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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

Christopher Fain, individually and on behalf of all
others similarly situated, et al.,

Plaintiffs,

vs. CIVIL ACTION NO. 3:20-cv-00740

William Crouch, et al.,

Defendants.

REMOTE DEPOSITION OF SECRETARY BILL J. CROUCH

DATE: March 17, 2022

TIME: 10:30 a.m. CST

PLACE: Veritext Virtual Videoconference

REPORTED BY: KELLEY E. ZILLES, RPR (Via Videoconference)

JOB NUMBER: 5096130

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1 SECRETARY BILL J. CROUCH,
 2 duly sworn, was examined and testified as follows:
 3 EXAMINATION
 4 BY MS. SCHLADT:
 5 Q. Good morning, Mr. Secretary. How are you doing
 6 today?
 7 A. I'm fine, thank you, Nicole.
 8 Q. Great. I think you figured out my name is
 9 Nicole Schladt, I use she/her pronouns, I'm an attorney
 10 at Nichols Kaster and I'll be the one handling this
 11 deposition today, so I appreciate you being here.
 12 A. Yes, ma'am.
 13 Q. I'm going to start out with a couple of ground
 14 rules, things we go through with everybody.
 15 Particularly now that depositions are happening
 16 virtually, there's a few more instructions that we have
 17 to go through, so bear with me while we do that.
 18 First of all, you're aware that this deposition
 19 is happening virtually and that means we're not in the
 20 same room, which is usually what happens during a
 21 deposition. So to the extent you have any documents in
 22 front of you that you're planning to refer to or you're
 23 looking at something on your computer for some reason or
 24 another, I just need to know if you're doing that, okay?
 25 A. Certainly.

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1 Q. And where are you today, Mr. Secretary?
 2 A. I'm in Charleston, West Virginia.
 3 Q. And where in Charleston, West Virginia are you?
 4 A. I'm in my office at One Davis Square,
 5 Charleston, West Virginia.
 6 Q. Great. And is there anybody in the same room as
 7 you this morning?
 8 A. There is not.
 9 Q. Great. In the event somebody enters your office
 10 for some reason and/or you end up not being by yourself
 11 in your office, if you can just let me know that too,
 12 since I'm not able to see really beyond your face.
 13 A. That would be great.
 14 Q. The other thing is that we may take a couple of
 15 breaks today, I know that this is a shorter window for a
 16 deposition than normal with the idea that it may start
 17 back over again tomorrow if we need to. That being
 18 said, I anticipate there being at least one or two
 19 breaks this morning, particularly if exhibits end up
 20 being introduced. That being said, if you need a break
 21 for any reason, if you need to run to the bathroom or
 22 something else, that's fine, if you could just let me
 23 know about that and I would be happy to take a break.
 24 The only thing that I ask is if there are any
 25 outstanding questions that I asked and that you haven't

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1 answered, that you answer those questions prior to us
 2 taking a break. Is that okay?
 3 A. Certainly, very good.
 4 Q. And then the other thing I'll say about virtual
 5 depositions is sometimes technology issues arise, so
 6 whether that be with your computer or my computer or
 7 anybody else's computer or Internet. If for any reason
 8 you're unable to hear me or hear somebody else who's
 9 speaking, if the court reporter can't hear you, you
 10 might end up seeing one of us waving at you trying to
 11 get your attention, or you're welcome to wave if there's
 12 an issue on your end, and that just means to stop what
 13 you're doing and we'll try and deal with whatever the
 14 issue is at that point. Does that sound fair?
 15 A. That's fair. Thank you.
 16 Q. Great. So, Mr. Secretary, have you ever been
 17 deposed before?
 18 A. Yes, I have.
 19 Q. How many times?
 20 A. Gosh, I'm not sure, I would say three or four
 21 maybe.
 22 Q. And when were those depositions?
 23 A. Oh, gosh. My memory is a little foggy over the
 24 past couple of years, but there was a court case that
 25 was dismissed in Federal Court probably two years ago

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1 was probably the last time.
 2 Q. And was that deposition taken or were you
 3 deposed on the basis that you were Secretary of West
 4 Virginia Department of Health and Human Resources at
 5 that time?
 6 A. Yes, that's right.
 7 Q. Have all of your depositions been in conjunction
 8 with your current position?
 9 A. I believe it was a deposition back when I was in
 10 the private sector and owner-operator of long-term care
 11 facilities.
 12 Q. Okay.
 13 A. So it's been many years, I don't recall the
 14 details actually.
 15 Q. Okay. So it sounds like depositions are not
 16 necessarily new to you, but perhaps the virtual version
 17 of them is, is that accurate?
 18 A. That's probably accurate, yes.
 19 Q. Okay. Great. So I'm going to handle a couple
 20 more rules related to depositions generally that you may
 21 already know given that you had your deposition taken
 22 before, but we'll go ahead and do it just in case.
 23 The first is that when I ask a question I'm
 24 looking typically for a verbal response even if it's a
 25 yes or no question. So occasionally people have, just

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1 like in normal conversation we have a tendency to use
 2 mm-hmm or huh-un to answer questions. If in the event
 3 you do that I may follow up and ask you for a yes or no,
 4 and that is likely not because I don't understand what
 5 you're saying, but because we just need to have a clear
 6 record. Is that fair?
 7 A. That is fair.
 8 Q. And then sometimes there's a tendency for people
 9 to talk over each other. It seems like this morning we
 10 aren't going to have a problem based on how things are
 11 going already this morning, but in the event we end up
 12 talking over each other on accident then I might have to
 13 repeat myself or Kelley here might have to jump in and
 14 get us, attempt to get us to stop talking over each
 15 other. Is that okay?
 16 A. Great.
 17 Q. Okay. And so that finishes up my ground rules
 18 here and I think we can launch into a couple of
 19 questions about your background. Mr. Secretary, can you
 20 state your full name for the record, please.
 21 A. Bill J. Crouch.
 22 Q. And is your first name William?
 23 A. No, it is not.
 24 Q. It's actually Bill?
 25 A. It is Bill.

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1 Q. Great. Glad that we established that. And, Mr.
 2 Secretary, do you use he/him pronouns?
 3 A. No, I do not.
 4 Q. What pronouns do you use?
 5 A. I've never been asked that. For me?
 6 Q. For you, yes. If I wanted to refer to you like
 7 Bill went to the store, instead of saying Bill, would I
 8 say he went to the store?
 9 A. Yes, that would be fine.
 10 Q. Great. Thanks. And you are the Cabinet
 11 Secretary of West Virginia Department of Health and
 12 Human Resources, is that correct?
 13 A. That is correct, yes.
 14 Q. How do you refer to the West Virginia Department
 15 of Health and Human Resources, because I know that's
 16 quite a mouthful?
 17 A. How do I refer to them?
 18 Q. Do you have a short terminology for that, like
 19 WVDHHR or DHHR?
 20 A. DHHR, yes.
 21 Q. Great. So if I use DHHR today, you'll know that
 22 I'm talking about the full West Virginia Department of
 23 Health and Human Resources?
 24 A. I will, yes.
 25 Q. Great. That will save us both a few words

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1 today.
 2 A. All right, good.
 3 Q. And you were appointed Cabinet Secretary in
 4 January 2017, is that right?
 5 A. That is correct, yes.
 6 Q. And you were appointed by Governor Jim Justice
 7 of West Virginia?
 8 A. That is correct.
 9 Q. And you held the position for a little over five
 10 years then, is that right?
 11 A. That is correct.
 12 Q. And, Mr. Secretary, what are your job duties as
 13 Cabinet Secretary of DHHR?
 14 A. DHHR is a provider of, of funds and services and
 15 a safety net for individuals, vulnerable individuals
 16 throughout the state. So we have a 7 and a half billion
 17 dollar budget, we have over 6,000 employees, we have
 18 over 150 programs. So I try to make sure that the
 19 funding that comes in from the federal government or
 20 through the state legislature is pushed out
 21 appropriately to those folks in communities who need
 22 those funds to provide services.
 23 We also provide some direct services such as CPS
 24 and APS, Child Protective Services and Adult Protective
 25 Services to those children and vulnerable adults who

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1 need protection, who need intervention at times. I also
 2 operate seven facilities in the state, one acute care
 3 facility, two psychiatric hospitals, and four long-term
 4 care facilities are operated out of DHHR. So it's a
 5 broad range of services. The Medicaid program is under
 6 DHHR, we have six bureaus, so provide quite a range of
 7 services for folks out there.
 8 Q. And you just mentioned that you have a
 9 \$6 billion budget, is that split between state and
 10 federal funding?
 11 A. It's a 7 and a half billion dollar budget, 6,000
 12 employees, and yes, that is split between state dollars
 13 and federal dollars. The majority of that is federal
 14 money coming in, I believe that's about 4 and a half
 15 billion to \$5 billion in federal funding.
 16 Q. Great.
 17 A. It's closer, probably closer to 5 and a half
 18 billion of that is federal dollars. The bulk of that
 19 comes through various programs in the federal
 20 government, CMS, SAMHSA, HRSA funding, so we get a
 21 variety of funds from a variety of sources. We actually
 22 have 154 different funding, federal funding streams that
 23 come into the Department.
 24 Q. Can you tell me what CMS stands for?
 25 A. Center for Medicare/Medicaid.

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1 Q. And how about you mentioned something, SAMHSA
 2 perhaps?
 3 A. SAMHSA is the, I actually have a huge document
 4 giving acronyms, sometimes I forget those, but SAMHSA is
 5 the, I'm trying to think of the actual name, but it's
 6 the organization at the federal level that provides
 7 funding for substance abuse disorder and for mental
 8 health services, I'll think of it in just a second, but
 9 that is the federal agency that provides funding for
 10 those services to states.
 11 Q. And did you also mention HRSA?
 12 A. Yes, that's Health Services Research
 13 Administration I believe that provides funding as well,
 14 a variety of different funding. They have historically
 15 handled more primary care type community services. And
 16 of course CMS provides funding for our hospitals through
 17 Medicaid funding.
 18 Q. And, Mr. Secretary, you yourself, what does your
 19 role look like in general with overseeing all of the
 20 programs that you just mentioned?
 21 A. My role -- and SAMHSA by the way is the
 22 Substance Abuse & Mental Health Services for the state,
 23 to clear that up. My role is going to be kind of being
 24 the conductor I guess of the orchestra, making sure that
 25 again that funding that comes into the state gets pushed

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1 out to those that need it. I've said this many times,
 2 funding that comes in from the federal government
 3 doesn't do anyone any good if it's sitting in
 4 Charleston, it needs to be pushed out to providers
 5 throughout the state to make sure they have the
 6 resources they need to provide the services, so try and
 7 do that.
 8 In terms of policy decision, policy decisions,
 9 that's always an issue for any Secretary at the Cabinet
 10 level to make sure that those decisions are made
 11 appropriately. From the standpoint of just management,
 12 making sure we coordinate and that we work together. We
 13 have just been through quite a, quite a tough couple of
 14 years here with this pandemic and we made sure that our
 15 bureaus worked together in terms of providing the
 16 resources we needed.
 17 If we had an epidemiologist, for example, in our
 18 Bureau of Behavioral Health, we had them work with the
 19 epidemiologist in the Bureau of Public Health so that we
 20 get the best outcomes we can with regard to getting
 21 people served, that's vaccinated for this pandemic or
 22 whether it's an issue related to EMS or local health
 23 services. So it's again making sure that we coordinate
 24 all of those activities.
 25 Q. And who do you report to?

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1 A. I report to the governor. Chief of staff for
 2 the governor of course is more often the individual that
 3 I communicate with with regard to issues that rise to
 4 that level.
 5 Q. And who is the chief of staff for the governor
 6 currently?
 7 A. Yeah, the chief of staff is Brian Abraham.
 8 Q. And who reports to you?
 9 A. Well, again, we have six bureaus. Those bureaus
 10 cover those ranges of services that I spoke of earlier.
 11 We have also probably I guess it's five office directors
 12 which includes our support services such as
 13 communication, legal services, MIS, legal, there's one
 14 more there somewhere, but the support services for all
 15 of DHHR.
 16 Q. What does MIS stand for?
 17 A. Management information services, that's our IT
 18 department.
 19 Q. And then I mentioned the six bureaus reporting
 20 to you. Are there heads of the bureaus that report to
 21 you or who are you interacting with from the bureaus?
 22 A. Those are commissioners, yes.
 23 Q. We'll get back to the bureaus in a moment, but I
 24 want to take a second here and talk about your previous
 25 experience. So is it true that prior to being appointed

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1 Cabinet Secretary of DHHR you worked for a consulting
 2 firm?
 3 A. Yes, mm-hmm.
 4 Q. And that consulting firm was Bill J. Crouch &
 5 Associates, Incorporated, is that right?
 6 A. That's correct, yes.
 7 Q. And that consulting firm was founded in 1987, is
 8 that right?
 9 A. Yes, mm-hmm. Actually did not become
 10 incorporated at that time, that was later, but I started
 11 the consulting business, actually, yes, it was 1987.
 12 It's been a long time ago, yeah.
 13 Q. And then you worked for approximately 30 years
 14 with your consulting firm and retired in July 2016, does
 15 that sound accurate?
 16 A. That's accurate, yes.
 17 Q. What was the position that you held with your
 18 consulting firm?
 19 A. I was the president of the firm.
 20 Q. And what were you consulting on, could you give
 21 me a little more information about what you did?
 22 A. Sure. I started the company and began
 23 consulting for hospitals primarily, some physicians,
 24 clinics, long-term care facilities. The bulk at least
 25 initially of the consulting was for certificate of need

<p style="text-align: right;">Page 18</p> <p>1 services primarily, but also related to, related to what 2 was called assistance with rights. West Virginia was 3 one of only two states that had a statutory requirement 4 for hospitals to get approval to increase rates, 5 Maryland was the other state, so we assisted hospitals 6 in preparing those rate applications and getting 7 approval from the state of West Virginia, it was called 8 at that time the Healthcare Cost Review Authority, to 9 increase their rates for services to payers. So those 10 are the two main lines of revenue.</p> <p>11 Initially we later expanded to doing some 12 lobbying, I hired someone who was a great lobbyist, so 13 kind of got into that line as well, did some management 14 services for hospitals in terms of skilled services and 15 other services, but primarily a healthcare consulting 16 company, had somewhat of a range of services we 17 provided.</p> <p>18 Q. And I will admit that I am not a healthcare 19 expert by any means, so I will likely ask you questions 20 throughout today that may seem basic, but I appreciate 21 you educating me. Can you let me know what certificate 22 of need services are?</p> <p>23 A. Certificate of need was a federal program that 24 started in I believe, let me get my dates straight here. 25 I believe it was 1974 to 1976 through a federal statute,</p>	<p style="text-align: right;">Page 20</p> <p>1 certificate of need. Many states have rolled that back 2 and do not provide that regulatory effort in their 3 states.</p> <p>4 Q. And what kind of state is West Virginia now?</p> <p>5 A. We still do have a much scaled down certificate 6 of need program in West Virginia.</p> <p>7 Q. And you mentioned that your consulting firm 8 later got into lobbying. What kind of lobbying did you 9 all do?</p> <p>10 A. Well, healthcare services. If we had a client 11 who was, for whatever reason wanted to look at modifying 12 the statute somewhere to benefit them, then they 13 contacted us and we utilized those services. We many 14 times just monitored what was going on for clients. We 15 had clients that were national clients that may have 16 owned three hospitals in the state, so they contracted 17 with us so that we monitored, we monitored statutory 18 changes or bills going through the session and kept them 19 apprised of those bills. So many times it was not 20 really lobbying for a specific bill as much as it was 21 monitoring for services.</p> <p>22 Q. And then I think you said this several times, 23 but it sounds like your clients were typically 24 healthcare providers, is that right?</p> <p>25 A. Oh, yes. Again, I said hospitals, physicians,</p>
<p style="text-align: right;">Page 19</p> <p>1 it was Public Law 93641, I'm not sure why I still 2 remember that, but it required all states to review the 3 increase in services or new services provided.</p> <p>4 The intent of that law was to reduce duplication 5 of services and contain costs in states because 6 healthcare costs at that time were growing exponentially 7 and the federal government of course through Medicare 8 and Medicaid pays a major share of those costs. So the 9 idea was to try to reduce costs through a state program, 10 a program in every state that was to monitor those 11 increases in costs, and not the cost I referred to 12 earlier in terms of hospital rates, but costs in terms 13 of services, costs in terms of technology.</p> <p>14 That was also a time when everyone was, new 15 technology was exploding and everyone wanted their own 16 MRI, everyone wanted their own PET scan, everyone at all 17 hospitals even small ones wanted to expand to the point 18 where there was a lot of duplication, a lot of excess 19 I'll say expansion that was seen as maybe unnecessary 20 and causing part of the increase in costs. So that was 21 where certificate of need came in.</p> <p>22 Later those states chose after several years, 23 some thought it worked, some thought it didn't, some 24 still think it works, some still think it doesn't, but 25 there are now about 32 states that actually still have</p>	<p style="text-align: right;">Page 21</p> <p>1 nursing homes, clinics. We were a healthcare consulting 2 company, yes.</p> <p>3 Q. Prior to starting your own consulting firm in 4 '87 is it true that you were the first executive 5 director of the West Virginia Healthcare Cost Review 6 Authority?</p> <p>7 A. Yes, I was.</p> <p>8 Q. And is it true that that is now called the West 9 Virginia Healthcare Authority, they took out a few 10 words?</p> <p>11 A. That is true.</p> <p>12 Q. And is it true that you worked there from 1983 13 to 1986?</p> <p>14 A. That is true.</p> <p>15 Q. It sounds like you talked about maybe some of 16 what you were doing as executive director of that 17 organization or authority as part of your consulting 18 work, but can you explain your job duties during your 19 time at the Healthcare Cost Review Authority?</p> <p>20 A. Certainly. The authority as I mentioned was 21 created -- well, actually, let me back up. There was 22 already a certificate of need program in West Virginia, 23 I don't recall the name of that, that transitioned to 24 the Healthcare Cost Review Authority when that was 25 created in 1983, Governor Rockefeller was the governor</p>

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1 at that time, and this agency took over the
 2 responsibility for certificate of need.
 3 It also was the agency that was given the
 4 responsibility to regulate hospitals rates, so that was
 5 the agency that received the applications from hospitals
 6 for rate increases. I was also given the responsibility
 7 for state health planning, so the state had that
 8 function as well in a different agency and that was
 9 folded into the Healthcare Cost Review Authority in
 10 1983. So those were the three primary functions of that
 11 agency.
 12 Q. And prior to that did you work at the Office of
 13 Community Health Services for the West Virginia
 14 Department of Health?
 15 A. I did, yes.
 16 Q. Is that immediately prior to working for the
 17 Healthcare Cost Review Authority?
 18 A. Yes.
 19 Q. And what dates did you work for the Office of
 20 Community Health Services?
 21 A. Gosh, I can't remember that.
 22 Q. I presume it ended in 1983 since that's when you
 23 started with the Healthcare Cost Review Authority, is
 24 that an accurate assumption?
 25 A. That is, yes.

Page 23

1 Q. And do you recall approximately how long you
 2 were there, are we talking about decades, are we talking
 3 about a couple of years?
 4 A. No, I think we're talking about five, six years.
 5 Q. As you can tell, I've done a little bit of
 6 research on your background, but here's where the dates
 7 started to loop me on the Internet.
 8 A. If that's really important to you I can track it
 9 down, but I don't have it off the top of my head.
 10 Q. That's okay for right now, we'll stick with your
 11 guess of about five or six years. While you were at the
 12 Office of Community Health Services were you the
 13 assistant director at one point?
 14 A. Yes, mm-hmm.
 15 Q. Were you always the assistant director while at
 16 that office?
 17 A. Of Community Health Services, I think so. I
 18 actually started out, and you probably already know
 19 this, in maternal and child health and was in charge of
 20 planning and statistics as I recall.
 21 Q. And maternal and child health, are you talking
 22 about that being within the West Virginia Department of
 23 Health or are you talking about your background prior to
 24 your involvement with the Department?
 25 A. No, it was with the Department of Health.

Page 24

1 Q. Okay. So you started out, that would have been
 2 before you were assistant director of the Office of
 3 Community Health Services, is that right?
 4 A. That's right, yes.
 5 Q. Okay. So when you were the assistant director
 6 of the Office of Community Health Services, what were
 7 your job duties in that role?
 8 A. Oh, gosh. As I recall it was a \$56 million
 9 budget, it included many of the local health services
 10 including public health, EMS, family planning. That's,
 11 that's about all I can remember now. But it was
 12 primarily those community programs that are still around
 13 for the most part, early periodic screening for
 14 children, those services are for the most part still
 15 around and we still fund those through federal dollars
 16 that come down from the feds.
 17 Q. And then you mentioned that prior to being
 18 involved in the Office of Community Health Services you
 19 actually started out in maternal and child health. Can
 20 you tell me what your job was in that respect?
 21 A. The initial responsibilities had to do with
 22 trying to make sure those services provided in maternal
 23 and child health were done at the appropriate level and
 24 made sure that those services were continued throughout
 25 the state.

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1 Statistics, the statistics part of that was
 2 trying to build a program that, not a program, but a way
 3 to make sure that data came up properly from counties
 4 and that we had good information to make decisions on.
 5 So it was a little bit of both there in terms of trying
 6 to make sure that we had good information moving forward
 7 and that we could make good decisions, probably one of
 8 the first experiences with data driven kind of
 9 decision-making and evidence based kind of decisions, so
 10 that was really the crux of it.
 11 Q. And so that role in maternal and child health,
 12 was that your first role or job in the healthcare
 13 specter or did you have additional work history prior to
 14 that role?
 15 A. I had additional work experience prior to that,
 16 yes.
 17 Q. Where were you working prior to being in the
 18 maternal and child health section of the Department of
 19 Health?
 20 A. Immediately prior to that I was, I think the
 21 title was at that time deputy or assistant director of
 22 the nuclear medicine department at the University of
 23 Tennessee Hospital in Knoxville, Tennessee. You're
 24 testing my memory here.
 25 Q. Do you recall what year that might have been

<p style="text-align: right;">Page 26</p> <p>1 that you were, or years that you were at UT Hospital?</p> <p>2 A. I do not. I was there several years as I</p> <p>3 recall, two or three years. It coincided with my, I'm</p> <p>4 sure you're going to get into education as well here, it</p> <p>5 coincided with getting my master's degree in public</p> <p>6 health at the University of Tennessee.</p> <p>7 Q. Okay. You saw where I was headed, so I'm going</p> <p>8 to ask you some questions about that. I'm actually, my</p> <p>9 family is from Knoxville, so I'm very familiar with UT,</p> <p>10 so fun to make that connection. Is your highest degree</p> <p>11 a master of public health from UT?</p> <p>12 A. It is, yes.</p> <p>13 Q. And do you recall your graduation date?</p> <p>14 A. No, I do not. '74, '75, I just don't have that</p> <p>15 off the top of my head, no.</p> <p>16 Q. And when you were taking classes or doing work</p> <p>17 for your master of public health from UT, did any</p> <p>18 classes or lectures or anything like that ever touch on</p> <p>19 transgender health?</p> <p>20 A. Not that I recall, no.</p> <p>21 Q. Prior to getting your master's and working at UT</p> <p>22 Hospital, did you have employment or were you in</p> <p>23 college, what happened before you got your master's?</p> <p>24 A. Probably would have been easier to start in the</p> <p>25 other direction.</p>	<p style="text-align: right;">Page 28</p> <p>1 at a local college, decided if I really wanted to get</p> <p>2 further in terms of healthcare, do more in terms of</p> <p>3 healthcare that I needed to go back to school. So I did</p> <p>4 that, went back to Winston-Salem, went to school at,</p> <p>5 gosh, I can't remember the name of the town, University</p> <p>6 of North Carolina at Greensboro and spent about a year</p> <p>7 and working at night in a nuclear medicine lab trying to</p> <p>8 get through school.</p> <p>9 I finally decided I could get a degree in</p> <p>10 healthcare administration I think is what the degree is</p> <p>11 in at Marshall College and so that I could quickly get</p> <p>12 to the master's program at the University of Tennessee.</p> <p>13 So worked in a lab part-time for about a year, it wasn't</p> <p>14 part-time, it was nights I think for about a year, then</p> <p>15 worked at the University of Tennessee while I worked my</p> <p>16 way through the master's program. So I think that kind</p> <p>17 of fills in the gaps for you.</p> <p>18 Q. Okay. Great. It does sound like it might have</p> <p>19 been easier to do it that way, so I appreciate you</p> <p>20 suggesting that. And I'm just curious, what is nuclear</p> <p>21 medicine? You've obviously dealt with it a lot over</p> <p>22 your life and I don't know what it is.</p> <p>23 A. I always thought I'd stay in it forever, I loved</p> <p>24 the program. It's simply a diagnostic and therapeutic</p> <p>25 tool in medicine that is used primarily for diagnosis of</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. I'm sorry.</p> <p>2 A. I was employed, and if you're going to keep</p> <p>3 going backwards, I'd just as soon start back and go</p> <p>4 forward, if that's okay.</p> <p>5 Q. Sure, let's do it that way.</p> <p>6 A. Yeah, so it's a little easier to put that</p> <p>7 together. I started out and went to school in x-ray</p> <p>8 technology, so that is, that was in Charleston, actually</p> <p>9 South Charleston, West Virginia. So I got, that was a</p> <p>10 two-year program, 24 months to get certified as an x-ray</p> <p>11 technologist.</p> <p>12 My plan had always been to go back to school</p> <p>13 further to get a nuclear medicine degree and I did that</p> <p>14 immediately following the two years in x-ray, did not</p> <p>15 practice x-ray technology, went to Bowman Gray as a part</p> <p>16 of, which is a part of Wake Forest University in</p> <p>17 Winston-Salem and went through the nuclear medicine</p> <p>18 program and got my degree in nuclear medicine</p> <p>19 technology, that was somewhere around '72 I think, '72,</p> <p>20 '73.</p> <p>21 I actually came back to West Virginia and</p> <p>22 worked, and took a position of director of the nuclear</p> <p>23 medicine program at CAMC, Charleston Area Medical Center</p> <p>24 here, and ran that program for about, oh, gosh, a year,</p> <p>25 a year and a half. I was taking additional classes here</p>	<p style="text-align: right;">Page 29</p> <p>1 lung scans, brain scans, bone scans to locate cancer or</p> <p>2 locate abnormalities in the body. It's also used for</p> <p>3 therapy.</p> <p>4 And to do the diagnostic part you inject</p> <p>5 radioactive material into individuals and then you image</p> <p>6 that and you tag, what they call tag that radioactive</p> <p>7 material to specific types of proteins or substances</p> <p>8 that go to certain places in the body. So if you tag it</p> <p>9 to a certain substance it will go to the bones, if you</p> <p>10 tag it to a certain molecule size, something that will</p> <p>11 block in, lodge in the capillaries in the lungs, then</p> <p>12 you can image the lungs, same kind of thing in the</p> <p>13 brain. So it's a very sophisticated way to diagnose</p> <p>14 folks who primarily have cancer, but not completely.</p> <p>15 And then the therapeutic part was mostly to do</p> <p>16 with cancer, inserting pellets, radioactive pellets for</p> <p>17 prostate cancer, for a while it was a good way to combat</p> <p>18 that disease. The thyroid was really ingesting oral</p> <p>19 pills and it destroyed the thyroid because you tagged</p> <p>20 the iodine and the thyroid takes up iodine. So again,</p> <p>21 without getting too technical, in fact, I've been out of</p> <p>22 the field so long I can't get too technical anymore, but</p> <p>23 it's a diagnostic therapeutic medical procedure that's</p> <p>24 very beneficial to physicians.</p> <p>25 Q. Got it. Thanks for explaining that. Now aside</p>

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1 from your education and your employment realm, are you
 2 on the board of directors of West Virginia Healthcare
 3 Association?
 4 A. No longer, no.
 5 Q. You were previously?
 6 A. I was, yes.
 7 Q. Do you recall what years you were on the board?
 8 A. No. It was during the time that I was in the
 9 long-term care business, I don't recall those dates.
 10 Q. So would that be during your consulting firm
 11 period?
 12 A. Yes.
 13 Q. Do you have any other current community
 14 involvement in organizations or associations that touch
 15 on healthcare?
 16 A. In my past?
 17 Q. Currently.
 18 A. Currently, no, I'm not -- well, I am on a great
 19 number of boards as a result of my position.
 20 Q. And can you give me some examples of the types
 21 of boards that you're on?
 22 A. Oh, gosh. WorkForce West Virginia, the
 23 Dangerous Animal Board which was inactive for a while,
 24 I'm now, that's now been reactivated. I really can't go
 25 through those. Many of those I have an individual who

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1 attends those in my place, I'm allowed to designate
 2 someone under the statute to do that who may be further
 3 down in the weeds on those issues than I am.
 4 Q. Okay. That's just fine. So I want to switch
 5 gears and ask you what your understanding is of the
 6 lawsuit that we're here to discuss today?
 7 A. I really have not been involved. We have a lot
 8 of lawsuits and I've really not been involved in this
 9 until recently until this, until this deposition came
 10 up. So it is my understanding that there is a lawsuit
 11 regarding an individual who wants to have transgender
 12 surgery, and I don't know much about the details of that
 13 frankly.
 14 Q. And what did you do to prepare for today's
 15 deposition?
 16 A. Had a meeting to talk a little bit about the
 17 case, again, the --
 18 MS. CYRUS: Let me place an objection on
 19 the record, Mr. Secretary. You're not, I don't believe
 20 you're being asked to testify about what you discussed
 21 to prepare to the extent it's with me and other counsel
 22 in the case. If you talked with others then you can
 23 offer that information. Sorry to interrupt.
 24 THE WITNESS: Yeah, no.
 25 A. Again, I have not had many discussions about

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1 this, so I really don't have much knowledge about this,
 2 but I'm happy to answer any questions you have.
 3 Q. Mr. Secretary, so you had just mentioned you had
 4 a meeting to talk about the case. Was that meeting with
 5 Ms. Cyrus or Ms. Bandy? I don't want to know what was
 6 said during that meeting, if so.
 7 A. All she told me to do was tell the truth, so.
 8 But I, I'm not sure, I don't think Ms. Bandy was in
 9 there. I'm not sure what you're asking, asking me about
 10 my meeting to prepare for this, is that what you're
 11 asking?
 12 Q. That's right. So you mentioned that you had a
 13 meeting to prepare, I'm just trying to figure out if
 14 that was a meeting with counsel or who was that meeting
 15 with?
 16 A. Primarily the meeting was with the commissioner
 17 of Bureau of Medical Services and Ms. Cyrus was there.
 18 Q. To be clear, that was Commissioner Beane?
 19 A. That's correct, yes.
 20 Q. Was there anybody else at that meeting?
 21 A. Our general counsel, April Robertson.
 22 Q. Did you go to any other meetings prior to this
 23 deposition to prepare for the deposition?
 24 A. I did not, no.
 25 Q. Did you review any documents in preparation for

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1 this deposition?
 2 A. I think there was one, there was one, yes.
 3 Q. And what document did you look at to prepare?
 4 A. It was a flyer from HHS regarding Office for
 5 Civil Rights.
 6 Q. And how long did you prepare for this
 7 deposition?
 8 A. An hour.
 9 Q. So just the length of the meeting then?
 10 A. Correct, yes. I did read the flyer after that,
 11 so an hour and five minutes.
 12 Q. And then have you talked to anyone else about
 13 this case?
 14 A. I have not, no, not that I recall.
 15 Q. Okay. It hasn't been quite an hour, but I think
 16 we're at a pretty good point for me to take our first
 17 break. I think it will be pretty short, unless you have
 18 a need for a longer break, Mr. Secretary. So I'm
 19 thinking that maybe we take a ten-minute break and come
 20 back at about 11:25 or 26. Does that sound okay to
 21 everybody?
 22 A. That's fine. I'm ready to push through as fast
 23 as anyone wants to push, so no problem.
 24 Q. We'll try to do that, Mr. Secretary, but let's
 25 go ahead and take a ten-minute break now and then we'll

<p style="text-align: right;">Page 34</p> <p>1 come back and get started again.</p> <p>2 A. Thank you.</p> <p>3 (A break was taken at 11:16 a.m.)</p> <p>4 BY MS. SCHLADT:</p> <p>5 Q. I want to start with some questions following up</p> <p>6 on some of the testimony you already gave, Mr.</p> <p>7 Secretary, and specifically I'm interested in going</p> <p>8 through the five bureaus of DHHR. So to make this go</p> <p>9 faster and to aid memory, although you likely already</p> <p>10 have these memorized, I'm going to read all five out as</p> <p>11 far as I understand them and you can let me know if they</p> <p>12 sound accurate, okay?</p> <p>13 A. Certainly.</p> <p>14 Q. So the five bureaus under DHHR are the Bureau</p> <p>15 for Behavioral Health & Health Facilities, the Bureau</p> <p>16 for Child Support Enforcement, the Bureau for Children &</p> <p>17 Families, the Bureau for Public Health, and the Bureau</p> <p>18 for Medical Services, is that correct?</p> <p>19 A. No, not exactly.</p> <p>20 Q. Good thing I asked.</p> <p>21 A. Yeah, there have been some changes to that. The</p> <p>22 Bureau for Behavioral Health now stands alone, the</p> <p>23 facilities have been pulled out of those, out of that</p> <p>24 bureau and operate directly from my office, so that's</p> <p>25 changed. And then the Bureau of Children & Families was</p>	<p style="text-align: right;">Page 36</p> <p>1 operates from your office. What does that work</p> <p>2 encompass?</p> <p>3 A. It's the Office of Health Facilities which are</p> <p>4 the seven facilities I referred to earlier.</p> <p>5 Q. And the Bureau for Child Support Enforcement,</p> <p>6 what is encompassed in that Bureau's work?</p> <p>7 A. Exactly what you would imagine. They make sure</p> <p>8 that child support is provided where ordered, where</p> <p>9 Court Ordered and where required and make sure that in</p> <p>10 terms of hearings that go on throughout the state that</p> <p>11 we have attorneys out there that make sure that the</p> <p>12 process is facilitated and child support is paid timely.</p> <p>13 Q. How about the Bureau of Social Services?</p> <p>14 A. Bureau of Social Services, again which was</p> <p>15 previously part of the Bureau of Children & Families,</p> <p>16 handles those support services for families including</p> <p>17 child daycare programs for children, but also the SNAP</p> <p>18 program that comes through the federal government. Most</p> <p>19 of those programs, many of those programs are funded</p> <p>20 directly through the federal government, but this</p> <p>21 program helps to coordinate that funding and push it</p> <p>22 out.</p> <p>23 Q. What does the Bureau of Family Assistance do?</p> <p>24 A. I think that's the one you just asked me.</p> <p>25 Q. Well, I just asked about the Bureau of Social</p>
<p style="text-align: right;">Page 35</p> <p>1 actually split, is still in the process of being</p> <p>2 finalized, but was split to the Bureau of Social</p> <p>3 Services and the Bureau of Family Assistance, so there</p> <p>4 are really six now.</p> <p>5 Q. Okay. So it was split to the Bureau of Social</p> <p>6 Services and the Bureau of Family Assistance, is that</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. I'd like to quickly go through each of</p> <p>10 these and just learn high level a little bit about what</p> <p>11 each bureau does, if that's okay. So the Bureau for</p> <p>12 Behavioral Health, what is encompassed by that Bureau's</p> <p>13 work?</p> <p>14 A. That's the Bureau that primarily pushes those</p> <p>15 federal dollars for mental health services throughout</p> <p>16 the state. So that is a program that focuses on</p> <p>17 supporting our regional behavioral health centers,</p> <p>18 comprehensive behavioral health centers throughout the</p> <p>19 state and make sure that all of those providers out</p> <p>20 there that receive funding, whether they're group homes</p> <p>21 for IDD patients or for forensic individuals who have</p> <p>22 come through the court system, forensic patients receive</p> <p>23 that funding and that they operate the way they should.</p> <p>24 Q. And you mentioned that the Health Facilities</p> <p>25 aspect of what the Bureau was formerly called now</p>	<p style="text-align: right;">Page 37</p> <p>1 Services.</p> <p>2 A. Oh, I'm sorry, I misunderstood you, I'm sorry.</p> <p>3 Bureau of Social Services is the CPS and APS programs</p> <p>4 primarily in the state, Child Protective Services and</p> <p>5 Adult Protective Services, that's their primary focus,</p> <p>6 the Child Welfare Program for West Virginia.</p> <p>7 Q. And just to be clear, I think this is what you</p> <p>8 mean, but when you had answered my previous question</p> <p>9 about the Bureau of Social Services, your answer</p> <p>10 referred to the Bureau of Family Assistance, is that</p> <p>11 correct?</p> <p>12 A. That is correct, yes. I apologize, sorry.</p> <p>13 Q. Oh, no problem. Glad we got that cleared up.</p> <p>14 And how about the Bureau of Public Health, what does its</p> <p>15 work encompass?</p> <p>16 A. Well, that is as you might imagine. The public</p> <p>17 health program throughout the state of West Virginia,</p> <p>18 local health departments, also has emergency medical</p> <p>19 services, those programs that operate at the local</p> <p>20 level, immunization, that's where the bulk of our</p> <p>21 epidemiologists are, those are the folks that have</p> <p>22 worked so hard the last couple of years trying to help</p> <p>23 us get through this pandemic.</p> <p>24 Q. And finally the last one I believe, unless you</p> <p>25 tell me otherwise, is the Bureau for Medical Services,</p>

<p style="text-align: right;">Page 38</p> <p>1 is that right?</p> <p>2 A. That's correct.</p> <p>3 Q. And what does their work encompass?</p> <p>4 A. That's the Medicaid agency for the state of West</p> <p>5 Virginia that really makes sure that those federal</p> <p>6 Medicaid dollars are spent according to CMS guidelines</p> <p>7 and requirements.</p> <p>8 Q. Okay. Thanks for running through those with me</p> <p>9 quickly. I think the bulk of our conversation for the</p> <p>10 rest of the day will be focused on the Bureau for</p> <p>11 Medical Services and DHHR more generally, but to the</p> <p>12 extent any answers of yours moving forward need to</p> <p>13 reference other Bureaus, if you could just let me know</p> <p>14 that you're talking about those, that will be helpful,</p> <p>15 okay?</p> <p>16 A. Certainly.</p> <p>17 Q. So transitioning to your role as Cabinet</p> <p>18 Secretary of DHHR, how would you describe your role in</p> <p>19 determining and/or offering healthcare coverage to West</p> <p>20 Virginia Medicaid participants?</p> <p>21 A. I try to tell all our commissioners they should</p> <p>22 run their programs. I'm not a micromanager, but I</p> <p>23 certainly have to make sure that things are being done</p> <p>24 in an appropriate way, in a proper manner. I mean, part</p> <p>25 of the role is making sure that every program we have,</p>	<p style="text-align: right;">Page 40</p> <p>1 A. A variety, yes.</p> <p>2 Q. Okay. But you do call her and you do email her,</p> <p>3 is that right?</p> <p>4 A. Sure, certainly.</p> <p>5 Q. So as far as your role in relation to the</p> <p>6 Medicaid program, I understand that West Virginia Code</p> <p>7 Section 929(a)(1) states that, "The Cabinet Secretary is</p> <p>8 responsible for developing a managed care system to</p> <p>9 monitor the services provided by the Medicaid program to</p> <p>10 individual clients." Does that sound accurate to you</p> <p>11 based on what you know?</p> <p>12 A. Yes, there are a great number of places in the</p> <p>13 statute where the Secretary has the overall authority,</p> <p>14 certainly.</p> <p>15 Q. And what does developing a managed care system</p> <p>16 to monitor services provided by the Medicaid program,</p> <p>17 what does that look like practically for you in your</p> <p>18 role?</p> <p>19 A. Well, we did that several years ago, I don't</p> <p>20 think we've redid that for a while, and usually in state</p> <p>21 government a very large contract like that gets bid out,</p> <p>22 we accept proposals, go through a very fairly elaborate</p> <p>23 process to make sure that those decisions are made in</p> <p>24 the best interest of the state, best interest of the</p> <p>25 people of West Virginia. So we want to make sure that</p>
<p style="text-align: right;">Page 39</p> <p>1 not just Bureau of Medical Services, meets the</p> <p>2 requirements and the mandates under the federal</p> <p>3 guidelines. So if we don't do that we jeopardize</p> <p>4 funding coming from the feds, so that's one of the</p> <p>5 primary reasons is making sure that our commissioners</p> <p>6 are staying focused on that. But I'm not a</p> <p>7 micromanager, I tell them all that, they should run</p> <p>8 their programs.</p> <p>9 Q. And how often do you interact with Commissioner</p> <p>10 Beane during your day-to-day?</p> <p>11 A. Day-to-day, it varies. We just finished up a</p> <p>12 legislative session, so it may be a little bit more.</p> <p>13 But weekly, I have a weekly meeting of commissioners and</p> <p>14 office directors, and that's gotten cancelled quite a</p> <p>15 few times these last few weeks, but that's probably been</p> <p>16 the most interaction I have with any commissioner,</p> <p>17 unless there's a problem.</p> <p>18 I have been communicating probably once or twice</p> <p>19 a week with Commissioner Beane over a couple of issues</p> <p>20 that have popped up, but once a week is probably,</p> <p>21 probably even a little bit more than, probably once a</p> <p>22 week maybe on average.</p> <p>23 Q. And when you are communicating with her is that</p> <p>24 typically via email or phone or a variety of ways of</p> <p>25 communicating?</p>	<p style="text-align: right;">Page 41</p> <p>1 we get applicants who can provide those services in a</p> <p>2 very adequate way and provide quality services to our</p> <p>3 residents, we're serving hundreds of thousands of people</p> <p>4 in West Virginia through that program.</p> <p>5 As I recall, it's been several years since we</p> <p>6 have rebid that, there's usually a bidding process that</p> <p>7 allows for renewals on those bids. So the issue of the</p> <p>8 MCO's and what they do is left to the commissioner for</p> <p>9 the most part. I was certainly part of the process</p> <p>10 before and was comfortable that we did that in the right</p> <p>11 way.</p> <p>12 Q. So when you say you rebid that, are you</p> <p>13 referring to calling for bids from managed care</p> <p>14 organizations or MCO's to help administer the Medicaid</p> <p>15 program?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And another --</p> <p>18 A. Well, let me, if I can. When you say administer</p> <p>19 the Medicaid program, that's the commissioner, that's</p> <p>20 the state function. So the MCO's really make sure that</p> <p>21 the services are provided to the clients out there. So</p> <p>22 when you said MCO's oversee, maybe I misheard you,</p> <p>23 oversee the Medicaid, the administration, that's really</p> <p>24 the Bureau and the commissioner.</p> <p>25 Q. Okay. I appreciate that clarification. I may</p>

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1 I have misspoke, and either way it's good to have that on
 2 the record. So West Virginia Code Section 926 Sub 12
 3 states that, "The Cabinet Secretary is authorized to
 4 prepare and submit state plans which meet the
 5 requirements of federal laws, rules governing federal
 6 state assistance." Does that sound accurate as one of
 7 your job roles as Cabinet Secretary?
 8 A. That sounds accurate, yes.
 9 Q. And what does that particular piece look like
 10 practically for you in your role, preparing and
 11 submitting state plans which meet the requirements of
 12 federal law?
 13 A. Well, again, that's a function of the
 14 commissioner and her staff. The changes we've made to
 15 the state plan through state plan amendments, they of
 16 course run through me and I give an ultimate sign-off on
 17 those, but those state plan amendments and changes are
 18 done at the Bureau itself, not directly here at the
 19 Cabinet Office. I'm not trying to say that it's not my
 20 responsibility, under the statute I certainly have to
 21 review those and make sure I agree with those.
 22 Q. And how often are those state plans prepared and
 23 submitted?
 24 A. Not too often. We made a couple of changes in
 25 the last year or two because of COVID in terms of how we

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1 do things, one for emergency medical services, I believe
 2 another may have been for long-term care facilities, but
 3 we don't make state plan amendments too often.
 4 Q. And then you're responsible for preparing
 5 recommendations to be submitted to the Joint Committee
 6 on Government & Finance, is that accurate?
 7 A. That's probably accurate, yes.
 8 Q. And in developing these recommendations at least
 9 according to West Virginia Code Section 929 Sub B Sub 1,
 10 "The Cabinet Secretary may review Medicaid services
 11 which are optional under federal Medicaid law and
 12 identify services to be retained, reduced or
 13 eliminated," does that sound right?
 14 A. That sounds right. I don't recall that, but
 15 I'll take your word for it.
 16 Q. What is that process of preparing
 17 recommendations to be submitted to the Joint Committee,
 18 what does that look like practically for you in your
 19 role?
 20 A. Gosh, I don't recall actually doing that. I
 21 think the practical approach to that has been more along
 22 the lines of responding to requests for information from
 23 LCRA and working with their staff in terms of agreeing
 24 on here's a subject we'd like to present or discuss with
 25 LCRA or the staff of LCRA saying we have a member who's

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1 interested in information along these lines. So it's
 2 been a very cooperative relationship with regard to the
 3 staff at the capitol, staff of legislature who staff
 4 LCRA in developing an agenda ahead of time, having the
 5 appropriate people present to present and provide
 6 information to LCRA.
 7 Q. And what is LCRA?
 8 A. LCRA is the Joint Committee, I'll think of that
 9 acronym in a minute, on the Health and Human Resources,
 10 oversight of, legislative oversight of Health and Human
 11 Resources I believe.
 12 Q. And is that the same Joint Committee as the
 13 Joint Committee on Government & Finance or are those
 14 separate committees?
 15 A. They're separate, that is a separate body.
 16 Q. So who makes up LCRA?
 17 A. LCRA is the, I believe the co-chairs are the
 18 chairs of House Health, the House Health Committee and
 19 the Senate Health Committee. And then the membership of
 20 that committee, you would have to ask someone else how
 21 that's determined.
 22 Q. Okay. And then what is the Joint Committee on
 23 Government & Finance then?
 24 A. That is a committee that involves the senate
 25 president and the speaker of the house who I believe

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1 co-chair that committee. And again, you would have to
 2 refer to someone else in terms of how that committee is
 3 named, who names. I assume it's the speaker and the
 4 senate president who name the members of that committee.
 5 Q. Do you have any idea how many members are on the
 6 committee?
 7 A. Joint Government Finance if I recall is, and I
 8 don't have that answer, but it's somewhere around 12 to
 9 14, 12 or 14 people.
 10 Q. Okay. Are you a member of that committee?
 11 A. No. This is a legislative committee, only
 12 legislators as I understand it are on those committees.
 13 Q. Understood. But your office and you as Cabinet
 14 Secretary, you are entitled and under statute allowed to
 15 provide recommendations related to Medicaid services to
 16 that committee, is that correct?
 17 A. I would assume that's true. Again, I don't
 18 recall that language, but I'll take your word for it.
 19 Q. Have you ever submitted recommendations to the
 20 Joint Government & Finance Committee?
 21 A. Joint Government & Finance, no. Again, I think
 22 it's more along the lines, as I mentioned, with LCRA in
 23 terms of the relationship being, developing an agenda
 24 for their interim meetings and making sure folks are
 25 prepared to testify at those committees from DHHR.

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1 Q. Okay. So it sounds like if recommendations to a
 2 legislative committee are happening to one of those
 3 committees, it's most likely to be LCRA, is that
 4 correct?
 5 A. Yes, probably so, yes.
 6 Q. Okay. And have you ever recommended either to
 7 the Joint Government & Finance Committee or to LCRA that
 8 Medicaid begin covering a form of care that has
 9 previously been excluded?
 10 A. No, not that I, no, I have not.
 11 Q. Okay. What do you know about how the West
 12 Virginia Medicaid program is administered?
 13 A. What do I know? That's pretty broad. I'm not
 14 sure how to answer that. Again, I defer to
 15 commissioners to run their programs, but that's, that's,
 16 I'm not sure what you're asking.
 17 Q. I agree, that was a broad question, so let me
 18 try and get at something else. Could you describe for
 19 me in your own words how West Virginia Medicaid
 20 administers its program using MCO's or otherwise?
 21 A. How we administer the program. Well, again, we
 22 have, we have managed care organizations who are
 23 responsible for providing those services and making sure
 24 that our Medicaid clinics throughout the state get the
 25 services they need according to those Medicaid services

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1 that are mandated and optional as a part of our state
 2 plan. We are not involved in those negotiations with
 3 the MCO's and the providers they contract with. We have
 4 a legal requirement to let them operate their programs
 5 in terms of services, but they must provide the rate of
 6 services mandated. So our role is to make sure that the
 7 federal money, and it's a lot of money that comes in,
 8 goes back out to those providers and that services are
 9 paid for and that services are provided.
 10 Q. And I understand that you've testified several
 11 times that you try not to micromanage your
 12 commissioners' work. Do you provide support of any kind
 13 to the commissioners?
 14 MS. CYRUS: Object to the form of the
 15 question. But you can answer.
 16 A. Oh, sure. I mean, if any time a commissioner
 17 wants to discuss their program, and I have had, and I'll
 18 mention again, things over the last couple of years have
 19 been a little bit in disarray because of this pandemic,
 20 but prior to that, and we ended up stopping these
 21 meetings probably last year, I did have a meeting a week
 22 with each commissioner so that we could discuss what
 23 their issues were with regard to their program, I call
 24 them hot button issues.
 25 I'm doing that now with a weekly meeting with

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1 all the commissioners. So we go through kind of like
 2 this, a Zoom meeting where we talk about with everyone
 3 on the screen what are your hot buttons, what are your
 4 issues, what do we need to discuss, is there anything I
 5 can do to help, do you need any support in terms of
 6 through decisions one way or the other. And again,
 7 we're dealing with a couple of those. We have providers
 8 who want increases in payment and so we're talking those
 9 through. We have issues with regard to delivery of
 10 services at the local health level. We have issues
 11 related to EMS services, so trying to assist with those
 12 depending on who the commissioner is.
 13 So it's not that I'm totally hands-off, but I
 14 let the commissioners tell me what their issues are,
 15 their hot button issues are and what we need to discuss
 16 and where I can provide support. So I hope that helps a
 17 little.
 18 Q. It does. Thank you. As far as MCO's that help
 19 provide services or connect patients with services
 20 through West Virginia Medicaid, I know of several that
 21 I'm going to read, and if you know of any additional
 22 ones, could you let me know?
 23 A. And what are these again, I'm sorry, I had
 24 something pop up on my screen, I missed the very first
 25 part of what you said.

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1 Q. No problem. MCO's, I'm just trying to get an
 2 idea of the MCO structure.
 3 A. Okay.
 4 Q. So I know of Mountain Health Trust, UniCare
 5 Health Plan of West Virginia, Incorporated, The Health
 6 Plan, Aetna Better Health of West Virginia, and then I'm
 7 not sure if this counts as an MCO or not, but The
 8 Rational Drug Therapy Program. Have I missed any MCO's
 9 or is there anything about those that you wouldn't
 10 describe them as MCO's, for example?
 11 A. I don't believe the last one you mentioned is an
 12 actual MCO, but that sounds like a pretty good list. I
 13 can't recall any others at this point.
 14 Q. Okay. And then just so that I'm clear, I think
 15 you testified to this already, but the Medicaid program
 16 through Commissioner Beane and the DHHR, they have a
 17 process of bidding by which these MCO's are chosen and
 18 then the MCO's provide the services to the patients
 19 based on the Medicaid programs, guidelines of what's
 20 covered or not, does that sound accurate?
 21 A. That sounds accurate, yes.
 22 Q. Okay. What is DHHR's role in establishing
 23 eligibility standards for Medicaid providers?
 24 A. Eligibility standards. I'm not sure, I'm not
 25 sure what you mean by that, eligibility standards.

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1 Q. So does DHHR have any role in establishing
 2 whether Medicaid providers may provide services or are
 3 eligible to provide services through the Medicaid
 4 program?
 5 A. Well, the eligibility goes to the individuals,
 6 so that's perhaps why I'm confused. Individuals are
 7 determined to be eligible for Medicaid services and
 8 there are criteria for that. The MCO's provide those
 9 services based upon what are required services and what
 10 services that we will pay for according to our state
 11 plan. So I'm not sure exactly, you mixed eligibility
 12 with MCO's and I just, I'm not sure I followed that.
 13 Q. Sorry for the confusion. I think we can move on
 14 and I'll follow back up if I need to later. So moving
 15 to a different topic. Do you have any role in
 16 monitoring compliance with the Medicaid Act?
 17 A. Compliance with the Medicaid Act. That would be
 18 primarily the responsibility of the commissioner.
 19 Certainly I would be brought into that if something is
 20 pointed out to me to be out of compliance.
 21 Q. Does the commissioner monitor compliance with
 22 the Medicaid Act?
 23 A. I would assume so.
 24 Q. Do you have any --
 25 A. I'm just not sure of that question either. I'd

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1 need to see the Medicaid Act itself. But that's a
 2 question for Commissioner Beane.
 3 Q. Okay. Do you have any role in monitoring
 4 compliance with the Patient Protection and Affordable
 5 Care Act?
 6 A. No, I don't believe so.
 7 Q. Does Commissioner Beane have any role in
 8 monitoring compliance with the Patient Protection and
 9 Affordable Care Act?
 10 A. I wouldn't think so, that would seem to me to be
 11 through the insurance commissioner of, the West Virginia
 12 insurance commissioner.
 13 Q. So moving forward I'm going to be referring to a
 14 couple of things that I'd like to define quickly, or at
 15 least come to some agreement on what my terminology
 16 means. So I'm going to be asking some questions about
 17 gender confirming care, and to the extent you talked
 18 about this lawsuit, you may have heard about that
 19 already. When I use the terminology gender confirming
 20 care, I'm referring to medical treatment that
 21 transgender people need for the purpose of treating
 22 gender dysphoria. So if I use gender confirming care
 23 during this deposition, will you understand what I mean?
 24 A. I think so, yes. Can you say that one more
 25 time, I want to make sure I'm consistent with your

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1 understanding of that.
 2 Q. Sure. So my definition of gender confirming
 3 care for the purpose of this deposition is medical
 4 treatment that transgender people need for the purpose
 5 of treating gender dysphoria.
 6 A. All right.
 7 MS. CYRUS: I'm just going to place an
 8 objection on the record to the extent that I think
 9 experts can disagree as to what, as seen by the experts
 10 and probably plaintiffs and defendants in this case, as
 11 to what medical care is necessary for treating gender
 12 dysphoria. But you can answer the questions.
 13 A. And I would add, I'm not sure, I'd ask you to
 14 repeat that because I'm not sure I'm qualified to answer
 15 that question. I'm happy to hear your question.
 16 Q. Sure. So what I'm trying to say is that when I
 17 refer to gender confirming care today moving forward,
 18 that is the definition that I am using. So does that,
 19 will you at least understand what I mean by gender
 20 confirming care when I use it moving forward?
 21 A. I think I do understand your meaning, yes.
 22 Q. And then if I refer generally to exclusions of
 23 coverage for gender confirming care in the West Virginia
 24 Medicaid plan as the exclusion, will you know what I
 25 mean?

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1 A. I think so, yes.
 2 Q. What do you know about the exclusion?
 3 A. I didn't know much until recently. Again, this
 4 had not been brought to my attention, I was not aware
 5 there was an exclusion. I do understand now after our
 6 folks did some digging trying to see what that exclusion
 7 was or when that exclusion took place, it was well
 8 before my tenure began in this position. So I do
 9 understand that surgery is excluded. Is that what
 10 you're referring to?
 11 Q. Sure. So the exclusion I'm referring to is the
 12 exclusion of gender confirming care as I've described
 13 it. You just referenced this, but it sounds, I'll just
 14 ask, do you know how the exclusion was developed?
 15 A. I do not, I do not.
 16 Q. Do you have any understanding of when it was
 17 developed?
 18 A. I was told it was somewhere around 2004, 2006,
 19 somewhere in that era. No one seems to know any more
 20 detail than that, I certainly don't know any more detail
 21 than that.
 22 Q. Do you know why the exclusion is maintained
 23 today?
 24 A. I do not.
 25 Q. Why don't West Virginia Medicaid health plans

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1 cover gender confirming care?
 2 A. You're using gender confirming care, again, are
 3 you referring to the surgery?
 4 MS. CYRUS: I'm going to object to the form
 5 of the question, I think it asks him to assume facts
 6 that are not in evidence and that in fact are contrary
 7 to the evidence. Secretary, you can answer if you are
 8 able to.
 9 A. Ask the question again then.
 10 Q. I'll ask the question again. Why don't West
 11 Virginia Medicaid health plans cover surgery to
 12 transgender people based on a diagnosis of gender
 13 dysphoria?
 14 A. Again, this just came to my attention in terms
 15 of an exclusion. So we have a great number of needs out
 16 there, I don't know that I can answer any better than
 17 that, we have a lot of folks who would like to have a
 18 lot of services covered. But again, I was not even
 19 aware that this was excluded.
 20 Q. So I just want to attempt to clarify my
 21 definition of gender confirming care to the extent it's
 22 going to make questioning moving forward a little more
 23 difficult.
 24 MS. SCHLADT: So I believe, Lou Ann, your
 25 objections here are related to an assumption that my

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1 definition includes a judgment about medical necessity.
 2 And I'm asking us to set aside that judgment about
 3 medical necessity or not and would like to refer to
 4 gender confirming care, to use that terminology to refer
 5 to treatment that transgender people are seeking on the
 6 basis of confirming their gender, and that does include
 7 surgical care that is excluded by the Medicaid plan.
 8 Does that make sense?
 9 MS. CYRUS: Sure. But it's my
 10 understanding, just for clarification, when you use the
 11 term gender confirming care you will be referring to any
 12 and all care that might be necessary, including
 13 hormones, therapy, surgery, or other medical procedures,
 14 is that correct?
 15 MS. SCHLADT: So I'm attempting to use
 16 gender confirming care to refer to care that transgender
 17 people need based on their diagnosis of gender
 18 dysphoria, and specifically that does include things
 19 like surgery or mental health counseling or hormone
 20 care, et cetera.
 21 MS. CYRUS: Okay. I think we're on the
 22 same page.
 23 BY MS. SCHLADT:
 24 Q. Does that make sense to you, Mr. Secretary?
 25 A. Yes, I think so.

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1 Q. Okay. Sorry about that, I think it's good for
 2 us all to be on the same page though. Do you believe
 3 excluding gender confirming care from West Virginia's
 4 Medicaid plans to the extent it is excluded is in
 5 compliance with federal law?
 6 MS. CYRUS: Object, calls for a legal
 7 conclusion. But if you know, you can answer.
 8 A. My understanding, we have a set of mandatory
 9 required services according to CMS and we provide all of
 10 the services that are mandatory under CMS through the
 11 Medicaid program, they're required.
 12 We have a huge number of services that are not
 13 required, hearing aids, eyeglasses are good examples of
 14 services that are not required but are seen by many to
 15 be necessary in terms of their health. So we provide
 16 all the mandatory.
 17 We have additional services we provide,
 18 primarily through waiver programs for our IDD
 19 population, for our aged population. So we provide
 20 everything that's required under Medicaid and some
 21 optional programs that through the years, long, long
 22 period of time years, have been developed as a part of
 23 the West Virginia state plan. So I hope that answers
 24 your question.
 25 Q. Do you view gender confirming care as optional

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1 under federal Medicaid law?
 2 MS. CYRUS: That calls for a legal
 3 conclusion. But you can answer.
 4 A. Yeah, that's where I go back to your definition.
 5 My understanding is we do provide hormone therapy, we
 6 provide some services. I think what's excluded is
 7 surgery. So that's why your definition confuses me a
 8 little bit in terms of covering more than just surgery
 9 in a range of those services. So we meet all the
 10 Medicaid requirements, we meet the requirements under
 11 CMS, but surgery is excluded as I understand it and not
 12 one of the, not one of the transgender services that we
 13 do provide.
 14 Q. So do you view surgical gender confirming care
 15 as optional under federal Medicaid law?
 16 MS. CYRUS: Object, calls for a legal
 17 conclusion and also calls for a medical conclusion. But
 18 if you know, you can answer.
 19 A. Do you want to repeat the question again.
 20 Q. Do you view surgical gender confirming care as
 21 optional under federal Medicaid law?
 22 MS. CYRUS: Same objection. But you can
 23 answer.
 24 A. My understanding is that is not a mandated
 25 service under Medicaid according to CMS. If CMS

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1 requires a mandated service, we provide it; and if they
 2 change their criteria and mandate another service
 3 regardless of what that would be, we would provide that
 4 service. We would, we would never risk losing all of
 5 our Medicaid dollars by not providing mandatory
 6 services.
 7 Q. You mentioned earlier that West Virginia
 8 Medicaid covers some optional services beyond what CMS
 9 mandates, is that correct?
 10 A. That is correct.
 11 Q. Can you describe those optional services that
 12 are covered by West Virginia Medicaid?
 13 A. I haven't looked at a list of those for some
 14 time, but I can give you a couple of examples, if that's
 15 okay. We have intellectually developmentally
 16 disability, disabled population in the state that we do
 17 provide waiver services for through Medicaid. So we,
 18 these are individuals who are profoundly in need of
 19 care, many cannot feed themselves, many are disabled to
 20 the point that they can't, they're not ambulatory, they
 21 may be not bedbound necessarily, but in a wheelchair,
 22 customized wheelchair. The expectation is that those
 23 individuals be in the community and can, and can receive
 24 the care that lets them live their life to the fullest
 25 that they can. So they need a lot of that assistance.

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1 So we, and I don't know when that program was
 2 started, we've had waiting lists for individuals trying
 3 to get on that program for years. One time the waiting
 4 list was over 200 people. We've been trying to get more
 5 services out for those folks. So that's one of the best
 6 examples.
 7 We also have a waiver for our aged and disabled
 8 population, elderly individuals who may not be able to
 9 leave their home and may need services. And again, I
 10 don't know, by the way, when that program started, these
 11 all started before my tenure. So those have been
 12 developed over the years as the budget permits.
 13 The Medicaid budget is, it's, we are always
 14 concerned about the Medicaid budget. We project those
 15 budgets out to six years, we have a huge concern that in
 16 the next couple of years we're going to be in the red in
 17 that budget. The federal match for Medicaid is about
 18 two years behind, there's a lag period in terms of where
 19 that match is. And that match is simply 76.25 percent
 20 or 76.75 percent, which just means we pull down more
 21 federal money with the matching dollars. And I tell
 22 folks to think of that, and you probably understand
 23 this, it's just a 3 to 1 match roughly, but it can mean
 24 millions and millions and millions of dollars if it
 25 changes a quarter of a percent.

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1 So we're looking to possibly be in the red as I
 2 recall in 2024, which the lag is because the number
 3 changes, the match changes depending upon how the state
 4 does. If the state is doing well economically, and West
 5 Virginia is doing well right now, then the match goes
 6 down because the federal approach to this is you're
 7 going to need less money if the state is doing well
 8 financially. So we're looking at a very difficult time
 9 here I'm afraid in the next few years. The governor has
 10 said our budget will be flat for the next three years,
 11 we will not increase our budget. So I have concerns
 12 about the Medicaid budget right now, we're going to work
 13 through that as we need to.
 14 But back to the issue of additional services.
 15 I'm very concerned in terms of the budget adding to the
 16 Medicaid budget at this point for anything. It's a
 17 difficult time looking forward with regard to Medicaid,
 18 although again, the states still want financially.
 19 Q. You mentioned waiver services in your last
 20 answer, what are those?
 21 A. Those are optional Medicaid services. I'm
 22 sorry, maybe I wasn't clear on that. When you asked
 23 what those optional services were, those waiver, what we
 24 call waiver services are optional services that are not
 25 required under the Medicaid program.

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1 So the required Medicaid services we cover
 2 without question, and again, would not jeopardize our
 3 federal dollars by not providing all of the mandatory
 4 services. All states provide some optional services and
 5 have developed their own optional services over the
 6 years based upon the needs in the state. Usually that
 7 goes to the numbers and the severity of the issue with
 8 regard to medical conditions as I've seen it.
 9 Q. And then I want to go back to I know we had a
 10 lot of discussion about gender confirming care and what
 11 West Virginia Medicaid covers or not. Just to be clear,
 12 you do cover hormone therapy for gender confirming care,
 13 is that correct?
 14 A. That is my understanding, yes, mm-hmm.
 15 Q. Okay. Thank you. Has any discussion of gender
 16 confirming care, hormone therapy, surgical care or
 17 otherwise ever come up in your weekly meetings with the
 18 commissioners?
 19 A. Not that I recall.
 20 Q. Has that topic ever come up in your
 21 recommendations to LCRA or to the Joint Committee on
 22 Government & Finance?
 23 A. Not to my recall, no.
 24 Q. Do you know why hormone therapy is no longer
 25 excluded from coverage as of 2017?

<p style="text-align: right;">Page 62</p> <p>1 A. Why it is no longer excluded? I do not know 2 when it began to be covered and do not know, I don't 3 have an answer to that. My understanding is it is 4 covered. 5 Q. Okay. I'll represent to you that my 6 understanding is that it was excluded from coverage 7 prior to 2017. Do you have any idea or knowledge of why 8 that exclusion no longer exists? 9 A. No, I do not. 10 Q. Do you know how many of your West Virginia 11 Medicaid health plan participants are transgender? 12 A. No, I do not. 13 Q. Have you ever spoken with a transgender plan 14 participant? 15 A. No, not to my knowledge. 16 Q. Have you ever spoken with a medical provider who 17 provides gender confirming care in West Virginia? 18 A. No, I have not. 19 Q. Do you know how many of your health plan 20 participants have submitted one or more claims with a 21 diagnosis code for gender dysphoria or gender 22 incongruence? 23 A. No, I do not. 24 Q. Would it surprise you to learn that in 2020 602 25 members have submitted claims for those two diagnosis</p>	<p style="text-align: right;">Page 64</p> <p>1 A. No, I have not. 2 Q. Have you ever consulted with an expert on care 3 for transgender people? 4 A. No, I have not. 5 Q. Are you aware of any research or analysis within 6 the Department regarding providing access to gender 7 confirming care for West Virginia Medicaid participants? 8 A. No, I am not. 9 Q. Have you had any internal discussions with staff 10 about the issue of gender confirming care? 11 A. About the issue? 12 Q. Mm-hmm. 13 A. Only with the commissioner in preparation for 14 this deposition. 15 Q. Okay. Have you ever spoken with representatives 16 of any other Medicaid program about gender confirming 17 care? 18 A. No, I have not. 19 Q. Have you personally conducted any research about 20 the cost of providing gender confirming care? 21 A. No, I have not. 22 Q. Are you aware of any research within the 23 Department regarding the cost of providing gender 24 confirming care? 25 A. No, I am not.</p>
<p style="text-align: right;">Page 63</p> <p>1 codes? 2 MS. CYRUS: I'm going to object to the form 3 of the question, I think that may misrepresent what the 4 data reflects. However, you can accept that and answer 5 the question. 6 A. Would I be surprised, no, no. 7 Q. Why not? 8 A. I'm not sure I have an answer to that. We have 9 500,000 Medicaid recipients, actually there are more 10 than that on the rolls right now because of COVID and 11 the, I don't want to say waiver, but the process of 12 keeping people on and giving them access to Medicaid 13 through this pandemic, but I think we have a little over 14 500,000 kind of active Medicaid participants, so that's 15 a relatively small number in terms of the total. 16 Q. Have you personally conducted any research or 17 analysis regarding providing access to gender confirming 18 care for West Virginia Medicaid participants? 19 A. No, I have not. 20 Q. Have you spoken to anyone about this care? 21 A. No, I have not. 22 Q. Have you ever researched this type of care in 23 the medical literature? 24 A. No, I have not. 25 Q. How about other kinds of literature?</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. Have you done any other work with respect to 2 this issue of gender confirming care beyond what I just 3 asked about? 4 A. No, I have not. 5 Q. Have you been involved in any litigation or 6 complaints related to the denial of gender confirming 7 care other than this case? 8 A. No, I have not been. 9 Q. Has the Department? 10 MS. CYRUS: I'm going to object to the form 11 of the question. If you know you can answer. 12 A. I don't think so. I think I would have known 13 about that and been involved in that, but I don't recall 14 any, no. 15 Q. Are you aware of legislation or lobbying 16 surrounding the exclusion or coverage for medical care 17 for trans people? 18 A. No, I am not. 19 Q. Have you personally conducted any research or 20 analysis regarding the legality of the exclusion? 21 A. No, I have not. 22 Q. Are you aware of any research or analysis within 23 the Department regarding the legality of the exclusion? 24 A. No, I'm not. 25 Q. Okay. I'm going to switch gears here a little</p>

<p style="text-align: right;">Page 66</p> <p>1 dramatically and ask you about your relationship with 2 the governor's office since you mentioned that you 3 report to the governor, correct? 4 A. Correct. 5 Q. So I assume, but I will ask anyway, do you 6 communicate with Governor Justice in your role as 7 Cabinet Secretary? 8 A. Yes. 9 Q. Have you ever spoken with Governor Justice about 10 the exclusion? 11 A. No. 12 Q. Have you ever spoken with him about gender 13 confirming care in general? 14 A. No. 15 Q. Have you ever spoken with Governor Justice or 16 anybody in his office about transgender people in other 17 contexts? 18 A. No. 19 Q. Mr. Secretary, I think we should take another 20 break for about ten minutes. I don't think we have a 21 whole lot left here, so hopefully you'll be out of here 22 today and we won't have to come back tomorrow. So if 23 you could give me ten minutes to just confirm that that 24 will be the case and you can run to the bathroom or do 25 whatever else you need to do. Does that sound okay?</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. Thank you. Just a handful of questions about 2 documents. Have you ever emailed anybody about the 3 exclusion? 4 A. Not to my recollection, no, I'm sure I've not. 5 Q. Have you ever emailed anybody about gender 6 confirming care? 7 A. No, I have not. 8 Q. And you mentioned that you looked at a flyer 9 from HHS Office of Civil Rights, do you recall that 10 testimony? 11 A. Yes, I do. 12 Q. What was, what was on that flyer? 13 A. And I will be honest, I just skimmed that. I 14 get so many of these things, I have huge stacks of these 15 things, I don't review all of those carefully. I did 16 skim this, it had to do with notice, and I'm reading 17 actually, notice and guidance on gender affirming care, 18 civil rights and patient privacy. 19 Q. Are you reading from the document itself? 20 A. I am, yes. 21 MS. SCHLADT: Lou Ann, has that document 22 been produced to us? 23 MS. CYRUS: Yes, Nicole, it was an exhibit 24 to Sarah Young's deposition last week by plaintiffs. 25 MS. SCHLADT: Do you know the exhibit</p>
<p style="text-align: right;">Page 67</p> <p>1 A. That sounds great. Thank you. 2 Q. Okay. Great. 3 MS. SCHLADT: I'll see everybody back here 4 at about, let's go ahead and make it 12:30, which is 5 1:30 I believe Eastern time, let's come back in about 6 15 minutes at 1:30 and hopefully we can wrap this up 7 quickly, okay? 8 THE WITNESS: Thank you. 9 MS. CYRUS: Sounds good. Thank you. 10 (A break was taken at 12:16 p.m.) 11 BY MS. SCHLADT: 12 Q. Mr. Secretary, I have just a few more questions 13 at this point. One of them is a clarifying question 14 about something we already talked about. So your 15 position is that West Virginia Medicaid covers some 16 gender confirming care including hormones, is that 17 correct? 18 A. That's correct. 19 Q. And is that care covered through the West 20 Virginia Medicaid program or is that a waiver service? 21 A. I believe that's covered. Actually, I'm not 22 sure I can answer that. I don't have, I have never 23 looked at that, I don't know. 24 Q. Who would be able to answer that? 25 A. Cindy Beane, Cynthia Beane, Commissioner Beane.</p>	<p style="text-align: right;">Page 69</p> <p>1 number offhand? 2 MS. CYRUS: You know, I might be able to 3 find it here. Let's see. 4 MS. SCHLADT: That's okay, Lou Ann, I won't 5 ask any further questions about that. We can follow up 6 after this deposition. Thanks. 7 BY MS. SCHLADT: 8 Q. Mr. Secretary, do you believe that everyone has 9 a right to be treated fairly under the law regardless of 10 the color of their skin? 11 A. Yes, I do. 12 Q. And that they have a right to not be 13 discriminated against? 14 A. Yes. 15 Q. And you believe that extends to people not being 16 discriminated against because of their transgender, 17 right? 18 A. Yeah, I do not believe anyone should be 19 discriminated against at all, yes. 20 Q. Thank you, Mr. Secretary. That wraps up my 21 questions for now. In the event there's any additional 22 questions, I reserve the right to ask questions 23 following those, but otherwise I appreciate your time 24 and am done for the time being. 25 A. You're very welcome. Thank you.</p>

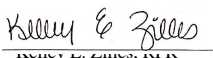
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1 MR. SALYERS: No questions from me, thanks.
 2 MS. CYRUS: I don't have any questions and
 3 he will read.
 4 MS. SCHLADT: Great. That keeps us from
 5 coming back tomorrow, which I'm sure you're happy about,
 6 Mr. Secretary, and everybody else is as well. Thanks
 7 for attending today and glad we could get it done
 8 quickly.
 9 THE WITNESS: Thank you.
 10 (Proceedings concluded for the day at
 11 12:35 p.m., 03-17-2022)
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1 Veritext Legal Solutions
 2 1100 Superior Ave
 3 Suite 1820
 4 Cleveland, Ohio 44114
 5 Phone: 216-523-1313
 6
 7 March 31, 2022
 8 To: Ms. Cyrus
 9
 10 Case Name: Fain, Christopher Et Al. v. Crouch, William Et Al.
 11 Veritext Reference Number: 5096130
 12
 13 Witness: Secretary Bill J. Crouch Deposition Date: 3/17/2022
 14
 15 Dear Sir/Madam:
 16
 17 Enclosed please find a deposition transcript. Please have the witness
 18 review the transcript and note any changes or corrections on the
 19 included errata sheet, indicating the page, line number, change, and
 20 the reason for the change. Have the witness' signature notarized and
 21 forward the completed page(s) back to us at the Production address
 22 shown
 23 above, or email to production-midwest@veritext.com.
 24
 25 If the errata is not returned within thirty days of your receipt of
 this letter, the reading and signing will be deemed waived.
 Sincerely,
 Production Department
 NO NOTARY REQUIRED IN CA

Page 71

1 REPORTER'S CERTIFICATE
 2
 3
 4 STATE OF MINNESOTA)
) ss.
 COUNTY OF WASHINGTON)
 5
 6 I hereby certify that I reported the Zoom deposition
 of Secretary Bill J. Crouch on the 17th day of March
 7 2022, and that the witness was by me first duly sworn to
 tell the whole truth;
 8
 9 That the testimony was transcribed by me and is a
 true record of the testimony of the witness;
 10 That the cost of the original has been charged to
 the party who noticed the deposition, and that all
 11 parties who ordered copies have been charged at the same
 rate for such copies;
 12
 13 That I am not a relative or employee or attorney or
 counsel of any of the parties, or a relative or employee
 of such attorney or counsel;
 14
 15 That I am not financially interested in the action
 and have no contract with the parties, attorneys, or
 persons with an interest in the action that affects or
 16 has a substantial tendency to affect my impartiality;
 17 That the right to read and sign the deposition by
 the witness was reserved.
 18
 19 WITNESS MY HAND AND SEAL THIS 17th day of March
 20 2022.
 21
 22
 23 
 24 _____
 Notary Public, Washington County, Minnesota
 My commission expires 1-31-2025
 25

Page 73

1 DEPOSITION REVIEW
 2 CERTIFICATION OF WITNESS
 3
 4 ASSIGNMENT REFERENCE NO: 5096130
 CASE NAME: Fain, Christopher Et Al. v. Crouch, William Et Al.
 DATE OF DEPOSITION: 3/17/2022
 WITNESS' NAME: Secretary Bill J. Crouch
 5 In accordance with the Rules of Civil
 Procedure, I have read the entire transcript of
 6 my testimony or it has been read to me.
 7 I have made no changes to the testimony
 as transcribed by the court reporter.
 8
 9 _____
 Date Secretary Bill J. Crouch
 10 Sworn to and subscribed before me, a
 Notary Public in and for the State and County,
 11 the referenced witness did personally appear
 and acknowledge that:
 12
 13 They have read the transcript;
 They signed the foregoing Sworn
 Statement; and
 14 Their execution of this Statement is of
 their free act and deed.
 15
 16 I have affixed my name and official seal
 this ____ day of _____, 20____.
 17
 18 _____
 Notary Public
 19
 20 _____
 Commission Expiration Date
 21
 22
 23
 24
 25

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1 DEPOSITION REVIEW
CERTIFICATION OF WITNESS

2

3 ASSIGNMENT REFERENCE NO: 5096130
CASE NAME: Fain, Christopher Et Al. v. Crouch, William Et Al.
DATE OF DEPOSITION: 3/17/2022

4 WITNESS' NAME: Secretary Bill J. Crouch

5 In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
6 my testimony or it has been read to me.

7 I have listed my changes on the attached
Errata Sheet, listing page and line numbers as
8 well as the reason(s) for the change(s).

9 I request that these changes be entered
as part of the record of my testimony.

10

11 I have executed the Errata Sheet, as well
as this Certificate, and request and authorize
that both be appended to the transcript of my
12 testimony and be incorporated therein.

13 _____
Date Secretary Bill J. Crouch

14

15 Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
16 and acknowledge that:

17 They have read the transcript;
They have listed all of their corrections
18 in the appended Errata Sheet;
They signed the foregoing Sworn
19 Statement; and
Their execution of this Statement is of
20 their free act and deed.

21 I have affixed my name and official seal
22 this ____ day of _____, 20 ____.

23 _____
Notary Public

24

25 _____
Commission Expiration Date

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1 ERRATA SHEET
VERITEXT LEGAL SOLUTIONS MIDWEST

2 ASSIGNMENT NO: 5096130

3 PAGE/LINE(S) / CHANGE /REASON

4 _____

5 _____

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16 _____

17 _____

18 _____

19 _____

20 _____
Date Secretary Bill J. Crouch

21 SUBSCRIBED AND SWORN TO BEFORE ME THIS _____

22 DAY OF _____, 20 ____ .

23 _____
Notary Public

24

25 _____
Commission Expiration Date

[& - administered]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1,

2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES

OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 5096130
CASE NAME: Fain, Christopher Et Al. v. Crouch, William Et Al.
DATE OF DEPOSITION: 3/17/2022

WITNESS' NAME: Secretary Bill J. Crouch

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

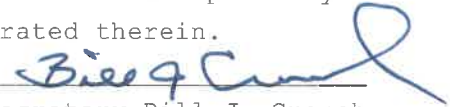
I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

April 26, 2022

Date


Secretary Bill J. Crouch

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

- They have read the transcript;
- They have listed all of their corrections in the appended Errata Sheet;
- They signed the foregoing Sworn Statement; and
- Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal this 26th day of April, 20 2022.





OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
G Elizabeth Jarrett
2744 Daniels Avenue
South Charleston WV 25303
My Commission Expires June 13, 2026
Commission Expiration Date

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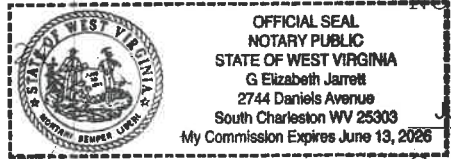
ERRATA SHEET
VERITEXT LEGAL SOLUTIONS MIDWEST
ASSIGNMENT NO: 5096130

PAGE/LINE (S) /	CHANGE	/REASON
Page 18 / Line 1	rates (not rights)	Wrong word
Page 19 / Line 1	93-641	Hyphen needed
Page 28 / Line 11	Mars Hill College (not Marshall)	Wrong word
Page 40 / Line 20	re-bid (not redid)	Wrong word
Page 43 / Line 23	LOCHHRA (Not LCRA)	Incorrect acronym
Page 43 / Line 25	LOCHHRA " "	" "
Page 44 / Lines 4, 6, 7, 8, 16, 17	LOCHHRA " "	" "
Page 45 / Line 22	LOCHHRA " "	" "
Page 46 / Lines 3 & 7	LOCHHRA " "	" "
Page 46 / Line 24	recipients (not clinics)	Wrong word
Page 60 / Line 18	well (not want)	Wrong word
Page 61 / Line 21	LOCHHRA	Incorrect acronym

April 26, 2022 _____
Date Secretary Bill J. Crouch

SUBSCRIBED AND SWORN TO BEFORE ME THIS 26th
DAY OF April, 2022.

Notary Public



June 13, 2026
Commission Expiration Date