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13 **IN THE UNITED STATES DISTRICT COURT**
14 **FOR THE DISTRICT OF ARIZONA**

15 D.H., by and through his mother, Janice
16 Hennessy-Waller; and John Doe, by his
17 guardian and next friend, Susan Doe, on
18 behalf of themselves and all others
19 similarly situated,

18 Plaintiffs,

19 vs.

20 Jami Snyder, Director of the Arizona
21 Health Care Cost Containment System, in
22 her official capacity,

22 Defendant.

No. 4:20-cv-00335-SHR

**PLAINTIFFS' NOTICE OF
DEPOSITION OF THE ARIZONA
HEALTH CARE COST
CONTAINMENT SYSTEM
PURSUANT TO FED. RULE OF CIV.
PROC. 30(B)(6)**

Date: July 19, 2021
Location: Perkins Coie LLP
2901 N. Central Ave, Ste 2000
Phoenix, AZ 85012-2788

24 PROPOUNDING PARTY: Plaintiffs D.H. and John Doe

25
26 RESPONDING PARTY: Defendant Jami Snyder, in her official capacity as Director of
27 the Arizona Health Care Cost Containment System
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1 Pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiffs D.H
2 and John Doe (collectively, the “Named Plaintiffs”), on behalf of themselves and the
3 class they seek to represent (the “Proposed Class”), through undersigned counsel, hereby
4 request that Defendant Jamie Snyder, in her official capacity as Director of the Arizona
5 Health Care Cost Containment System (“Defendant” or “AHCCCS”) designate one or
6 more officers, directors, or managing agents, or other persons who consent to testify on
7 AHCCCS’s behalf on the topics listed below. The persons designated must testify about
8 information known or reasonably available to the organization. Please let us know at
9 your earliest convenience your availability to confer about the matters for examination.

11 DEFINITIONS

12 As used in this Notice, the following terms are to be interpreted in accordance
13 with the following definitions. Notwithstanding any definition below, each word, term,
14 or phrase used in these document requests is intended to have the broadest meaning
15 permitted under the Federal Rules of Civil Procedure:

16 1. “Arizona Medicaid” collectively refers to the State of Arizona’s Medicaid
17 program and its constituent programs governed by Ariz. Rev. Stat. §§ 36-2901 – 36-
18 2999.08, 36-3401 – 36-3436.01 and the associated implementing regulations in Chapters
19 21, 22, 28, 29, 30, 31, and 34 of Title 9 of the Arizona Administrative Code, and
20 administered by AHCCCS and/or by one of several participating managed care
21 organizations.

22 2. “AHCCCS” refers to the State Medicaid agency that administers the
23 Arizona Medicaid program, known as the Arizona Health Care Cost Containment
24 System, and includes any officials, employees, agents, representatives, contractors,
25 attorneys, and any other persons acting or purporting to act for or on behalf of AHCCCS
26 and/or its Secretary.

27 3. “Proposed Class” refers to all transgender individuals under the age of 21
28 who are or will be enrolled in AHCCCS, have or will have a diagnosis of gender

1 dysphoria, and are seeking or will seek coverage for male chest reconstruction surgery
2 following a determination by their respective health care providers that the procedure is
3 necessary to treat gender dysphoria.

4 4. “Plaintiffs” refers to the Named Plaintiffs and the Proposed Class.

5 5. “Challenged Exclusion” means the exclusion of “gender reassignment
6 surgeries” from “AHCCCS coverage” under subsection B.4(a) of Arizona
7 Administrative Code R9-22-205, adopted effective May 20, 1982.

8 6. “Gender Reassignment Surgeries” means the services and procedures
9 excluded from AHCCCS coverage under the Challenged Exclusion referred to with the
10 term “gender reassignment surgeries.”

11 7. “Gender Dysphoria” refers to the condition currently referred to as Gender
12 Dysphoria in Adolescents and Adults in the Diagnostic and Statistical Manual of
13 Psychiatric Disorders, Fifth Edition (“DSM-5”), and related diagnoses in current or
14 previous editions of the DSM and/or the International Classification of Diseases
15 (“ICD”), including gender identity disorder and transsexualism.

16 17 **TOPICS FOR DEPOSITION**

18 1. The development, promulgation, implementation, enforcement, and/or
19 proposed elimination or amendment of the Challenged Exclusion.

20 2. Any information and documents relied upon by AHCCCS and/or the State
21 of Arizona in connection with the development, promulgation, implementation,
22 enforcement, and/or proposed elimination or amendment of the Challenged Exclusion,
23 including, but not limited to medical literature, quantitative and qualitative research
24 performed by or for AHCCCS or the State of Arizona, documents reflecting the costs
25 associated covering or excluding those treatments, and public-hearing testimony.

26 3. The policies, procedures, or practices related to the implementation,
27 application, or enforcement of the Challenged Exclusion, including, but not limited to,
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1 written documents that govern internal operations and contractual provisions instructing
2 AHCCCS's managed care organization regarding the same.

3 4. Any information and documents relied upon by AHCCCS and/or the State
4 of Arizona in connection with the development, promulgation, implementation, and/or
5 enforcement of policies or directives regarding treatment of or coverage for non-surgical
6 treatments for Gender Dysphoria, including, but not limited to medical literature,
7 quantitative and qualitative research performed by or for AHCCCS or the State of
8 Arizona, documents reflecting the costs associated covering or excluding those
9 treatments, and public-hearing testimony.

10 5. AHCCCS's compliance with the Medicaid Act's Early and Periodic
11 Screening, Diagnostic and Treatment Services requirements (42 U.S.C. §§
12 1396a(a)(10)(A), 1396a(a)(10)(43), 1396d(a)(4)(B), 1396d(4)).

13 6. AHCCCS's compliance with the Medicaid Act's Comparability
14 Requirement (42 U.S.C. § 1396a(a)(10)(B); 42 C.F.R. § 440.240).

15 7. The process AHCCCS uses to determine if a particular service is medically
16 necessary to treat a certain condition, including, but not limited to, the application of
17 Ariz. Admin. Code R9-22-203.

18 8. Arizona House Bill 2294, introduced January 23, 2017, including all
19 research and studies considered or relied upon by AHCCCS in relation to Arizona House
20 Bill 2294 and any positions taken by AHCCCS on the benefits, drawbacks, and effects of
21 the bill.

22 9. AHCCCS's current criteria for authorization and coverage for all non-
23 surgical treatments and services for Gender Dysphoria.

24 10. Instructions or policies from AHCCCS to any AHCCCS managed care
25 organization regarding authorization and coverage for non-surgical treatments and
26 services for Gender Dysphoria.

27 11. AHCCCS's current criteria for authorization and coverage for surgical
28 treatments and services for Gender Dysphoria.

1 12. Instructions or policies from AHCCCS to any AHCCCS managed care
2 organization regarding authorization and coverage for surgical treatments and services for
3 Gender Dysphoria.

4 13. Information, instructions, and/or or guidance regarding implementation or
5 enforcement of the Challenged Exclusion provided to any AHCCCS managed care
6 organization.

7 14. AHCCCS's current criteria for authorization and coverage for the following
8 services (including all applicable and related procedure codes) when intended to treat any
9 condition other than gender dysphoria: penectomy, orchiectomy, vaginoplasty,
10 feminizing genitoplasty, breast reconstruction, chondrolaryngoplasty, phalloplasty,
11 metoidioplasty, masculinizing genitoplasty, mastectomy, reduction mammoplasty,
12 hysterectomy, oophorectomy, and salpingo-oophorectomy.

13 15. AHCCCS's review or consideration of the diagnosis of Gender Dysphoria
14 with respect to treatment and services under Arizona Medicaid.

15 16. The denial of coverage to any Arizona Medicaid beneficiary based on the
16 Challenged Exclusion.

17 17. Approval of coverage of Gender Reassignment Surgery to any Arizona
18 Medicaid beneficiary.

19 18. The list of patients identified on the document produced by AHCCCS,
20 Bates-labeled SNYDER.000549.

21 19. The creation of document Bates-labeled SNYDER.000392, and the
22 information concerning Plaintiff D.H. contained therein.

23 20. The practices, protocols and/or procedures followed by AHCCCS to
24 identify and preserve electronically stored information and paper-only documents,
25 including any steps taken to identify or preserve information potentially relevant to any
26 claims or defenses to this litigation, including any directives to any AHCCCS employees,
27 agents, partners, independent consultants, or contractors concerning the same and any and
28 all documents concerning those practices, protocols, and/or procedures.

1 21. The identity of the persons involved with the identification and preservation
2 of documents and electronically stored information responsive to the preceding
3 paragraph.

4 22. AHCCCS's standard document and electronic data retention or destruction
5 policies in the ordinary course of its business, including the identity and current location
6 of any and all documents that set forth those policies and the identity and current location
7 of all current and former personnel who have been and/or are currently responsible for
8 ensuring compliance with Defendants' document retention policies.

9 23. Identification of the devices, computer systems or platforms, including
10 hardware, system software, and application software, as well as any backup and archive
11 systems used in connection with such systems, used by AHCCCS for:

12 a. Email;

13 b. Short messaging data or peer-to-peer messaging platforms, including
14 voicemail, text, instant messaging or other electronic communications;

15 c. Computers or other electronic devices used to create or store
16 electronic data; and

17 d. Document management or document servers; cloud storage, or
18 collaborative sites.

19 24. The steps undertaken to identify, retrieve, or collect potentially relevant
20 electronically stored information with respect to this litigation.

21 DATED: June 8, 2021

PERKINS COIE LLP

/s/ Janet M. Howe

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CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2021, I electronically transmitted the attached documents to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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