review.

 Caseway Name (Print)

 Caseway Employee's Signature

9-23-94 Date

UPON COMPLETION, THIS FORM MUST BE RETURNED TO MCI PERSONNEL

REQUIREMENTS OF THE DIVISION OF PRISONS REGARDING THE ACCEPTANCE
OF COURT SUBPOENAS

I have read, understand, and have received a copy of the directive dated October 13, 1992 issued by the Division of Prison's Deputy Director for Operations regarding the requirements of the Division of Prisons regarding the acceptance of court subpoenas by staff. I understand that if I have further questions about these requirements, that I may contact my supervisor.

EMPLOYEE SIGNATURE: [REDACTED]

Caraway

PRINT NAME AS IT APPEARS ABOVE: [REDACTED]

Caraway

POSITION: [REDACTED]

DATE: 9-23-1994

DIVISION OF PRISONS POLICY ON GIFTS, FAVORS, HONORARIUMS AND SOLICITATION OF DONATIONS

It is the policy of the Division of Prisons to generally prohibit the acceptance or solicitation of gifts, favors or donations for personal use from individuals or other entities who are, or plan to be, conducting business with the Department of Correction. The details of this policy may be found in Department of Correction Administrative Memorandum 1.01.03-92. This rule applies to employees of the Division of Prisons and their immediate family.

The Department prohibits any employee from accepting honorariums for participating in activities while the employee is on duty. The Department prohibits employees who arrange or manage contracts from soliciting or accepting donations from any source, under any circumstances.

It is the responsibility of the employee to decline offers of gifts, favors, or honorariums. But in the event that refusal is unsuccessful and a gift, favor, or honorariums is received, the employee must report immediately in writing the facts of the matter to his/her supervisor.

Failure to comply with this policy will be considered unacceptable personal conduct as defined in the State Personnel Manual and subject to the sanctions contained therein.

I have read and understand this statement of the Department of Correction, Division of Prisons Policy on Gifts, Favors, Honorariums and Solicitation of Donations. I understand that specific details of the above rules are described in Department of Correction Administrative Memorandum 1.01.03-92.* If I have further questions about the policy, I understand that I may contact my supervisor or the Secretary's office directly.

*By signing below, I acknowledge receipt of a copy of this referenced memorandum.

EMPLOYEE SIGNATURE:

[Redacted Signature]

Caraway

PRINT NAME AS IT APPEARS ABOVE:

[Redacted Name]

Caraway

POSITION #:

[Redacted Position]

DATE:

9-23-94

1 Q. Okay. And any other positions before that?

2 A. No.

3 Q. Or in between the two?

4 A. Not for DPS.

5 Q. Okay. Yeah.

6 What are your, what are your responsibilities?

7 A. I oversee the benefits programs for the
8 department, which include insurance benefits, leave
9 benefits, retirement and disability benefits, as well as
10 leave of absence and separations.

11 Q. And what were your, what were your
12 responsibilities as disability -- was it Disability
13 Benefits Manager? Was that the previous position?

14 A. It was Disability and Retirement Program Manager.
15 And my responsibilities were to oversee the
16 retirement program for the agency, as well as the
17 disability benefits for the agency, and process disability
18 payments monthly for employees out on short-term
19 disability.

20 Q. Ms. Johnson, does the Department of Public Safety
21 offer health insurance to its employees?

22 A. Yes. Through the State Health Plan.

23 Q. Sorry -- you said through the State Health Plan?

24 A. Yes. Yes.

25 Q. And does DPS pay money into the State Health Plan

1 to contribute for its employees' health insurance premiums?

2 A. Yes. We pay a monthly employee, employer portion
3 for each employee.

4 Q. And how is the amount that DPS pays into the
5 State Health Plan each month determined?

6 A. The State Health Plan determines it each year and
7 provides it to us.

8 Q. And so DPS doesn't play a role in making that
9 determination. It's purely the State Health Plan, and DPS
10 just goes along with that.

11 Is that right?

12 A. Yes. That's correct.

13 Q. And so if the amount changes at any point, that
14 would all be determined by the State Health Plan?

15 A. Correct.

16 Q. Approximately how many DPS employees qualify for
17 health insurance through the State Health Plan?

18 A. We have about 21,000 employees.

19 Q. And all of them are on the State Health Plan?

20 There aren't any who don't qualify for insurance
21 or --

22 A. Well, depending on their hours worked, some
23 probably don't qualify, or some that have declined coverage
24 because they have other coverage.

25 Q. Right. Can you estimate of how many of those

1 21,000 employees would be on the State Health Plan?

2 A. I would say maybe about 18 or 19,000.

3 Q. And again approximately, how much does DPS pay
4 the State Health Plan each year in total for all these
5 employees?

6 A. We don't pay it directly, the Office of the State
7 Controller pays it. I can give you the monthly amount per
8 employee.

9 Q. Sure. That's fine.

10 A. It's 521.96 currently.

11 Q. And so just to make sure I'm understanding -- so
12 that's, it's 521 or so for each of those employees.

13 And that's for all of those employees who are on
14 the Health Plan, correct?

15 A. Correct. Yes.

16 Q. So if I were doing the math, I could just
17 multiply that by 18 or 19,000 and that would be the total?

18 A. Yes.

19 Q. Does the Department of Public Safety have any
20 control over the health insurance that its employees
21 receive?

22 A. No.

23 Q. Okay. And I'm actually going to pull up -- well,
24 I'm going to send another, put another exhibit into the
25 folder, if you'll bear with me for a minute.

1 would they have to ask a question about how to access the
2 website?

3 A. So, yeah, generally they would go to the HBR at
4 their facility to ask questions, for help.

5 There is no form. It has to be done through the
6 system.

7 But if they can't get up with the HBR, they would
8 reach out to the Insurance Section in our office.

9 Q. Okay. And HBR, is that Health Benefits
10 Representative?

11 A. Yes. It is.

12 Q. Does DPS offer any type of health insurance apart
13 from what is offered through the State Health Plan?

14 A. No.

15 Q. Are DPS employees required to sign up for health
16 insurance?

17 A. No.

18 Q. Does DPS provide insurance, health insurance for
19 employees' qualifying dependents?

20 A. Yes.

21 Q. And does DPS offer health insurance for anyone
22 other than the employees and their qualifying dependents?

23 A. No.

24 Q. I'm going to pull up another exhibit here.

25 MR. MAROLF: Give me one second, Alan.

1 to process those exception requests?

2 A. So if our Insurance Section determines that we
3 can submit an exception request, we type up that exception
4 request and submit it through an online form to the State
5 Health Plan.

6 And then the State Health Plan reviews that and
7 makes the final determination as to whether they'll
8 reinstate the coverage or not.

9 Q. And so that, that final determination is made by
10 the State Health Plan.

11 Is that right?

12 A. Yes. That's correct.

13 Q. I want to ask about the State Health Plan's
14 exclusion of coverage for gender confirming healthcare.

15 Does that exclusion apply to DPS employees?

16 A. Yes. It would apply, if it's a State Health Plan
17 exclusion, it would apply to anybody enrolled in the State
18 Health Plan.

19 Q. And does DPS have any control over whether that
20 exclusion remains in the Plan?

21 A. We do not.

22 Q. Does DPS have any control over any terms of the
23 Plan?

24 A. No. We do not.

25 Q. Has DPS ever received any complaints from

1 employees about the exclusion for gender confirming care?

2 A. Not to my knowledge. If we received complaints
3 about what is covered, we usually just direct them to the
4 State Health Plan at the number on their insurance card
5 because we don't have any control over the coverage terms.

6 Q. Have there ever been any communications between
7 DPS and Sergeant Dana Caraway regarding her insurance
8 coverage?

9 A. Not to my knowledge. It's possible, you know,
10 she reached out to someone else.

11 Q. But you're not aware of any?

12 A. I'm not. That doesn't ring a bell, but I deal
13 with several employees so it's possible.

14 Q. Has DPS had any communications with the State
15 Health Plan regarding the exclusion for gender confirming
16 healthcare?

17 A. No. Not to my knowledge.

18 MR. MAROLF: Alan, I think I'm getting close to
19 done.

20 Do you mind if we take a quick break so I can go
21 back over my notes?

22 MR. MCINNIS: Works for us.

23 MR. MAROLF: 10 minutes? Let's just say come
24 back at 10:25.

25 (Off the record)

1 A. No, no, not in the termination.

2 We just process the separation action in the
3 Integrated HR Payroll System.

4 Q. I understand. Who makes the decision to
5 terminate an employee at a correctional institution?

6 A. So to my knowledge, it would probably start with
7 the supervisor and then go up through the chain of command
8 through the warden and superintendent.

9 And then if it's a termination, they work with
10 the Employee Relations Section in Central HR.

11 Q. So where does the buck stop?

12 A. I believe the Employee Relations Section would
13 give that final approval to terminate somebody.

14 Q. And that's an office in DPS. Is that correct?

15 A. Yes. In the Central HR Office.

16 Q. And that, and that individual then reports up to
17 the deputy secretary of the department?

18 A. Correct.

19 Q. And what is the name of the current person in
20 charge of the Employee Relations Section?

21 A. Cassandra Harris-Skinner.

22 Q. Let me just repeat it so I make sure -- Cassandra
23 Harris-Skinner.

24 A. Yes. Harris, H-A-R-R-I-S-hyphen-Skinner.

25 Q. I thought that's what it was. But between Zoom

1 start date so that she could fill it out.

2 Q. And I -- just -- I include this question only to
3 make sure the record is clear -- the paperwork I have,
4 which I received from your office, identifies the
5 employee's name as Dowd Caraway.

6 Would you agree for purposes of this litigation,
7 this is paperwork for Sergeant Dana Caraway within Sergeant
8 Caraway's personnel file?

9 A. Yes. I agree with that.

10 Q. That way, that way I don't have to keep on
11 saying, you know, I didn't show you the right paperwork.

12 Now, is there a training or certification
13 requirement for corrections officers?

14 A. Yes. They go to a basic certification training.

15 Q. And who provides that training?

16 A. Department of Public Safety.

17 Q. And is that training required as a condition of
18 being a corrections officer or being employed as a
19 corrections officer in the state of North Carolina?

20 A. To my knowledge, they have to complete the
21 training. But while they're going through the training or
22 until they pass the training, they're still a corrections
23 officer.

24 Q. I understand. So -- I'm going to show you
25 another exhibit.

1 as a corrections officer by the department?

2 A. Not to my knowledge. I think if they lose that
3 certification, then they usually separate at that point.

4 Q. And you mentioned that Sergeant Caraway currently
5 works at the Foothills Correctional Institution or that's
6 -- we, we -- that's possible.

7 Do you know of any, Sergeant Caraway's other
8 employment stations since 1994?

9 A. Looking through the personnel file, I believe she
10 was at Alexander Correctional. That's the only one that
11 stands out to me.

12 Q. So how does the hiring process work for a
13 corrections officer?

14 A. I'm not, I'm not familiar with the hiring process
15 because that's done at the, at the facilities.

16 Q. So, so the hiring process is handled by each
17 individual DPS facility?

18 A. Yes. That's correct.

19 Q. And the facilities advertise that the job, that
20 they have a job available?

21 A. Correct.

22 Q. And then the facility staff review applications?

23 A. Yes. That's correct.

24 Q. And then do they send some sort of notice to you
25 at the HR Department that they have hired someone?

1 A. So the prison facilities each have a Regional
2 Employment Office. So they would send the hiring paperwork
3 to the Regional Employment Office. It's not sent to
4 Central HR.

5 Q. So -- and the Regional Employment Office is --
6 are they under -- it sounds like they're not under Central
7 HR?

8 A. They are. They report up through -- we have --
9 there's a manager in Central HR that oversees the different
10 Regional Employment Offices across the state.

11 Q. But the Regional Employment Office handles the
12 hiring paperwork.

13 Is that correct?

14 A. Yes. That's correct.

15 Q. All right. And when you mentioned the NCID and
16 the log-on to what used to be referred to as the Beacon
17 system, is that information that would be provided by the
18 Regional Employment Office at each facility?

19 A. So each facility has an NCID administrator. And
20 that person is who would assign the NCID.

21 Q. Now, you say the NCID administrator -- is that a
22 DPS job title?

23 A. It's not a job title. It's just an assignment
24 that was given to someone at the facility to take on that
25 role.

1 individuals other than the lieutenant that would supervise
2 a correctional sergeant?

3 A. No, not to my knowledge. I think it would be the
4 lieutenant. And there's captains above that as well.

5 Q. But do you supervise any correctional sergeants?

6 A. No. I do not.

7 Q. Would there -- are you aware of anyone other than
8 the correctional lieutenant who would supervise Sergeant
9 Caraway?

10 A. Not to my knowledge, no.

11 Q. If there were a decision to terminate Sergeant
12 Caraway -- and this is, this is about the process vis-à-vis
13 the department, not that I have knowledge that there's any
14 basis for termination for Sergeant Caraway -- but if there
15 were a decision to terminate Sergeant Caraway, how does
16 that process work?

17 Would that originate with the correctional
18 lieutenant?

19 A. Yes, with the supervisor.

20 Q. And then would be processed through layers of
21 supervision above that?

22 A. Yes. To my knowledge.

23 Q. Are corrections sergeants expected to have
24 assigned uniforms and equipment?

25 A. Yes.

1 Q. Who supplies the assigned uniforms?

2 A. Department of Public Safety.

3 Q. Are they the property of the Department of Public
4 Safety?

5 A. Yes.

6 Q. And corrections officers are expected to return
7 those uniforms at the end of their service?

8 A. Yes. That's correct.

9 Q. Are corrections officers supplied equipment that
10 they use in the performance of their duties?

11 A. Yes.

12 Q. What equipment are they supplied?

13 A. I'm not aware of the specific equipment.

14 Q. But is that equipment supplied by the Department
15 of Public Safety?

16 A. Yes.

17 Q. Are the officers allowed to bring in their own
18 equipment for use in a facility?

19 A. Not to my knowledge.

20 Q. And when an officer leaves the service of the
21 Department of Public Safety, are they expected to return
22 that equipment?

23 A. Yes.

24 Q. Where are employment records stored for DPS
25 employees?

1 I've seen corrections officers listed in certain
2 generally available state directories.

3 And I've seen other directories that take law
4 enforcement officials out of the general population.

5 You can find out how much the accountant at the
6 Department of Audits makes but not how much a corrections
7 officer makes.

8 Who monitors -- actually, I'm going to show you a
9 document because I just don't know what it is. And I'm
10 going to ask if you, if you know -- it's a document
11 produced by the department.

12 (Exhibit 6 is marked for identification.)

13 MR. KNEPPER: Good news -- this was uploaded
14 prior to the deposition. Otherwise, we would be waiting
15 for a very long time.

16 THE WITNESS: Okay.

17 BY MR. KNEPPER:

18 Q. Have you seen a record like this before, Ms.
19 Johnson?

20 A. I have not.

21 Q. So do you know -- do you have any knowledge of
22 what information is contained in this record?

23 I see, for example, Begin Date, Completion Date,
24 and Course Number, Unlawful Workplace Harassment (2 hours),
25 and then the Contact Hours, 2.

1 Do you, do you have any understanding of what that
2 might be in reference to or what that might describe?

3 A. Yeah. I would assume it's the training courses
4 that are required.

5 Q. And you said required. Required by whom?

6 A. The Department of Public Safety -- in most cases.
7 Some might be Criminal Justice stuff as well.

8 Q. Does the Department of Public Safety have its own
9 training requirements for employees?

10 A. Yes.

11 Q. And employees are expected to participate in
12 those trainings or be disciplined?

13 A. Yes.

14 Q. You haven't seen this particular printout for
15 Sergeant Caraway.

16 Is that correct?

17 A. Correct.

18 Q. I want to show you another document in a slightly
19 different format.

20 Again, I'm going to ask you if you've seen it and
21 what it is.

22 (Exhibit 7 is marked for identification.)

23 THE WITNESS: Okay.

24 BY MR. KNEPPER:

25 Q. Have you seen this document before, Ms. Johnson?

1 Secretary of DPS?

2 A. I think, I think he reports to -- well, currently
3 yes, because we have an interim secretary.

4 But I think there's somebody else that he reports
5 to, and then the secretary is above that person.

6 Q. You said that -- does Mr. Dail have a title other
7 than HR Director?

8 A. No.

9 Q. Does DPS have a secondary employment policy?

10 A. Yes. We do.

11 Q. What is the secondary employment policy?

12 A. Employees have to notify us prior to taking on
13 secondary employment.

14 They would complete a form and give it to their
15 supervisor. And then we would make sure there's no
16 conflict of interest prior to approving it.

17 Q. And if an employee -- well, let me just ask you
18 -- what happens if an employee takes a secondary employment
19 position without receiving approval from the department?

20 A. The department can take disciplinary action.

21 Q. You said they can take disciplinary action.

22 A. Okay.

23 Q. Are you aware of circumstances in which the
24 department has taken disciplinary action?

25 A. I'm sure they have. It just doesn't come up

1 A. No.

2 Q. But your role is to ensure that the employee
3 record system reflects that leave of absence?

4 A. Yes.

5 Q. And that while someone is on an unpaid leave of
6 absence, they're not paid?

7 A. Can you repeat that?

8 Q. And to make sure that when someone is on an
9 unpaid leave of absence, they're not paid?

10 A. That would be the facility's responsibility
11 because they're entering the time.

12 Q. Okay. Is the -- does the Department of Public
13 Safety employ Sergeant Caraway?

14 A. Yes -- to my knowledge.

15 Q. Does the State Health Plan employ Sergeant
16 Caraway?

17 A. Not that I'm aware of.

18 Q. Does the State Health Plan have the authority to
19 hire or fire Sergeant Caraway?

20 A. Not that I'm aware of.

21 Q. Does the State Health Plan have the authority to
22 supervise Sergeant Caraway?

23 A. Not that I'm aware of.

24 Q. Does the State Health Plan have the authority to
25 discipline Sergeant Caraway?

1 A. Not that I'm aware of.

2 Q. Does the State Health Plan furnish the equipment
3 or the place of work for Sergeant Caraway?

4 A. Not that I'm aware of.

5 Q. Does the State Health Plan have custody over
6 Sergeant Caraway's personnel file?

7 A. No. Not that I'm aware of.

8 Q. Your testimony is that Sergeant Caraway has
9 worked for the Department of Public Safety since 1994.

10 Is that correct?

11 A. Yes. I believe that's correct.

12 Q. So doing the math, is that 17 years of employment
13 with -- or I guess -- no, it's -- now I'm going to be
14 embarrassed by my math -- is that 27 years of employment
15 with the Department of Public Safety?

16 A. Yes. That's what I calculate.

17 Q. I first thought 17 and then I realized that I've
18 been out of high school a lot longer than 17 years. And
19 1994 isn't that far away from when I was in high school.

20 MR. MCINNIS: Time flies.

21 BY MR. KNEPPER:

22 Q. Does DPS provide corrections officers with formal
23 and informal training?

24 A. Yes.

25 Q. Does DPS track the training provided to its

1 employees?

2 A. Yes.

3 Q. Okay. You stated that Sergeant Caraway -- we've
4 established that Sergeant Caraway is a Corrections Sergeant
5 for the Department of Public Safety.

6 Is that correct?

7 A. Yes. That's correct.

8 Q. Is there a job description for a corrections
9 sergeant with the Department of Public Safety?

10 A. Yes. There should be.

11 Q. And who, who, who is responsible for establishing
12 that job description?

13 A. I'm not sure who creates them initially, but the
14 supervisor maintains them.

15 Q. So an employee of the Department of Public Safety
16 at Foothills Correctional Institution is responsible --

17 A. Yes. That's correct.

18 Q. -- is responsible for Sergeant Caraway's job
19 description?

20 A. Yes. That's correct.

21 Q. And to the best of your knowledge, Sergeant
22 Caraway only provides services to the Department of Public
23 Safety?

24 A. Yes -- to the best of my knowledge.

25 Q. And if Sergeant Caraway provided, had a second

1 employer, the department's policy is that he needed to or
2 she needed to get that approved prior to assuming that
3 second task or second job?

4 A. Yes. That's correct.

5 Q. And a failure to do so is a basis for discipline
6 by the Department of Public Safety?

7 A. Yes. That's correct.

8 MR. KNEPPER: Ms. Johnson, I think that's it.

9 I'm going to ask for a couple of minutes to take
10 a brief break, to make sure there's nothing else that I've
11 missed or forgotten.

12 MR. MCINNIS: John, before you do that, I have
13 just a couple of questions. Let me ask those in case you
14 have some follow-up to those.

15
16 EXAMINATION

17 BY MR. MCINNIS:

18 Q. Ms. Johnson, my name is Alan McInnis. I
19 represent the North Carolina Department of Public Safety in
20 this matter.

21 Let me -- Mr. Knepper asked you some questions
22 about -- if you could pull up Exhibit 6 again.

23 Okay. I'm sorry, I'm sorry. Go back to Exhibit
24 8, the last exhibit.

25 And he asked you some questions about some of the