

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 OPPOSITION TO  
DEFENDANT BCBSIL'S MOTION TO  
EXCLUDE EXPERTS UNDER *DAUBERT*

**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. Dr. Fox discussed the updated data issued by the Williams Institute in his deposition taken by BCBSIL. He explained that he had noticed the new data and had revised the calculations but had not provided them to counsel. He said he would do so if asked. After the deposition, I asked Dr. Fox to produce the updated calculation discussed at the deposition, which he did in the form of an Addendum. The new data did not change his ultimate conclusions. As soon as we received the Addendum from Dr. Fox we produced the information to opposing

1 counsel. BCBSIL never requested an additional deposition of Dr. Fox based upon the information  
 2 produced in the Addendum, even though there was plenty of time before BCBSIL's response on  
 3 class certification to hold such a supplemental deposition.

4 3. BCBSIL did not make any expert witness disclosures on June 17, 2022.

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

Exhibit	Description	Date
1.	Plaintiffs' Rule 26(a)(2) Expert Disclosures	06/17/2022
2.	Excerpts of the transcript of deposition of Randi C. Ettner, Ph.D., taken in this matter	08/24/2022
3.	Excerpts of the transcript of deposition of Dan H. Karasic, M.D., taken in this matter	07/13/2022
4.	Excerpts of the transcript of the deposition of Loren S. Schechter, M.D., taken in this matter	08/02/2022
5.	Excerpts of the <i>Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People</i> , Version 7, published by the World Professional Association of Transgender Health ("WPATH"), published as:  E. Coleman, et al. (2012), Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People, Version 7, <i>International Journal of Transgenderism</i> , 13:4, 165-232, DOI: 10.1080/15532739.2011.700873	08/27/2012
6.	Excerpts of the <i>Standards of Care for the Health of Transgender and Gender Diverse People</i> , Version 8, published by the World Professional Association of Transgender Health ("WPATH"), published as:  E. Coleman, et al. (2022), Standards of Care for the Health of Transgender and Gender Diverse People, Version 8, <i>International Journal of Transgender Health</i> , 23:sup1, S1-S259, DOI: 10.1080/26895269.2022.2100644	09/15/2022

Exhibit	Description	Date
7.	Excerpts of the transcript of day one of the evidentiary hearing in <i>Edmo v. Idaho Department of Correction</i> , No. 1:17-cv-00151-BLW, before the U.S. District Court for District of Idaho	10/10/2018
8.	Excerpts of the transcript of day one of the bench trial in <i>Brandt v. Rutledge</i> , No. 4:21CV00450 JM, before the U.S. District Court for Eastern District of Arkansas	10/17/2022
9.	A copy of “Gender incongruence and transgender health in the ICD” published by the World Health Organization, which is publicly available at <a href="https://www.who.int/standards/classifications/frequently-asked-questions/gender-incongruence-and-transgender-health-in-the-icd">https://www.who.int/standards/classifications/frequently-asked-questions/gender-incongruence-and-transgender-health-in-the-icd</a> (last visited 11/9/2022)	undated
10.	A copy of the position paper “Mental Health Care Services by Family Physicians” published by the American Academy of Family Physicians, a copy of which was admitted as Plaintiffs’ Exhibit 1 at the deposition of Randi C. Ettner, Ph.D., taken in this matter on August 2, 2022, and which is publicly available at <a href="https://www.aafp.org/about/policies/all/mental-health-services.html">https://www.aafp.org/about/policies/all/mental-health-services.html</a>	undated
11.	Excerpts of the transcript of the deposition of Kevin Hatfield, M.D., taken in this matter	06/14/2022
12.	Excerpts of the transcript of the deposition of Sharon Booker, MA, LMHC, taken in this matter	05/06/2022
13.	A copy of the decision U.S. Department of Health and Human Services, Departmental Appeals Board regarding NCD 140.3 – Transsexual Surgery, Docket No. A-13-87, Decision No. 2576, which is publicly available at <a href="https://www.hhs.gov/sites/default/files/static/dab/decisions/board-decisions/2014/dab2576.pdf">https://www.hhs.gov/sites/default/files/static/dab/decisions/board-decisions/2014/dab2576.pdf</a>	05/30/2014
14.	Excerpts of the transcript of deposition of Dan H. Karasic, M.D., taken in <i>Kadel v. Folwell</i> , No. 1:19-cv-00272, before the U.S. District Court for the Middle District of North Carolina	09/20/2021

Exhibit	Description	Date
15.	“Experimental, Investigational and/or Unproven Procedures/Services” Blue Cross Blue Shield of Illinois Medical Policy, ADM 1001.032 found at: <a href="http://www.medicalpolicy.hcsc.net/medicalpolicy/activePolicyPage?lid=ku149rbw&amp;corpEntCd=IL1">http://www.medicalpolicy.hcsc.net/medicalpolicy/activePolicyPage?lid=ku149rbw&amp;corpEntCd=IL1</a> (last visited 11/09/22)	10/01/2021
16.	Excerpts of the Deposition of Frank G. Fox, Ph.D., taken in this matter	09/12/2022

DATED this 10<sup>th</sup> day of November, 2022, at Seattle, Washington.

/s/ Eleanor Hamburger

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