

The Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

C.P., by and through his parents, Patricia  
Pritchard and Nolle Pritchard; and PATRICIA  
PRITCHARD,

Plaintiffs,

v.

BLUE CROSS BLUE SHIELD OF  
ILLINOIS,

Defendant.

NO. 3:20-cv-06145-RJB

DECLARATION OF ELEANOR  
HAMBURGER IN SUPPORT OF  
PLAINTIFFS' CONSOLIDATED MOTION  
TO EXCLUDE EXPERT TESTIMONY OF  
MICHAEL LAIDLAW, M.D., LAWTON R.  
BURNS, PH.D., AND SCOTT CARR, PH.D.

**Note on Motion Calendar:  
November 18, 2022**

I, Eleanor Hamburger, declare under penalty of perjury and in accordance with the laws of the State of Washington and the United States that:

1. I am a partner at Sirianni Youtz Spoonemore Hamburger and am one of the attorneys for Plaintiffs in this action.

2. On June 24, 2022, Defendant served upon Plaintiffs expert witness disclosures only for Michael Laidlaw, M.D. and R. Lawton Burns, Ph.D. The original expert disclosure deadline had been June 17, 2022, but Plaintiffs agreed to extend that deadline by a week for Defendant, due to defense counsel's illness. Dr. Laidlaw's report was not provided to Plaintiffs until August 5, 2022.

1           3.       On October 21, 2022, Defendant disclosed to Plaintiffs for the first time their  
2 intention to call Scott Carr, Ph.D. as an expert witness in this matter and simultaneously provided  
3 a copy of an expert report authored by Dr. Carr.

4           4.       ***Exhibits.*** Attached are true and correct copies of the following documents, with  
5 underlining where appropriate for the Court’s convenience:

Exhibit	Description	Date
1.	Email from S. Bedard transmitting BCBSIL disclosure of M. Laidlaw, M.D., and Lawton R. Burns, Ph.D. as expert witnesses	06/24/2022
2.	Excerpts of the Transcript of Deposition of Michael Laidlaw, M.D., taken in this matter	09/02/2022
3.	Excerpts of Transcript of Deposition of Lawton R. Burns, Ph.D., taken in this matter	09/09/2022
4.	Timesheet submitted by Lawton R. Burns for his work on this case for BCBSIL produced by Defendant with Bates Stamp	10/24/2022
5.	Excerpts of the transcript of a hearing in <i>Dekker v. Marsteller</i> , Case No. 4:22-cv-00325, in the U.S. District Court for the Northern District of Florida in which Michael Laidlaw, M.D. testified on October 12, 2022.	10/12/2022
6.	The American Psychiatric Association Ethics Committee Opinion pertaining to the “Goldwater Rule” issued on March 15, 2017, which was entered as Exhibit 18 to Michael Laidlaw’s deposition in this matter on September 2, 2022. A copy of the Ethics Opinion is publicly available in the American Psychiatric Association’s website at: <a href="https://psychiatry.org/File%20Library/Psychiatrists/Practice/Ethics/APA-Ethics-Committee-Goldwater-Opinion.pdf">https://psychiatry.org/File%20Library/Psychiatrists/Practice/Ethics/APA-Ethics-Committee-Goldwater-Opinion.pdf</a> .	03/15/2017
7.	BlueCross BlueShield of Illinois Medical Policy No. SUR717.001, effective December 1, 2021, titled “Gender Assignment Surgery and Gender Reassignment Surgery with Related Services” at: <a href="http://www.medicalpolicy.hcsc.net/medicalpolicy/activePolicyPage?lid=kvf4onh7&amp;corpEntCd=IL1">http://www.medicalpolicy.hcsc.net/medicalpolicy/activePolicyPage?lid=kvf4onh7&amp;corpEntCd=IL1</a> (last visited 10/31/2022)	12/01/2021

Exhibit	Description	Date
8.	The <i>amicus</i> brief filed by Stonewall UK; the Swedish Federation for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Rights; the Australian Professional Association for Trans Health; the Professional Association for Transgender Health Aotearoa New Zealand; LGBT+ Denmark; Bundesverband Trans* e.V.; Federación Estatal de Lesbianas, Gais, Trans, Bisexuales, Intersexuales y más; Fundación Colectivo Hombres XX, AC; and the Norwegian Organization for Sexual and Gender Diversity on January 19, 2022 in <i>Brandt v. Rutledge</i> , Case No. 21-2875, in the U.S. Court of Appeals for the Eighth Circuit.	01/19/2022
9.	Email exchange between G. Payton and E. Hamburger re extension of Expert Disclosure Deadline	06/15/2022
10.	Excerpt of <i>Gender Dysphoria and Children: An Endocrinologist's Evaluation of I am Jazz</i> , Michael K. Laidlaw, The Public Discourse, April 5, 2018, produced in discovery by Defendant	04/05/2018
11.	<i>Societal Implications of Health Insurance Coverage for Medically Necessary Services in the U.S. Transgender Population: A Cost-Effectiveness Analysis</i> , William V. Padula, et al., J. Gen. Intern. Med., Apr. 2016, pp. 394-401 (2016)	April, 2016
12.	Excerpts of Fifth Supplemental Responses and Objections to Plaintiffs' Second Discovery Requests to Defendant Blue Cross and Blue Shield of Illinois	07/29/2022
13.	Excerpts from <i>Assessing the Implications of Allowing Transgender Personnel to Serve Openly</i> , Agnes Shaefer, Radha Iyengar, Srikanth Kadiyala, Jennifer Kavanagh, Charles Engel, Kayla Williams, Amii Kress, RAND Corporation, 2016, <a href="https://www.rand.org/pubs/research_reports/RR1530.html">https://www.rand.org/pubs/research_reports/RR1530.html</a> . Also available in Print Form.	2016
14.	Excerpts of the transcript of the deposition of Frank G. Fox, Ph.D. on September 12, 2022 taken in this matter	09/12/2022
15.	Excerpts of Deposition of Kim Reed taken in this matter – CONFIDENTIAL	06/02/2022

Exhibit	Description	Date
16.	Email from Omar Gonzalez-Pagan to Stephanie Bedard, Gwendolyn Payton, John Neeleman, Ian Rountree, Zoe Phelps, titled <i>C.P. v. BCBSIL</i> (No. 3:20-cv-06145-RJB) – Request for consent to file consolidated Daubert Motion	10/26/2022

DATED this 31<sup>st</sup> day of October, 2022, at Seattle, Washington.

*/s/ Eleanor Hamburger*

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