

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

BRIANNA BOE, et al.,

Plaintiffs,

v.

STEVE MARSHALL, et al.,

Defendants.

No. 2:22-cv-00184-LCB-CWB

**JOINT MOTION OF NONPARTIES AMERICAN ACADEMY OF
PEDIATRICS, WORLD PROFESSIONAL ASSOCIATION FOR
TRANSGENDER HEALTH, AND ENDOCRINE SOCIETY TO QUASH
RULE 45 SUBPOENAS**

Pursuant to Rules 26 and 45 of the Federal Rules of Civil Procedure, nonparties American Academy of Pediatrics (“AAP”), World Professional Association for Transgender Health (“WPATH”), and Endocrine Society (collectively, “*amici*”) jointly move to quash the subpoenas for the production of documents served by the State of Alabama (“State”).

AAP, WPATH, and Endocrine Society are nonparty *amici curiae* who are among the 23 national and state professional medical and mental health organizations that submitted an *amici* brief in support of Plaintiffs’ motion for temporary restraining order and preliminary injunction. (Doc. 91-1). The *amici* brief described the widely accepted view of the medical community that gender-

affirming care is the appropriate treatment for gender dysphoria, as reflected in publicly-available clinical guidelines published by WPATH and Endocrine Society. Now, through these subpoenas, the State seeks from these non-profit organizations documents implicating, among other things, *amici*'s work product, internal communications, and associational activities, all in service of the State's self-described interest in "probing" the "credibility" of *amici*.

The State's pursuit of these materials reflects an inexplicable about-face from what it advocated to this Court just weeks ago. When nonparties Eagle Forum and the Southeast Law Institute moved to quash substantively similar subpoenas issued by the U.S. Department of Justice seeking internal documents and communications regarding their advocacy in favor of the challenged Act, the State characterized those subpoenas as "unprecedented," seeking "irrelevant information," and serving "no legitimate purpose other than to intimidate ordinary citizens whose policy views the [government] disdains." (Doc. 158-1 at 1, 10). The State demanded that those subpoenas should be quashed to avoid setting a precedent whereby advocacy groups would otherwise be forced to "turn over *to a public policy opponent* [their] internal communications." (*Id.* at 1, 7; Tr. at 37) (emphasis in original).

At the hearing on Eagle Forum's motion to quash, this Court agreed with the State, questioning "how in the world could what the [DOJ] is asking for possibly

be relevant to this case and its outcome?” and characterizing the requests as “vastly overbroad and unduly burdensome.” (Tr. at 9). The Court further highlighted First Amendment concerns: “[I]s the new standard going to be that these kind of subpoenas ... to any advocacy organization [seeking] emails to their members, ... social media posts, ... things that the group considered in their advocacy. ... Is that where [the government] thinks we need to go in this country?” (*Id.* at 18). But that is apparently where the *State* now thinks we need to go—at least as to nonparty advocacy organizations whose policy views *it* disdains. The Court should reject the State’s about-face.

For the same reasons previously articulated by the State and this Court, the State’s subpoenas to *amici* should be quashed in their entirety. The subpoenas seek documents and communications that are irrelevant to the sole issue in dispute in this case, and complying with them would impose undue burdens on these nonparty, non-profit organizations. The subpoenas also infringe upon *amici*’s associational and free speech rights under the First Amendment by discouraging membership and candid, uninhibited dialogue within the organizations, which is integral to the scientific process and the organizations’ missions. Indeed, while the State asserted during meet-and-confer discussions that *amici* “opened the door” to this invasive discovery by submitting an *amici* brief, such a principle if accepted would have far-reaching and chilling implications for friends of the court

everywhere. Finally, given the charged nature of this litigation and the publicity it has attracted, permitting this discovery could subject *amici* and their employees and members—many of whom are identified with specificity in the materials sought by the State—to harassment, threats, and even the risk of physical violence.

I. BACKGROUND

A. The Amici

On April 8, 2022, Alabama Governor Kay Ivey signed the “Alabama Vulnerable Child Compassion and Protection Act” (the “Act”) into law, which prohibits any person from obtaining or providing certain medical treatments consistent with the standard of care for transgender minors. Plaintiffs in the above-captioned action thereafter filed a complaint for declaratory and injunctive relief, (Doc. 1), followed by a motion for a temporary restraining order and/or preliminary injunction, (Doc. 7).

AAP, WPATH, and Endocrine Society are among the 23 national and state professional medical and mental health organizations that submitted an *amici* brief in support of Plaintiffs’ motion for a temporary restraining order and preliminary injunction. (Doc. 91-1). AAP, founded in 1930, is a 501(c)(3) non-profit organization of 67,000 pediatricians whose mission is to attain the optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults. *See* Declaration of AAP (Dec. 23, 2022) (“AAP

Decl.”), filed under seal, ¶ 4. WPATH, founded in 1979, is a 501(c)(3) non-profit interdisciplinary professional and educational organization whose mission is to promote evidence-based care, education, research, public policy, and respect in transgender health. *See* Declaration of WPATH (Dec. 23, 2022) (“WPATH Decl.”), filed under seal, ¶ 4. Endocrine Society, founded in 1916, is a 501(c)(3) non-profit organization of physicians and scientists whose mission includes uniting, leading, and growing the endocrine community to accelerate scientific breakthroughs and improve health worldwide. *See* Declaration of Endocrine Society (Dec. 23, 2022) (“Endocrine Society Decl.”), filed under seal, ¶ 3.

The *amici* brief explained that gender-affirming care, as described in publicly-available guidelines issued by WPATH and Endocrine Society, is the widely-accepted standard of care for gender dysphoria. (Doc. 91-1 at 6–19). While AAP was a signatory to the *amici* brief, AAP does not author or publish any clinical guidelines related to gender-affirming care. *See* AAP Decl. ¶ 8.

B. The Subpoenas

On August 10, 2022, a few months after the Court granted an injunction pending trial, the State issued a subpoena to AAP containing 25 separate document requests. *See* Declaration of Cortlin H. Lannin (Dec. 26, 2022) (“Lannin Decl.”) ¶ 2. On October 13, 2022, the State issued an even more expansive subpoena to

WPATH with 47 document requests, and on December 1, 2022, the State issued a subpoena with 29 document requests to Endocrine Society. *See id.* at ¶¶ 4, 6.

The subpoenas seek documents bearing on *amici*'s work product, internal communications, and associational activities, as reflected in the chart attached hereto as Exhibit A. *See also* Lannin Decl., Exs. 1, 3, 5 (subpoenas).

C. The Eagle Forum and Southeast Law Institute Subpoenas

At the same time the State was issuing these nonparty subpoenas to *amici*, it was opposing the enforcement of substantively similar subpoenas issued to two nonparty proponents of the Act.

On August 10, 2022, the United States issued subpoenas to two nonparties, Eagle Forum of Alabama and the Southeast Law Institute. These two entities advocated for the passage of the Act by, *inter alia*, providing legal research, assisting Alabama with bill drafting, and arranging for witnesses to testify at committee hearings. (Doc. 151-1 at 3; Doc. 152-1 at 2). The United States' subpoenas to these organizations sought, for example, (1) "documents concerning the nonparties' policy goals;" (2) "communications with nongovernmental organizations;" (3) "records and minutes of meetings;" (4) "documents related to presentations, videos, interviews and speeches given by the nonparties' representatives;" and (5) "materials the nonparties considered when preparing"

various publications or work product.¹ *Id.* Those nonparties moved to quash the subpoenas, (Docs. 151, 152, 184), and the State of Alabama filed a brief in support of the motions to quash. (Doc. 158-1).

The State argued that the documents sought from Eagle Forum of Alabama and Southeast Law Institute—the same types of documents it now seeks from AAP, WPATH, and Endocrine Society—are irrelevant and outside the scope of discovery, and that the “unprecedented” subpoenas “demanding both internal and legislative policy communications must be quashed.” (Doc. 158-1 at 1, 10). The State further argued that “the federal government’s subpoenas [were] themselves a pretext: they [had] no legitimate purpose other than to intimidate ordinary citizens whose policy views the current Administration’s Department of Justice disdains. Enforcing the subpoenas would set a dangerous precedent against citizens of all political stripes.” (*Id.* at 1).

The State further asserted that “it is hard to understand the subpoenas’ demands for private groups’ meeting minutes, newsletters, and the like except as an attempt to punish those groups for advocating public policies that the federal government dislikes.” (*Id.* at 4). It was “[e]ven more disturbing,” according to the State, that those “subpoenas would [have] force[d] the groups to turn over *to a*

¹ See also Exhibit A (comparing document requests issued to *amici* with those issued to Eagle Forum of Alabama and Southeast Law Institute).

public policy opponent its internal communications, setting a precedent that may be replicated in litigation anywhere.” (*Id.* at 7 (citation and internal quotation marks omitted) (emphasis in original)).

On October 14, 2022, this Court held a hearing on the motions to quash, during which the Solicitor General of Alabama further elaborated on the State’s view as to why discovery into why and how the organizations supported the Act was irrelevant:

Like in any challenge to a statute, if you’re trying to determine its purpose, the best place and oftentimes the only place you even need to look is the text of the statute. That’s the only thing everyone has voted on, agreed upon, and ultimately enacted. ... So that’s why we don’t think that what they’re requesting is relevant.

(Tr. at 37). This Court agreed, questioning “how in the world could what the [government] is asking for possibly be relevant to this case and its outcome?” and characterizing the requests as “vastly overbroad and unduly burdensome.” (Tr. at 9). This Court further highlighted the First Amendment concerns implicated by the government’s subpoenas: “[I]s the new standard going to be that these kind of subpoenas ... to any advocacy organization [seeking] emails to their members, ... social media posts, ... things that the group considered in their advocacy. ... Is that where [the government] thinks we need to go in this country?” (*Id.* at 18).

On October 14, 2022, this Court issued an order granting the nonparties’ motions and quashing the subpoenas. The Court held that the requested materials

had “little—if any—relevance” and were “unlikely to reveal or lead to any information that would help resolve the fundamental issue in this case, which is whether Section 4(a)(1)-(3) of the Alabama Vulnerable Child Compassion and Protection Act is constitutional under the Fourteenth Amendment.” (Doc. 192 at 5-6). Furthermore, as the nonparties were represented by pro bono counsel and staffed by volunteers who would have had to review thousands of documents to comply with the subpoena, the Court held that the burden of producing such information “greatly outweigh[ed] any slight relevance it may have.” (*Id.*). The only documents in the nonparties’ possession that were potentially relevant and not unduly burdensome to produce, as the Court noted at the hearing, were “medical studies and literature” considered by the nonparties when they prepared the legislation, “such as they exist.” (Tr. at 40).

D. Meet-and-Confer Efforts

Counsel for *amici* served the State with timely written objections, *see* Lannin Decl., Exs. A-2, A-4, A-6, and thereafter conferred with the State’s counsel in an attempt to narrow the requests, lessen the burden on *amici*, and address their First Amendment concerns. *Id.* at ¶¶ 8-15. During those discussions, counsel for *amici* repeatedly expressed their view that the disposition of the Eagle Forum dispute should control here, despite the State’s implausible attempts to distinguish the two sets of subpoenas. *Id.* at ¶¶ 13-15. The State ultimately agreed to

withdraw certain RFPs directed at AAP and WPATH.² *Id.* at ¶ 11, Ex. 7.

However, notwithstanding its argument and this Court's ruling on the Eagle Forum dispute, the State refused to withdraw the majority of its requests, including those seeking voluminous internal communications from all three organizations. In an effort to avoid motion practice, *amici* ultimately offered to produce the same set of documents that this Court observed may be of marginal relevance: medical studies referenced in *amici's* guidelines. *Id.* at ¶ 13. The State rejected that compromise, resulting in the instant motion. *Id.* at ¶¶ 14-15.

II. ARGUMENT

This Court should quash the subpoenas directed at AAP, WPATH, and Endocrine Society because they seek discovery irrelevant to the sole issue in dispute, impose undue burdens on these nonparties, and infringe upon *amici's* associational rights under the First Amendment.

² With respect to the subpoena to AAP, the State offered to withdraw the requests numbered 9, 12, 16, 17, 19, 20, 21, 24, and 25 and limit request 23 to materials dated after Jan. 1, 2020. Lannin Decl. ¶ 11, Ex. 7. As for the subpoena to WPATH, the State offered to withdraw the requests numbered 13, 17, 22, 25, 26, 27, 29, 30, 36, 37, 38, 39, 42, 45, and 46 and limit request 41 to materials dated after February 1, 2019. *Id.* The State has not withdrawn any of the requests directed at Endocrine Society. *Id.*

A. The Subpoenas Seek Discovery Irrelevant to the Sole Issue in Dispute in This Litigation.

Subpoenas issued pursuant to Federal Rule of Civil Procedure 45 must satisfy the relevance requirements of Rule 26. *Jordan v. Comm’r, Miss. Dep’t of Corr.*, 947 F.3d 1322, 1329 (11th Cir. 2020) (“[A] subpoena issued under Rule 45 should be quashed to the extent it seeks irrelevant information”). “[T]he relevance of information sought in discovery depends on the claims asserted in the underlying action and the legal standards that govern those claims.” *Id.* “Evidence is relevant if it has any tendency to make a fact more or less probable than it would be without the evidence, and the fact is of consequence in determining the action.” *Aycock v. R.J. Reynolds Tobacco Co.*, 769 F.3d 1063, 1068 (11th Cir. 2014). In this case, this Court has already established that “relevant discovery” within the meaning of Rule 26 “would be things that bear on whether or not this statute is constitutional.” (Doc. 192 at 5). The discovery sought by the State fails that standard.

Through this subpoena, the State has demanded that *amici* produce any and all documents broadly related to *amici*’s work product, organizational activities, policy positions, meetings, outreach, communications, and internal organizational structure and membership. *See* Exhibit A. None of this discovery would bear on whether the Act is constitutional or not. Indeed, the State has conceded that “neither speech between ... private parties about public policies nor their

correspondence with government officials is relevant to any legal issue before this Court.” (Doc. 158-1 at 17).

WPATH and Endocrine Society do publish clinical guidelines related to gender-affirming care, which were described in the *amici* brief to which they were signatories.³ Those guidelines are publicly-available, cite every study and piece of evidence on which they rely, and reflect the consensus view of the organizations that publish them. They speak for themselves—or, as the State put it in describing the Act, they are “the only thing everyone has voted on, agreed upon, and ultimately enacted.” (Tr. at 37). Instead of litigating the merits of the guidelines on their own terms, however, the State through this discovery is attempting to litigate the internal processes and supposed motives of their sponsoring organizations. This discovery is irrelevant, as the State *has already conceded* when it described for this Court its position on how this case should proceed:

We're looking at publicly available information. That's how these inquiries usually proceed, just like they proceeded at the preliminary injunction, where we came forward with expert testimony. They cited certain studies. We produced certain studies as exhibits. Plaintiffs and the Department of Justice did the same thing.

That's how we think that this case will ultimately be adjudicated when we get to final judgment. You will hear from experts. Studies will be put forward. Our experts will explain why we think some studies are stronger than

³ As noted above, AAP does not generate or publish clinical guidelines regarding gender-affirming care. *See* AAP Decl. ¶ 8.

others. Their experts will presumably have some contrary opinion on some of those issues. ... That's how these things go.

It's not sitting some member of the House or some member of the Senate down to say, tell me every conversation you have had with somebody for the last five years about issues of gender dysphoria. That's foreign to our concept of government and how courts work.

(Tr. at 38). In other words, the State has assured the Court that this case would proceed with each side putting forward their best expert analysis, based on publicly available information, and that discovery into nonparty internal deliberations and discussions would be irrelevant and “foreign ... to how our courts work.” This Court should hold the State to its word.

In meet-and-confer discussions, the State has stated that it views *amici*'s internal communications and deliberations as relevant because they will permit the State to probe *amici*'s “credibility.” Lannin Decl. ¶ 9. The State further claimed that *amici* had opened the door to this discovery by submitting their brief. *Id.* As courts have recognized, however, “[t]he mere filing of an *amicus* brief ... does not open oneself to broad discovery demands, nor does it make one's bias, if any, relevant to the underlying action.” *N.C. Right to Life v. Leake*, 231 F.R.D. 49, 51 (D.D.C. 2005). Instead, “[c]redibility of *amici* is a determination to be made by the trial judge, not a question that the parties should pursue in discovery.” *Id.* “[W]ere the bias or credibility of *amici* presumptively relevant in every case,

litigation and discovery of the issue would threaten the efficacy of the federal courts.” *Id.* Furthermore, and as discussed further below, endorsing the proposition that *amici* “opened the door” to invasive discovery, under the guise of testing their “credibility,” simply because they submitted a brief would necessarily discourage these and other *amici* from ever doing so again, depriving the courts of their valuable input. *See, e.g., Mobile Cnty. Water, Sewer and Fire Prot. Auth., Inc. v. Mobile Area Water & Sewer Sys., Inc.*, 567 F. Supp. 2d 1342, 1344 n.1 (S.D. Ala. 2008) (“The role of an amicus is to assist the court in cases of general public interest by making suggestions to the court, by providing supplementary assistance to existing counsel, and by insuring a complete and plenary presentation of difficult issues so that the court may reach a proper decision.” (citations and quotation marks omitted)).

Because the State cannot articulate any plausible theory of relevance that would justify the expansive discovery sought, the subpoenas should be quashed.

B. Complying With the Subpoenas Would Impose Undue Burdens on *Amici*.

Under Rule 45, the Court must also quash a subpoena that “subjects a person to undue burden.” Fed. R. Civ. P. 45(d)(3)(A)(iv). An undue burden exists when complying with the subpoena would result in time, expense, or collection efforts that “greatly outweigh” any relevance the requested documents may have. (Doc. 192 at 5-6). Additionally, courts in this Circuit consider the recipient’s nonparty

status as a “factor that can weigh against disclosure in the undue burden inquiry.” *Jordan*, 947 F.3d at 1337; *Hinton v. Ala. State Univ.*, 2020 WL 11273045 at *2, *4 (M.D. Ala. Mar. 13, 2020); *see also Updateme Inc. v. Axel Springer SE*, 2018 WL 5734670 at *3 (N.D. Cal. Oct. 31, 2018) (observing that “[n]on-parties that are unrelated to the litigants should not be burdened in discovery to the same extent as litigants”) (collecting cases). Courts therefore quash subpoenas when compliance would require nonparties like *amici* to parse through voluminous records to identify responsive documents. *See, e.g., Braxton v. Farmer’s Ins. Grp.*, 209 F.R.D. 651, 653 (N.D. Ala. 2002) (quashing a subpoena that would impose on the nonparty recipient “the arduous task of combing through [the nonparties’] email files and other records” for the documents). In accord, this Court quashed the nonparty subpoenas issued to Eagle Forum and Southeast Law Institute, in part, because compliance would have required volunteer staff and pro bono counsel to sort through “thousands of documents” spanning multiple years. (Doc. 192 at 5-6).

That reasoning applies with even more force here. Complying with these expansive subpoenas would require substantial efforts by each organization and their pro bono counsel. Indeed, the subpoenas’ broad scope would require *amici* to collect and review countless documents scattered across numerous directories and individuals. The declarations of AAP, WPATH, and Endocrine Society detail the extent to which these *amici* would be unduly burdened by the subpoenas. *Amici* do

not have in-house e-discovery teams and could be forced to hire contract attorneys to review these documents, itself an undue burden for a non-profit with limited resources. *See* AAP Decl. ¶ 10; WPATH Decl. ¶ 9; Endocrine Society Decl. ¶ 9. *Amici* would need to dedicate staff members to this review, as their internal documents are highly contextual and contain esoteric medical terminology that staff will need to explain to hired counsel. *See* AAP Decl. ¶ 11; WPATH Decl. ¶ 9; Endocrine Society Decl. ¶ 9. *Amici* would also need to identify and speak with a significant number of potential custodians across their organizations and membership, many of whom utilize the external e-mail accounts of their employers, including hospitals, medical groups, and educational institutions. *See* AAP Decl. ¶ 9; WPATH Decl. ¶¶ 7-8; Endocrine Society Decl. ¶¶ 8, 11. Endocrine Society, a 501(c)(3) organization with a limited legal budget, has already begun identifying which programs, products, and services would need to be suspended to devote staff time to complying with the subpoena. *See* Endocrine Society Decl. ¶¶ 8-11.

Furthermore, as unduly burdensome as the Eagle Forum subpoena was—which is currently subject to a sanctions motion—that subpoena only contained eleven document requests. The subpoenas issued to the *amici* are far broader and demand between 16 and 32 categories of documents, even after the State withdrew some of its original requests. And as with the Eagle Forum subpoena, the

materials requested from *amici* would require nonparty, non-profit organizations to rely extensively on pro bono counsel. In short, this Court’s ruling on the Eagle Forum subpoena substantiates the objectionable and burdensome nature of the instant subpoenas.

C. The Subpoenas Infringe on *Amici*’s Free Speech and Associational Rights Under the First Amendment.

The subpoenas should also be quashed because they infringe on *amici*’s free speech and associational rights guaranteed by the First Amendment. Complying with the subpoenas would discourage members from joining or participating in the organizations, and chill the robust and uninhibited internal exchange of ideas that these organizations rely on to do their work. As discussed below, courts routinely quash subpoenas that would infringe upon these types of protected interests.

Under the First Amendment’s associational privilege, organizations are protected from compelled disclosure that would “induce members to withdraw . . . and dissuade others from joining because of fear of exposure.” *NAACP v. Ala. ex rel. Patterson*, 357 U.S. 449, 463 (1958). To invoke the associational privilege, an organization must first make a prima facie showing of “arguable first amendment infringement”—*i.e.*, that compelled disclosure would result in a “chilling” of associational rights. *Adolph Coors Co. v. Mvmt. Against Racism & the Klan*, 777 F.2d 1538, 1542 (11th Cir. 1985); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1140 (9th Cir. 2009). The burden of making a prima facie case is low. *See Perry*, 591

F.3d at 1140; *Flynn v. Square One Distrib., Inc.*, 2016 WL 2997673, at *3 (M.D. Fla. May 25, 2016). Courts credit declarations that contain “historical facts, personal observations, personal experience, or first-hand knowledge” and that explain how compelled disclosure would chill the exercise of members’ rights. *Flynn*, 2016 WL 2997673, at *3; see *Christ Covenant Church v. Town of S.W. Ranches*, 2008 WL 2686860 (S.D. Fla. June 29, 2008), at *6–*7 (finding a prima facie case by crediting specific evidence of hostile comments against a Church at a town meeting). Once the burden is met, the requesting party must demonstrate a “compelling need” for the information sought. *Perry*, 591 F.3d at 1140; *Flynn*, 2016 WL 2997673, at *3.

Here, *amici* have explained in detail how disclosure of the information sought by the State would chill their associational rights. As set forth in the declarations of AAP, WPATH, and Endocrine Society, the mere issuance of the subpoenas (let alone enforcement of them) has already had a chilling effect on member participation due to fears of being embroiled in litigation and costly discovery. See AAP Decl. ¶¶ 13-19; WPATH Decl. ¶¶ 11-16; Endocrine Society Decl. ¶¶ 12-15. Additionally, the declarations detail how the subpoenas have already discouraged dialogue in a field that requires robust scientific debate and candid exchanges. See *id.* Indeed, as the Fifth Circuit recognized, the chilling effect of a subpoena that seeks internal communications of a nonparty is “self-

evident” because it would discourage “frank internal dialogue and deliberations.” *Whole Woman’s Health v. Texas Catholic Conference*, 896 F.3d 362, 372-373 (5th Cir. 2018) (quashing subpoena that sought a nonparty religious organization’s internal communications about a Texas abortion regulation, and explaining that “communications within such a group must be permitted to be broad, uninhibited, and fearless”). *Amici* are entitled to the same type of vigorous, “uninhibited, and fearless” debate under the First Amendment. *See id.*

Moreover, the declarations detail the alarming threats of violence and intimidation already received by *amici* due to their work on issues related to gender-affirming care. *See, e.g.*, AAP Decl. ¶ 16; WPATH Decl. ¶¶ 12-15; Endocrine Society Decl. ¶ 14. This includes, for example, the receipt of emails characterizing individuals who provide gender-affirming care as “child molesters” and warning that “[y]our attempt to hide the child molesters will get you killed. If I see you or anyone who supports you. I will kill them.” WPATH Decl. ¶ 14. Complying with these subpoenas—which would require, among other things, the production of personally identifying information about the organizations, their employees, and their members—risks amplifying these threats. It is no answer that such information could be produced subject to a protective order, given the possibility such information could nonetheless become public. Indeed, detailed information about similar subpoenas issued to these and other organizations in

connection with a Florida case was recently leaked by unknown entities to an online website that has previously characterized gender-affirming care as the “mutilation of children.”⁴

In light of the heightened First Amendment interests at stake, the State cannot possibly carry its burden of establishing a “compelling need” for any of this irrelevant and protected information.

III. CONCLUSION

For the reasons set forth above, AAP, WPATH, and Endocrine Society respectfully request that the Court quash the State’s subpoenas in their entirety.

⁴ See Dylan Housman, *EXCLUSIVE: Florida Subpoenas Organizations Pushing Transgender Care on Children in Lawsuit* (Dec. 14, 2022), <https://dailycaller.com/2022/12/14/florida-transgender-care-lawsuit-medicaid-subpoena/>.

Dated: December 27, 2022

Respectfully submitted,

/s Barry A. Ragsdale

Barry A. Ragsdale

ASB 2958-A23B

Cortlin H. Lannin (CA Bar No. 266488)
(admitted *pro hac vice*)

Dylan M. Silva (CA Bar No. 306363)
(*pro hac vice* motion to be submitted)

COVINGTON & BURLING LLP

Salesforce Tower

415 Mission St., Suite 5400

San Francisco, CA 94105

Phone: (415) 591-6000

clannin@cov.com

dsilva@cov.com

Barry A. Ragsdale (ASB 2958-A23B)

Robert S. Vance III (ASB 9916-B11Q)

DOMINICK FELD HYDE, P.C.

1130 22nd Street South Ridge Park

Suite 4000

Birmingham, AL 35205

Phone: (205) 536-8888

BRagsdale@dfhlaw.com

RVance@dfhlaw.com

D. Jean Veta (D.C. Bar No. 358980)
(admitted *pro hac vice*)

Noah S. Goldberg (D.C. Bar No.
90003045) (*pro hac vice* motion to
be submitted)

Yuval Mor (Admitted to the D.C.
Bar) (*pro hac vice* motion to be
submitted)

COVINGTON & BURLING, LLP

One CityCenter

850 Tenth St., N.W.

Washington, D.C. 20001

Phone: (202) 662-6000

jveta@cov.com

ngoldberg@cov.com

ymor@cov.com

CERTIFICATE OF SERVICE

I hereby certify that on December 27, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record.

/s Barry A. Ragsdale _____
Of Counsel

Exhibit A

Categories of State’s Requests	Representative RFPs to AAP, WPATH, and Endocrine Society	Similar RFPs to Eagle Forum and Southeast Law Institute
<p>Non-Public Work Product (Documents and communications regarding the impetus of, goals for, and formulation of work product)</p>	<ul style="list-style-type: none"> • <u>AAP</u> <ul style="list-style-type: none"> ○ RFP 14 (“Produce all Communications and Documents regarding the impetus for, preparation of, discussion of, drafting of, or adoption as AAP’s official Policy Statement of a forthcoming statement now or previously entitled ‘Providing Affirmative Clinical Care to Transgender and Gender-Diverse Children and Adolescents.’”); RFP 18 (“Produce all Communications and Documents regarding the impetus for, preparation of, discussion of, drafting of, or adoption by AAP of a document entitled ‘Supporting & Caring for Transgender Children.’”). <i>See</i> Declaration of Cortlin H. Lannin (Dec. 26, 2022) (“Lannin Decl.”), Ex. 1 (AAP subpoena). • <u>WPATH</u> <ul style="list-style-type: none"> ○ RFP 1 (“Produce all Communications and Documents relating to the 	<ul style="list-style-type: none"> • <u>Eagle Forum</u> <ul style="list-style-type: none"> ○ RFP 1 (“Any draft legislation, proposed legislation, or model legislation relating to VCAP, SB 184, HB 266, or their predecessor bills that Eagle Forum of Alabama wrote, assisted in writing, provided feedback on, or reviewed.”); RFP 2 (“Any materials considered by Eagle Forum of Alabama in preparing legislation, draft legislation, proposed legislation, or model legislation ... including (1) any model or sample legislation from other third-party organizations or jurisdiction; and (2) medical studies, opinions, or evidence.”); RFP 3 (“Any documents concerning Eagle Forum of Alabama’s legislative or policy goals,

	<p>applications and selection process for WPATH Guideline Steering Committee, the Co-Chairs of the Standards of Care 8 (SOC-8) Revision Committee, each of the Chapter Leads for the SOC-8, each of the Chapter Workgroup Members for the SOC-8, each of the Chapter Stakeholder Members for the SOC-8, and each member of the WPATH Standards of Care 8th Version Evidence Review Team.”); RFP 2 (“Produce all Communications and Documents relating to the decision regarding what chapters to include and not include in SOC-8, including but not limited to the decision not to include a chapter on Detransitioning.”); RFP 4 (“Produce all Communications and Documents relating to the Delphi process for SOC-8 chapters listed in Request #3, including who participated and voted in the Delphi process.”). Lannin Decl., Ex. 3 (WPATH subpoena).</p>	<p>initiatives, and/or strategies relating to medical care or treatment of transgender minors, or minors with gender dysphoria.”). (Doc. 151-1 at 6-7).</p> <ul style="list-style-type: none"> ● <u>Southeast Law Institute</u> <ul style="list-style-type: none"> ○ RFP 1 (“Any draft legislation, proposed legislation, or model legislation relating to VCAP, SB 184, HB 266, or their predecessor bills that Southeast Law Institute wrote, assisted in writing, provided feedback on, or reviewed.”); RFP 2 (“Any materials considered by Southeast Law Institute in preparing legislation, draft legislation, proposed legislation, or model legislation ... including (1) any model or sample legislation from other third-party organizations or jurisdiction; and (2) medical studies, opinions, or
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	<ul style="list-style-type: none"> • <u>Endocrine Society</u> <ul style="list-style-type: none"> ○ RFP 4 (“Produce all Documents and Communications relating to any systematic reviews that were commissioned or used for the development of the 2017 ES Guideline.”); RFP 5 (“Produce all Documents and Communications Relating to the drafting and inclusion of Table 5, Criteria for Gender-Affirming Hormone Therapy for Adolescents, in the 2017 ES Guideline.”); RFP 10 (“Produce all Documents and Communications relating to the impetus for, creation of, and approval of Your “Position Statement on Transgender Health” ... This request includes, but is not limited to, Documents and Communications reflecting the impetus for the statement; the selection process used for determining who would draft the statement; who the drafters were; the revision process used; whether members commented on the statement and, if so, what those comments were; and who approved the statement and how.”); RFP 	<p>evidence.”); RFP 3 (“Any documents concerning Southeast Law Institute’s legislative or policy goals, initiatives, and/or strategies relating to medical care or treatment of transgender minors, or minors with gender dysphoria.”). (Doc. 152-1 at 6-7).</p>
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	<p>1 (“Produce all Communications and Documents relating to the application and selection process the Clinical Guidelines Subcommittee of the Endocrine Society used to ‘appoint[] a task force to formulate evidence-based recommendations’ for the ‘diagnosis and treatment of individuals with GD/gender incongruence.’”); RFP 2 (“Produce all Communications and Documents between You and the cosponsoring associations—including the American Association of Clinical Endocrinologists, American Society of Andrology, European Society for Pediatric Endocrinology, European Society of Endocrinology, Pediatric Endocrine Society, and World Professional Association for Transgender Health—regarding the need for and development of the 2017 ES Guideline.”); RFP 3 (“Produce Communications and Documents sufficient to identify all people who participated in the development of the</p>	
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	2017 ES Guideline.”). Lannin Decl., Ex. 5 (Endocrine Society subpoena).	
<p>Internal Communications and Deliberations (Internal documents and communications regarding deliberation of proposed or actual organizational statements and/or positions)</p>	<ul style="list-style-type: none"> • <u>AAP</u> <ul style="list-style-type: none"> ○ See, e.g., RFP 5 (“Produce all Communications and Documents from the AAP Chapter Forum Management Committee regarding the above resolutions.”). Lannin Decl., Ex. 1 (AAP subpoena). • <u>WPATH</u> <ul style="list-style-type: none"> ○ RFP 35 (“Produce all Communications and Documents relating to the possibility of individuals Detransitioning after receiving either puberty blockers or cross-sex hormones.”); RFP 44 (“Produce all Communications and Documents regarding Transitioning treatments in Alabama.”). Lannin Decl., Ex. 3 (WPATH subpoena). • <u>Endocrine Society</u> <ul style="list-style-type: none"> ○ RFP 19 (“Produce all Communications and Documents since January 1, 2017, relating to the possibility of Desistance among Minors diagnosed with Gender Dysphoria or Related Conditions.”); 	<ul style="list-style-type: none"> • <u>Eagle Forum</u> <ul style="list-style-type: none"> ○ RFP 7 (“Any records or minutes of meetings concerning VCAP, SB 184, HB 266, and/or any predecessor bills.”); RFP 10 (“Any mass letters, newsletters, or emails that Eagle Forum sent to members of a mailing or email list related to or concerning VCAP, SB 184, HB 266, and/or any predecessor bills.”). (Doc. 151-1 at 7). • <u>Southeast Law Institute</u> <ul style="list-style-type: none"> ○ RFP 6 (“Any records or minutes of meetings concerning VCAP, SB 184, HB 266, and/or any predecessor bills.”); RFP 10 (“Any mass letters, newsletters, or emails that Southeast Law Institute sent to members of a mailing or email list related to or concerning VCAP, SB 184, HB 266, and/or

	<p>RFP 21 (“Produce all Communications and Documents since January 1, 2017, relating to the risks of Transitioning.”); RFP 28 (“Produce all Communications and Documents regarding Transitioning treatments in Alabama.”); RFP 29 (“Produce all Communications and Documents regarding advertisements for Transitioning treatments.”). Lannin Decl., Ex. 5 (Endocrine Society subpoena).</p>	<p>any predecessor bills.”). (Doc. 152-1 at 7).</p>
<p>Associational Activities (Documents and communications regarding meetings, outreach and advocacy efforts, and internal organizational structure and membership)</p>	<ul style="list-style-type: none"> • <u>AAP</u> <ul style="list-style-type: none"> ○ <i>See, e.g.</i>, RFP 1 (“Produce all Communications and Documents regarding Resolution #33 introduced at the AAP Annual Leadership Forum in 2021.”); RFP 4 (“Produce all Communications and Documents from the AAP Leadership Conference regarding the above resolutions.”); RFP 8 (“Produce all Communications and Documents regarding the attempted registration of the Society for Evidence Based Gender Medicine for a booth at the AAP National Conference & Exhibition held in Philadelphia in 	<ul style="list-style-type: none"> • <u>Eagle Forum</u> <ul style="list-style-type: none"> ○ RFP 5 (“Any communications between Eagle Forum of Alabama and any employee, agent, assign, or member of the Alabama State Legislature, Alabama Governor’s office, Alabama Lieutenant Governor’s office, Alabama Attorney General’s office, or any employees, agent, or assign of a District Attorney’s office within Alabama concerning VCAP, SB 184, HB 266, and/or any predecessor bill); RFP 6 (“Any communications between Eagle

	<p>October 2021.”). Lannin Decl., Ex. 1 (AAP subpoena).</p> <ul style="list-style-type: none"> • <u>WPATH</u> <ul style="list-style-type: none"> ○ RFP 24 (“Produce all Communications and Documents relating to Dr. Kenneth Zucker’s participation in the February 2017 USPATH conference, including Communications and Documents relating to any review and acceptance of any papers or presentations by Dr. Zucker and any decision to cancel any part of his planned presentation.”); RFP 28 (“Produce all video recordings of the sessions (including any ‘town-hall’ or informal sessions) of any USPTH or WPATH conference since January 1, 2015); RFP 40 (“Produce all Communications with the Plaintiffs in this lawsuit, including the United States of America and any agencies, departments, or employees thereof.”). Lannin Decl., Ex. 3 (WPATH subpoena). • <u>Endocrine Society</u> <ul style="list-style-type: none"> ○ RFP 25 (“Produce all Communications with the Plaintiffs in this lawsuit, including the United States of America 	<p>Forum of Alabama and any other nongovernmental organization, consultant, or lobbyist concerning VCAP, SB 184, HB 266, and/or any predecessor bills.”); RFP 9 (“Any records or documents relating to presentations, videos, interview, and/or speeches Eagle Forum of Alabama representatives have given or participated in regarding medical care or treatment related to gender identity, transgender minors or youth, “trans-identifying” minors or youth, or minors or youth with gender dysphoria.”). (Doc. 151-1 at 7).</p> <ul style="list-style-type: none"> • <u>Southeast Law Institute</u> <ul style="list-style-type: none"> ○ RFP 5 (“Any communications between Southeast Law Institute and any employee, agent, assign, or member of the Alabama State Legislature, Alabama Governor’s office, Alabama Lieutenant
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	<p>and any agencies, departments or employees thereof.”). Lannin Decl., Ex. 5 (Endocrine Society subpoena).</p>	<p>Governor’s office, Alabama Attorney General’s office, or any employees, agent, or assign of a District Attorney’s office within Alabama concerning VCAP, SB 184, HB 266, and/or any predecessor bill); RFP 6 (“Any communications between Southeast Law Institute and any other nongovernmental organization, consultant, or lobbyist concerning VCAP, SB 184, HB 266, and/or any predecessor bills.”); RFP 9 (“Any records or documents relating to presentations, videos, interview, and/or speeches Southeast Law Institute representatives have given or participated in regarding medical care or treatment related to gender identity, transgender minors or youth, “trans-identifying” minors or youth, or minors or</p>
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		youth with gender dysphoria.”). (Doc. 152-1 at 7).
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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

BRIANNA BOE, et al.,

Plaintiffs,

v.

STEVE MARSHALL, et al.,

Defendants

No. 2:22-cv-00184-LCB-CWB

**DECLARATION OF CORTLIN H. LANNIN IN SUPPORT OF JOINT
MOTION OF NONPARTIES AMERICAN ACADEMY OF PEDIATRICS,
WORLD PROFESSIONAL ASSOCIATION FOR TRANSGENDER
HEALTH, AND ENDOCRINE SOCIETY TO QUASH RULE 45
SUBPOENAS**

I, Cortlin H. Lannin, hereby declare as follows:

1. I am an attorney in the law firm of Covington & Burling LLP, counsel for American Academy of Pediatrics (“AAP”), World Professional Association for Transgender Health (“WPATH”), and Endocrine Society (“Endocrine Society”) (collectively, “*amici*”). The matters set forth herein are true and correct of my own personal knowledge and, if called as a witness, I could and would testify competently thereto.
2. Attached hereto as **Exhibit 1** is a true and correct copy of the subpoena issued by the State of Alabama (“State”) to AAP on August 10, 2022.

3. Attached hereto as **Exhibit 2** is a true and correct copy of AAP's Responses & Objections to the subpoena, served on September 9, 2022.
4. Attached hereto as **Exhibit 3** is a true and correct copy of the subpoena issued by the State to WPATH on October 13, 2022.
5. Attached hereto as **Exhibit 4** is a true and correct copy of WPATH's Responses & Objections to the subpoena, served on November 1, 2022.
6. Attached hereto as **Exhibit 5** is a true and correct copy of the subpoena issued by the State to the Endocrine Society on December 1, 2022.
7. Attached hereto as **Exhibit 6** is a true and correct copy the Endocrine Society's Responses & Objections to the subpoena, served on December 15, 2022.
8. After serving the above-referenced Responses & Objections, counsel for *amici* engaged in good-faith meet-and-confer discussions with the State in an attempt to narrow the subpoenas. These meet-and-confer discussions occurred via teleconference on October 11, 2022, November 18, 2022, December 16, 2022, and December 23, 2023. Attached hereto as **Exhibit 7** is a true and correct copy of the parties' correspondence via email.
9. During the October 11, 2022 teleconference, counsel for *amici* expressed concerns over the relevance of the documents requested, as well as the burdens associated with complying with the subpoena as drafted. Counsel

for the State asserted that *amici* had opened the door to the subpoenas by submitting their *amici* brief. Counsel for the State also claimed that the requested documents were relevant to assess *amici*'s credibility.

10. On October 14, 2022, counsel for the State sent counsel for *amici* an email organizing the State's requests into three tiers for prioritization purposes. Counsel for the State did not, at that time, offer to withdraw any of its requests. *See Exhibit 7.*
11. After a subsequent meet-and-confer teleconference on November 18, 2022, counsel for the State offered to withdraw requests 9, 12, 16, 17, 19, 20, 21, 24, 25 and narrow request 23 from the AAP subpoena, and withdraw requests 13, 17, 22, 25, 26, 27, 29, 30, 36, 37, 38, 39, 42, 45, 46 and narrow request 41 from the WPATH subpoena. *See Exhibit 7.* The State has not offered to withdraw any of the requests in the Endocrine Society subpoena.
12. At the next meet-and-confer teleconference on December 16, 2022, the parties again conferred regarding the AAP and WPATH subpoenas, and also conferred about the Endocrine Society subpoena. During that teleconference, counsel for *amici* again noted their concerns as to the relevance of the remaining requests and the burden that would be imposed by complying with them.

13. That same day, counsel for *amici* sent counsel for the State an email highlighting those concerns, but offering “in the spirit of compromise and without waiving any ... objections ... to produce the studies relied on in crafting [*amici*’s clinical] guidelines and policy positions,” insofar as they exist. *See Exhibit 7.*
14. On December 21, 2022, counsel for the State emailed counsel for *amici* declaring “[i]t’s unfortunate, but I think we have reached an impasse” and offering to participate in “one last call.” *See Exhibit 7.*
15. On December 23, 2022, counsel for *amici* and the State participated in a final meet-and-confer teleconference, whereupon a final impasse was reached and the parties agreed the Court’s assistance may be required. Counsel for *amici* also advised the State that *amici* reserved their rights to seek sanctions in the event the Court ultimately agreed with them.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. This declaration is executed this 26th day of December, 2022, in Playa del Carmen, Mexico.

A handwritten signature in cursive script, appearing to read "Cortlin H. Lannin".

Cortlin H. Lannin

Exhibit 1

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT
for the
Middle District of Alabama

Paul A. Eknes-Tucker, et al.

Plaintiff

v.

Governor of the State of Alabama, et al.

Defendant

Civil Action No. 2:22-cv-184-LCB

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Mark Del Monte, American Academy of Pediatrics, 345 Park Blvd., Itasca, IL 60143

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment A.

Place: Office of the Attorney General, State of Alabama, 501
Washington Avenue, Montgomery, AL, 36130

Date and Time:

09/09/2022 10:00 am

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 08/10/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk


Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)*

Governor of the State of Alabama, et al., who issues or requests this subpoena, are:
A. Barrett Bowdre, Deputy Solicitor General, (Address Listed Above), 334-242-7300, Barrett.Bowdre@AlabamaAG.gov

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 2:22-cv-184-LCB

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**ATTACHMENT A
SUBPOENA FOR PRODUCTION OF DOCUMENTS DIRECTED TO
AMERICAN ACADEMY OF PEDIATRICS**

YOU ARE COMMANDED, pursuant to Federal Rule of Civil Procedure 45, to produce to the Office of the Attorney General, State of Alabama, 501 Washington Avenue, Montgomery, AL, 36130, at the time and place noted on the subpoena to which this document is attached, the following documents, electronically stored information, or objects, and to permit inspection and copying of the same:

INSTRUCTIONS

Your responses should include all information, knowledge, or belief available not only to You, but also to any attorneys, investigators, consultants, agents, and other representatives acting on Your behalf. Please respond in accordance with the following instructions:

1. **Claims of Privilege and Exception to Discovery.** If any claim of privilege is asserted, in whole or in part, with respect to any Request, or if You refuse to disclose any requested information or Document, in whole or in part, based on any claim of privilege or immunity, please identify the specific privilege or protection claimed and state the basis for the claim, identifying the pertinent circumstances with sufficient specificity to permit Defendants to assess the basis of any such claim for privilege or protection.

2. **Continuing Nature.** These Requests are intended to be and shall be answered or responded to fully as of the date of response and shall be deemed to be continuing thereafter until the conclusion of this matter. If You should subsequently acquire any further responsive information or Documents called for by these Requests, You should promptly furnish such information or Documents to the undersigned counsel.

3. **Answer to the Fullest Extent Possible.** If any of the Requests cannot be fulfilled in full, please answer to the fullest extent possible, explaining why you cannot answer the remainder of the Request, and stating any information or knowledge which You have concerning the unanswered portion.

4. **Objections.** If You have a good-faith objection to any of these Requests, or any part thereof, the specific nature of the objection and whether it applies to the entire Request or to a certain portion thereof shall be clearly stated. If there is an objection to any part of a Request, then the part or parts objected to should be indicated and information responsive to the remaining unobjectionable parts should be provided.

5. **Language.** The use of the singular form of any word includes the plural and vice versa. Reference to one gender includes the other gender. The word “all” means any and all. The word “including” means “including without limitation.”

6. **Patient Confidentiality.** These Requests do not seek the names or other personally-identifying information regarding individual patients, and any responsive Documents or Communications may be redacted to remove such information.

DEFINITIONS

1. The word “**Communication**” refers to any transmission, receipt, or exchange of information, whether orally, electronically, or in writing, including, without limitation, any conversation or discussion by means of Documents, letters, notes, in-person conversations, memoranda, reports, statements, voicemail, audio or video transmission, telephone calls, telegraph, telex, telecopier, facsimile, email, text message, electronic or other instant message, cable, Social Media post or message, Internet post or message, or any other form or medium of transmission or exchange.

2. The words “**Document**” and “**Documents**” are used in the most comprehensive and inclusive sense permitted by Rule 34 of the Federal Rules of Civil Procedure and therefore include, but are not limited to, all forms of recorded information in Your actual or constructive possession, custody, or control, whether handwritten, typed, printed, recorded or stored on computer or personal data storage devices, diskettes, videotapes, audio tapes, or photographic film, as well as electronically stored information and data compilations. The terms “Document” and “Documents” also include any drafts or versions thereof, and all copies on which any mark, alteration, writing, attachment, or any other change from the original appears. By way of example and not limitation, the terms “Document” and “Documents” include: letters, correspondence, memoranda, email and other electronic communications, voice-mail recordings, facsimile transmissions, telegrams, film or photographic prints, video or audio recordings, blueprints, drawings, charts, specimens, models, word processing files, PowerPoint files, spreadsheets, images, metadata, programs, databases and data compilations.

3. The terms “**regarding**,” “**with regards to**,” “**relate**,” “**relating**,” “**relating to**,” “**concerning**,” and/or “**related to**” mean recording, summarizing, embodying, constituting, reflecting, digesting, referring to, commenting upon, describing, reporting, listing, analyzing, studying, or otherwise discussing in any way a subject matter identified in the Request, and is defined so as to reach all matters within the scope of discovery under the Federal Rules of Civil Procedure, including all information which, though inadmissible at trial, is reasonably calculated to lead to the discovery of admissible evidence.

4. The terms “**You**” and “**Your**” refer to the American Academy of Pediatrics as well as its agents, employees, representatives, present or former counsel, and other persons acting on its behalf.

5. The connectives “**and**” and “**or**” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of each of the Requests any and all information and Documents that might otherwise be construed to be outside of their scope.

6. “**Alabama Vulnerable Child Compassion and Protection Act**” (or “**Act**”) shall mean Alabama Act No. 2022-289, introduced in the Alabama Legislature as Senate Bill 184 and signed into law on or around April 8, 2022.

7. “**Sex**” or “**Biological Sex**” shall mean the biological state of being male or female, based on the individual’s sex organs at birth, chromosomes, and endogenous hormone profiles.

8. “**Transitioning**” shall mean the administration of medicines such as Puberty Blockers, Cross-Sex Hormones, and surgical interventions to change the physical appearance of a Minor in a way that is not consistent with the patient’s Biological Sex. This includes changing the appearance to appear as a cross-sex identification as well as non-cross-sex identifications such as “non-binary.”

9. “**Puberty Blockers**” shall mean medication administered to Minors to delay or prevent the onset or continuation of puberty, or otherwise to prevent the formation or maturation of secondary sex characteristics consistent with the patient’s Biological Sex. This includes, but is not limited to, common puberty blockers such as histrelin acetate and leuprolide acetate if administered for the purpose of Transitioning. For purposes of these Requests, “Puberty Blockers” does not include GnRH agonists administered to young children (7 and younger) for the treatment of central precocious puberty or to adult men (19+) for the treatment of prostate cancer.

10. “**Cross-sex Hormones**” shall mean hormones administered to induce the physical characteristics of a sex or gender profile other than the Biological Sex of the patient (including non-cross-sex gender identities such as “non-binary”). It includes, but is not limited to,

administering androgenic hormones such as testosterone, fluoxymesterone, and methyltestosterone to a biological female, and estrogenic hormones such as estrogen and estradiol to a biological male. It also includes the administration of hormone blockers and anti-androgens such as flutamide, spironolactone, and cyproterone if used as part of Transitioning.

11. “**Minor**” shall mean a person under the age of 19.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce all Communications and Documents regarding Resolution #33 introduced at the AAP Annual Leadership Forum in 2021.

2. Produce all Communications and Documents regarding a resolution entitled “Addressing Alternatives to the Use of Hormone Therapies for Gender Dysphoric Youth,” introduced in 2021.

3. Produce all Communications and Documents regarding Resolution 27, entitled “In Support of a Rigorous Systematic Review of Evidence and Policy Update for Management of Pediatric Gender Dysphoria,” introduced at the AAP Annual Leadership Forum in 2022.

4. Produce all Communications and Documents from the AAP Leadership Conference regarding the above resolutions.

5. Produce all Communications and Documents from the AAP Chapter Forum Management Committee regarding the above resolutions.

6. Produce all Communications and Documents from the AAP Section on LGBT Health and Wellness regarding the above resolutions.

7. Produce all Communications and Documents dated after January 1, 2021, regarding Your refusal to permit AAP members from commenting on so-called “unsponsored” resolutions introduced at the AAP Annual Leadership Forum.

8. Produce all Communications and Documents regarding the attempted registration of the Society for Evidence Based Gender Medicine for a booth at the AAP National Conference & Exhibition held in Philadelphia in October 2021.

9. Produce all Communications and Documents regarding registrations for booths at the AAP National Conference & Exhibition held in Philadelphia in October 2021.

10. Produce all Communications and Documents regarding James Cantor or the following article: James M. Cantor, *Transgender and Gender Diverse Children and Adolescents: Fact-Checking of AAP Policy*, Journal of Sex & Marital Therapy, DOI: 10.1080/0092623X.2019.1698481 (2019).

11. Produce all Communications and Documents regarding the impetus for, preparation of, discussion of, drafting of, or adoption as AAP's official Policy Statement of Jason Rafferty et al., *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, PEDIATRICS Volume 142, number 4, October 2018:e20182162.

12. Produce all Communications and Documents regarding the funding of Jason Rafferty et al., *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, PEDIATRICS Volume 142, number 4, October 2018:e20182162.

13. Produce all Communications and Documents regarding Your post-publication consideration, review, analysis, or reconsideration of Jason Rafferty et al., *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, PEDIATRICS Volume 142, number 4, October 2018:e20182162.

14. Produce all Communications and Documents regarding the impetus for, preparation of, discussion of, drafting of, or adoption as AAP's official Policy Statement of a forthcoming

statement now or previously entitled “Providing Affirmative Clinical Care to Transgender and Gender-Diverse Children and Adolescents.”

15. Produce all Communications and Documents regarding the impetus for, preparation of, discussion of, drafting of, or adoption as AAP’s official Policy Statement of a forthcoming statement now or previously entitled “Care of Transgender Youth, Clinical Report.”

16. Produce all Communications and Documents regarding the following article: Jack L. Turban et al., *Sex Assigned at Birth Ratio Among Transgender and Gender Diverse Adolescents in the United States*, PEDIATRICS, August 2022: e2022056567.

17. Produce all Communications between You and other medical organizations, associations, or societies regarding gender dysphoria or Transitioning for minors.

18. Produce all Communications and Documents regarding the impetus for, preparation of, discussion of, drafting of, or adoption by AAP of a document entitled “Supporting & Caring for Transgender Children” (Sept. 2016).

19. Produce all non-privileged Communications and Documents regarding the following filings by AAP: Brief of Amici Curiae American Academy of Pediatrics et al., *Brandt v. Rutledge*, E.D. Ark. No. 21-cv-450, Dkt. 23 (filed June 23, 2021); Brief of Amici Curiae American Academy of Pediatrics et al., *Brandt v. Rutledge*, 8th Cir. No. 21-2875 (filed Jan. 25, 2022); Response to FRAP 28(j) Letter in *Brandt v. Rutledge* (No. 21-2875) by Counsel for AAP (filed March 11, 2022); Response to FRAP 28(j) letter in *Brandt v. Rutledge* (No. 21-2875) by Counsel for AAP (filed April 19, 2022); Brief of Amici Curiae American Academy of Pediatrics et al., *Eknes Tucker v. Ivey*, M.D. Ala. No. 22-cv-184, Dkt. 91-1 (filed May 4, 2022).

20. Produce all non-privileged Communications and Documents regarding *Eknes Tucker v. Ivey*, M.D. Ala. No. 22-cv-184; *Ladinsky v. Ivey*, N.D. Ala. No. 22-cv-447; and, *Walker v. Marshall*, M.D. Ala. No. 22-cv-167.

21. Produce all non-privileged Communications and Documents regarding the following filings by AAP: Brief of Amici Curiae American Academy of Pediatrics et al., *Hecox v. Little*, 9th Cir. Nos. 20-35813, 20-35815, Dkt. 75 (filed December 21, 2020); Brief of Amici Curiae American Academy of Pediatrics et al., *Soule v. Connecticut Association of Schools, Inc.*, 2d Cir. No. 21-1365, Dkt. 106 (filed Oct. 12, 2021); Brief of Amici Curiae Medical, Public Health, and Mental Health Organizations, *Grimm v. Gloucester County School Board*, 4th Cir. No. 19-1952, Dkt. 32-1 (Nov. 25, 2019).

22. Produce all Communications and Documents regarding a News Release issued by AAP on April 2, 2021, entitled “Frontline Physicians Oppose Legislation That Interferes in or Penalizes Patient Care.”

23. Produce all Communications and Documents dated after January 1, 2020, regarding AAP’s review or consideration of the following: Nat’l Inst. for Health and Care Excellence, *Evidence Review: Gender-Affirming Hormones for Children and Adolescents with Gender Dysphoria* (2021); Nat’l Inst. for Health and Care Excellence, *Evidence Review: Gonadotrophin Releasing Hormone Analogues for Children and Adolescents with Gender Dysphoria* (2021); Abigail Shrier, *Irreversible Damage* (2020); Abigail Shrier, *Top Trans Doctors Blow the Whistle on ‘Sloppy’ Care*, Common Sense (Oct. 4, 2021); William J. Malone et al., *Proper Care of Transgender and Gender-diverse Persons in the Setting of Proposed Discrimination*, 106 J. Clinical Endocrinology & Metabolism e3287 (2021); Abigail Shrier, *A Pediatric Association Stifles Debate on Gender Dysphoria*, Wall St. Journal (Aug. 9, 2021); Stephen Levine et al.,

Reconsidering Informed Consent for Trans-Identified Children, Adolescents, and Young Adults, J. Sex & Marital Therapy, 7 (Mar. 2022); Socialstyrelsen, *Care of children and adolescents with gender dysphoria* (Feb. 2022); Académie Nationale de Médecine, *Medicine and gender transidentity in children and adolescents* (Feb. 2022).

24. Produce all Communications and Documents regarding the Sept. 2015 AAP presentation referenced in Kim LaCapria, *Did American Pediatricians Issue a Statement That Transgenderism Is ‘Child Abuse’?*, Snopes (May 20, 2016).

25. Produce all Communications and Documents regarding Your efforts to develop a statement on care for transgender children between 2016 and 2018.

Exhibit 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

REV. PAUL A. EKNES-TUCKER, et al.,

Plaintiffs,

v.

STEVE MARSHALL, in his official
capacity as Attorney General of the State
of Alabama, et al.,

Defendants.

No. 2:22-cv-00184-LCB-CWB

**AMERICAN ACADEMY OF PEDIATRICS' RESPONSES AND
OBJECTIONS TO RULE 45 SUBPOENA TO PRODUCE DOCUMENTS**

Pursuant to Rules 26 and 45 of the Federal Rules of Civil Procedure, non-party American Academy of Pediatrics (“AAP”), through its undersigned counsel, hereby responds and objects to the subpoena for the production of documents (“Requests”) served by the State of Alabama (“Defendant”) in the above-captioned proceeding.

GENERAL OBJECTIONS

The following General Objections are incorporated in full into all Specific Objections set forth below:

1. These responses are made solely for the purpose of this action. By responding to the Requests, AAP does not waive any objections that it may have to

admission into evidence of these responses or any documents produced in response to the Requests on any applicable grounds.

2. AAP objects to the Requests to the extent that they impose obligations that go beyond, or that are otherwise inconsistent with, the Federal Rules of Civil Procedure, the Local Rules of the Court, any Order of the Court, or any other applicable law, rule, or order (collectively “Discovery Rules”).

3. AAP objects to the Requests to the extent they seek discovery beyond any relevant, responsive, non-privileged, and non-duplicative information or documents in its possession, custody, or control that would be located after a reasonable search proportional to the needs of the case. AAP will respond to these Requests in good faith, but observes that the Requests on their face appear to seek information that is not relevant to any party’s claims or defenses. *See, e.g., North Carolina Right to Life, Inc. v. Leake*, 231 F.R.D. 49, 51–52 (D.D.C. 2005) (holding that “[t]he mere filing of an amicus brief ... does not open oneself to broad discovery demands, nor does it make one’s bias, if any, relevant to the underlying action” and that “imposing such a burden on amici would undoubtedly discourage entities from making amicus filings at all, so as to avoid subjecting themselves to severe scrutiny and onerous discovery requests.”).

4. AAP objects to the Requests as overly broad and unduly burdensome, particularly the burden of requiring a non-party to respond to 25 Requests, many

with multiple sub-parts, which demand “*all* Communications and Documents” (emphasis added) and are unbounded by time or any other limiting criteria. The cumulative burden of responding to these Requests is not proportional to the needs of the case, particularly because AAP is not a party to the case. Indeed, “concern for the unwanted burden thrust upon non-parties is a factor entitled to special weight in evaluating the balance of competing needs” under Rule 45 of the Federal Rules of Civil Procedure. *See, e.g., Va. Dep’t of Corrs. v. Jordan*, 921 F.3d 180, 189 (4th Cir. 2019) (holding that a “a more demanding variant of the proportionality analysis” applies, and that courts “must give the recipient’s nonparty status special weight, leading to an even more demanding and sensitive inquiry than the one governing discovery generally.”).

5. AAP objects to the Requests, and to the definitions and instructions included in the Requests, to the extent that they assume facts and events, include characterizations that are assumed to be accurate, or contain legal conclusions. By responding to the Requests, AAP does not admit or concede that any fact, event, characterization, or legal conclusion is correct or accurate, and AAP reserves the right to contest all assumed facts, events, characterizations, and legal conclusions.

6. AAP objects to the Requests, and to the definitions and instructions included in this set of Requests, to the extent that they purport to require that AAP identify and provide discovery with regard to “each,” “all,” “any,” or similar all-

encompassing wording on the grounds that the Requests are individually and collectively overly broad and unduly burdensome and seek discovery not relevant to the parties' claims and defenses nor proportional to the needs of the case. To the extent that the Requests seek information or documents that are not reasonably accessible because they cannot be retrieved or produced without undue burden or cost, AAP objects because the Requests are overly broad and unduly burdensome.

7. AAP objects to the Requests to the extent that they seek information that can be obtained from the parties to this case, publicly-available sources, or other third parties, including from the parties' experts.

8. AAP objects to the Requests to the extent they seek documents no longer reasonably obtainable by AAP due to the passage of time, employee turnover, or because the information is not stored on active systems.

9. AAP objects to the Requests to the extent that they seek production of confidential or other sensitive information, and to the extent they seek discovery of sensitive non-public information or disclosure of information protected by any confidentiality obligation owed a third party.

10. AAP objects to the Requests to the extent that they seek production of documents that are protected by the attorney-client privilege, the work product doctrine, the joint-defense or common interest privilege, privacy laws (including patient and healthcare privacy laws), any other applicable privilege, protection, or

immunity, or that are otherwise exempted from discovery. AAP hereby asserts all applicable privileges and protections to the extent implicated by each Request, whether based on statute or regulation or recognized at common law. In the event that any privileged document is produced by AAP, its production is inadvertent and does not constitute waiver of any privilege, protection, or immunity.

11. AAP objects to the Requests to the extent that they seek production of documents that are protected by the First Amendment privilege, including but not limited to associational information. *See, e.g., Perry v. Schwarzenegger*, 591 F.3d 1147, 1152 (9th Cir. 2010) (recognizing that where “discovery would have the practical effect of discouraging the exercise of First Amendment associational rights, the party seeking such discovery must demonstrate a need for the information sufficient to outweigh the impact on those rights”).

12. AAP’s objections are made to the best of its knowledge, information, and belief. AAP reserves the right to revise, correct, clarify, supplement, and/or amend the objections set forth herein, and reserve its right to assert any and all other defenses or objections, including those permitted by the Discovery Rules and the case law.

OBJECTIONS TO DEFINITIONS

13. AAP objects to the definitions of “You” and “Your” on the grounds that they are overly broad, vague, ambiguous, and unduly burdensome to the extent they seek production of information from entities other than AAP.

14. AAP objects to the definition of “Document” and “Documents” to the extent that they seek to impose obligations on AAP beyond those imposed by the Discovery Rules and/or seek information or documents not in AAP’s possession, custody, or control.

15. AAP objects to the definition of “Communication” and “Communications” to the extent that they seek to impose obligations on AAP beyond those imposed by the Discovery Rules and/or seek information or documents not in AAP’s possession, custody, or control.

16. AAP objects to the definitions of “Sex,” “Biological Sex,” “Transitioning,” “Cross-sex Hormones,” and “Puberty Blockers” as argumentative and inaccurate. However, solely for purposes of responding to the subpoena, AAP will interpret the Requests consistent with the provided Definitions, to the extent that they can be understood.

OBJECTIONS TO INSTRUCTIONS

17. AAP objects to Instruction No. 1 to the extent that it imposes obligations that go beyond, or that are otherwise inconsistent with the Discovery Rules.

18. AAP objects to Instruction No. 2 as overly broad and unduly burdensome to the extent it seeks to impose a continuing obligation on AAP to conduct discovery and produce documents responsive to the Requests. To the extent AAP produces any material in response to the subpoena, it will be material that existed as of the date of service of the subpoena.

19. AAP objects to Instruction No. 3 to the extent that it imposes obligations that go beyond, or that are otherwise inconsistent with the Discovery Rules.

20. AAP objects to Instruction No. 4 to the extent that it imposes obligations that go beyond, or that are otherwise inconsistent with the Discovery Rules.

21. AAP objects to Instruction No. 5 as inaccurate to the extent that it attempts to define “gender.”

22. AAP objects to Instruction No. 6 to the extent that it is insufficiently protective of confidential or sensitive patient information.

SPECIFIC RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1:

Produce all Communications and Documents regarding Resolution #33 introduced at the AAP Annual Leadership Forum in 2021.

RESPONSE TO REQUEST NO. 1:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “regarding,” and because it is unbounded by time. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege. AAP further objects to this Request as duplicative of, *inter alia*, Request Nos. 2, 4, 5, and 6.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 2:

Produce all Communications and Documents regarding a resolution entitled “Addressing Alternatives to the Use of Hormone Therapies for Gender Dysphoric Youth,” introduced in 2021.

RESPONSE TO REQUEST NO. 2:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “regarding,” and because it is unbounded by time. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege. AAP further objects to this Request as duplicative of, *inter alia*, Request No. 1, 4, 5, and 6.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 3:

Produce all Communications and Documents regarding Resolution 27, entitled “In Support of a Rigorous Systematic Review of Evidence and Policy Update for Management of Pediatric Gender Dysphoria,” introduced at the AAP Annual Leadership Forum in 2022.

RESPONSE TO REQUEST NO. 3:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “regarding,” and because it is unbounded by time. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege. AAP further objects to this Request as duplicative of, *inter alia*, Request Nos. 4, 5, and 6.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 4:

Produce all Communications and Documents from the AAP Leadership Conference regarding the above resolutions.

RESPONSE TO REQUEST NO. 4:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the phrase “from the AAP Leadership Conference,” and because it is unbounded by time. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege. AAP further objects to this Request as duplicative of, *inter alia*, Request Nos. 1, 2, 3, 5, and 6.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 5:

Produce all Communications and Documents from the AAP Chapter Forum Management Committee regarding the above resolutions.

RESPONSE TO REQUEST NO. 5:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “from,” and because it is unbounded by time. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege. AAP further objects to this Request as duplicative of, *inter alia*, Request Nos. 1, 2, 3, 4, and 6.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 6:

Produce all Communications and Documents from the AAP Section on LGBT Health and Wellness regarding the above resolutions.

RESPONSE TO REQUEST NO. 6:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “from,” and because it is unbounded by time. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege. AAP further objects to this Request as duplicative of, *inter alia*, Request Nos. 1, 2, 3, 4, and 5.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 7:

Produce all Communications and Documents dated after January 1, 2021, regarding Your refusal to permit AAP members from commenting on so-called “unsponsored” resolutions introduced at the AAP Annual Leadership Forum

RESPONSE TO REQUEST NO. 7:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, argumentative, and unduly burdensome, particularly as to the phrases “all Communications and Documents,” “refusal to permit,” “so-called ‘unsponsored’,” and the word “regarding.” AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 8:

Produce all Communications and Documents regarding the attempted registration of the Society for Evidence Based Gender Medicine for a booth at the AAP National Conference & Exhibition held in Philadelphia in October 2021.

RESPONSE TO REQUEST NO. 8:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “regarding,” and because it is unbounded by time. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 9:

Produce all Communications and Documents regarding registrations for booths at the AAP National Conference & Exhibition held in Philadelphia in October 2021.

RESPONSE TO REQUEST NO. 9:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “regarding,” and because it is unbounded by time. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 10:

Produce all Communications and Documents regarding James Cantor or the following article: James M. Cantor, *Transgender and Gender Diverse Children and Adolescents: Fact-Checking of AAP Policy*, Journal of Sex & Marital Therapy, DOI: 10.1080/0092623X.2019.1698481 (2019).

RESPONSE TO REQUEST NO. 10:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “regarding,” and because it is unbounded by time. AAP further objects to the Request to the extent the cited article speaks for itself. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 11:

Produce all Communications and Documents regarding the impetus for, preparation of, discussion of, drafting of, or adoption as AAP's official Policy Statement of Jason Rafferty et al., *Ensuring Comprehensive Care and Support for Trans gender and Gender-Diverse Children and Adolescents*, PEDIATRICS Volume 142, number 4, October 2018:e20182162.

RESPONSE TO REQUEST NO. 11:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the words “regarding,” “impetus,” and “preparation,” and because it is unbounded by time. AAP further objects to the Request to the extent the cited document speaks for itself. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 12:

Produce all Communications and Documents regarding the funding of Jason Rafferty et al., *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, PEDIATRICS Volume 142, number 4, October 2018:e20182162.

RESPONSE TO REQUEST NO. 12:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “regarding,” and because it is unbounded by time. AAP further objects to the Request to the extent the cited article speaks for itself. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 13:

Produce all Communications and Documents regarding Your post-publication consideration, review, analysis, or reconsideration of Jason Rafferty et al., *Ensuring Comprehensive Care and Support for Trans gender and Gender-Diverse Children and Adolescents*, PEDIATRICS Volume 142, number 4, October 2018:e20182162.

RESPONSE TO REQUEST NO. 13:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “post-publication consideration, review, analysis, or reconsideration,” and the word “regarding.” AAP further objects to the Request to

the extent the cited article speaks for itself. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 14:

Produce all Communications and Documents regarding the impetus for, preparation of, discussion of, drafting of, or adoption as AAP's official Policy Statement of a forthcoming statement now or previously entitled “Providing Affirmative Clinical Care to Transgender and Gender-Diverse Children and Adolescents.”

RESPONSE TO REQUEST NO. 14:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the words “regarding,” “impetus,” and “preparation,” and because

it is unbounded by time. AAP further objects to the Request to the extent the cited document speaks for itself. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 15:

Produce all Communications and Documents regarding the impetus for, preparation of, discussion of, drafting of, or adoption as AAP’s official Policy Statement of a forthcoming statement now or previously entitled “Care of Transgender Youth, Clinical Report.”

RESPONSE TO REQUEST NO. 15:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the words “regarding,” “impetus,” and “preparation,” and because

it is unbounded by time. AAP further objects to the Request to the extent the cited document speaks for itself. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 16:

Produce all Communications and Documents regarding the following article: Jack L. Turban et al., *Sex Assigned at Birth Ratio Among Transgender and Gender Diverse Adolescents in the United States*, PEDIATRICS, August 2022: e2022056567.

RESPONSE TO REQUEST NO. 16:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and

Documents” and the word “regarding.” AAP further objects to the Request to the extent the cited article speaks for itself. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 17:

Produce all Communications between You and other medical organizations, associations, or societies regarding gender dysphoria or Transitioning for minors.

RESPONSE TO REQUEST NO. 17:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications” and the words “regarding” and “other medical organizations, associations, or societies,” and because it is unbounded by time. AAP further objects to this

Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 18:

Produce all Communications and Documents regarding the impetus for, preparation of, discussion of, drafting of, or adoption by AAP of a document entitled “Supporting & Caring for Transgender Children” (Sept. 2016).

RESPONSE TO REQUEST NO. 18:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the words “regarding,” “impetus,” and “preparation,” and because it requests documents from many years ago. AAP further objects to the Request to the extent the cited document speaks for itself. AAP further objects to this Request

to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 19:

Produce all non-privileged Communications and Documents regarding the following filings by AAP: Brief of Amici Curiae American Academy of Pediatrics et al., *Brandt v. Rutledge*, E.D. Ark. No. 21-cv-450, Dkt. 23 (filed June 23, 2021); Brief of Amici Curiae American Academy of Pediatrics et al., *Brandt v. Rutledge*, 8th Cir. No. 21-2875 (filed Jan. 25, 2022); Response to FRAP 28(j) Letter in *Brandt v. Rutledge* (No. 21-2875) by Counsel for AAP (filed March 11, 2022); Response to FRAP 28(j) letter in *Brandt v. Rutledge* (No. 21-2875) by Counsel for AAP (filed April 19, 2022); Brief of Amici Curiae American Academy of Pediatrics et al., *Eknes Tucker v. Ivey*, M.D. Ala. No. 22-v-184, Dkt. 91-1 (filed May 4, 2022).

RESPONSE TO REQUEST NO. 19:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither

relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “regarding.” AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege. AAP further objects to this Request because, notwithstanding the purported limitation to “non-privileged” documents, it clearly calls for documents protected by at least the attorney-client and/or work product privilege.

AAP will not produce documents in response to this improper Request.

REQUEST NO. 20:

Produce all non-privileged Communications and Documents regarding *Elmes Tucker v. Ivey*, M.D. Ala. No. 22-cv-184; *Ladinsky v. Ivey*, N.D. Ala. No. 22-cv-447; and, *Walker v. Marshall*, M.D. Ala. No. 22-cv-167.

RESPONSE TO REQUEST NO. 20:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the

case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “regarding.” AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege. AAP further objects to this Request because, notwithstanding the purported limitation to “non-privileged” documents, it clearly calls for documents protected by at least the attorney-client and/or work product privilege.

AAP will not produce documents in response to this improper Request.

REQUEST NO. 21:

Produce all non-privileged Communications and Documents regarding the following filings by AAP: Brief of Amici Curiae American Academy of Pediatrics et al., *Hecox v. Little*, 9th Cir. Nos. 20-35813, 20-35815, Dkt. 75 (filed December 21, 2020); Brief of Amici Curiae American Academy of Pediatrics et al., *Soule v. Connecticut Association of Schools, Inc.*, 2d Cir. No. 21-1365, Dkt. 106 (filed Oct. 12, 2021); Brief of Amici Curiae Medical, Public Health, and Mental Health Organizations, *Grimm v. Gloucester County School Board*, 4th Cir. No. 19-1952, Dkt. 32-1 (Nov. 25, 2019).

RESPONSE TO REQUEST NO. 21:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “regarding.” AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege. AAP further objects to this Request because, notwithstanding the purported limitation to “non-privileged” documents, it clearly calls for documents protected by at least the attorney-client and/or work product privilege.

AAP will not produce documents in response to this improper Request.

REQUEST NO. 22:

Produce all Communications and Documents regarding a News Release issued by AAP on April 2, 2021, entitled “Frontline Physicians Oppose Legislation That Interferes in or Penalizes Patient Care.”

RESPONSE TO REQUEST NO. 22:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “regarding.” AAP further objects to the Request to the extent the cited document speaks for itself. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 23:

Produce all Communications and Documents dated after January 1, 2020, regarding AAP's review or consideration of the following: Nat'l Inst. for Health and Care Excellence, *Evidence Review: Gender-Affirming Hormones for Children and Adolescents with Gender Dysphoria* (2021); Nat'l Inst. for Health and Care Excellence, *Evidence Review: Gonadotrophin Releasing Hormone Analogues for*

Children and Adolescents with Gender Dysphoria (2021); Abigail Shrier, *Irreversible Damage* (2020); Abigail Shrier, *Top Trans Doctors Blow the Whistle on ‘Sloppy’ Care*, *Common Sense* (Oct. 4, 2021); William J. Malone et al., *Proper Care of Trans gender and Gender-diverse Persons in the Setting of Proposed Discrimination*, 106 *J. Clinical Endocrinology & Metabolism* e3287 (2021); Abigail Shrier, *A Pediatric Association Stifles Debate on Gender Dysphoria*, *Wall St. Journal* (Aug. 9, 2021); Stephen Levine et al., *Reconsidering Informed Consent for Trans-Identified Children, Adolescents, and Young Adults*, *J. Sex & Marital Therapy*, 7 (Mar. 2022); Socialstyrelsen, *Care of children and adolescents with gender dysphoria* (Feb. 2022); Academie Nationale de Medecine, *Medicine and gender transidentity in children and adolescents* (Feb. 2022).

RESPONSE TO REQUEST NO. 23:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the words “regarding” and “review or consideration.” AAP

further objects to the Request to the extent the cited documents speak for themselves. AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 24:

Produce all Communications and Documents regarding the Sept. 2015 AAP presentation referenced in Kim LaCapria, *Did American Pediatricians Issue a Statement That Transgenderism Is ‘Child Abuse’?*, Snopes (May 20, 2016).

RESPONSE TO REQUEST NO. 24:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects that this Request is unintelligible as worded. Taking the Request at face value, AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous,

overly broad, and unduly burdensome, particularly as to the phrase “all Communications and Documents” and the word “regarding.”

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

REQUEST NO. 25:

Produce all Communications and Documents regarding Your efforts to develop a statement on care for transgender children between 2016 and 2018.

RESPONSE TO REQUEST NO. 25:

AAP incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. AAP further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of AAP’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. AAP further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “statement on care,” and the words “regarding” and “efforts.” AAP further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, AAP is willing to meet and confer about this Request and to discuss what, if any, responsive documents AAP may agree to produce.

Dated: September 9, 2022

Respectfully submitted,

/s/ Cortlin H. Lannin

Cortlin H. Lannin
Dylan M. Silva
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission St., Suite 5400
San Francisco, CA 94105
Phone: (415) 591-6000
clannin@cov.com

*Counsel for Non-Party American
Academy of Pediatrics*

CERTIFICATE OF SERVICE

I, the undersigned, certify that copies of the foregoing **American Academy of Pediatrics' Responses and Objections to Rule 45 Subpoena to Produce Documents** were delivered to the following parties by electronic mail:

Barrett Bowdre
Deputy Solicitor General
Office of the Attorney General
State of Alabama
501 Washington Avenue
Montgomery, AL 36130
Barrett.Bowdre@AlabamaAG.gov

Dated: September 9, 2022

/s/ Dylan M. Silva
Dylan M. Silva
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission St., Suite 5400
San Francisco, CA 94105
Phone: (415) 591-7007
dsilva@cov.com

Exhibit 3

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the
Middle District of Alabama

Brianna Boe, et al.

Plaintiff

v.

Governor of the State of Alabama, et al.

Defendant

Civil Action No. 2:22-cv-184-LCB

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Veritas Meeting Solutions, Inc., World Professional Association for Transgender Health,
1061 E. Main St., Suite 300, E. Dundee, IL 60118

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

Place: Office of the Attorney General, State of Alabama, 501 Washington Avenue, Montgomery, AL, 36130	Date and Time: 11/12/2022 12:00 pm
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Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

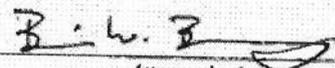
The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 10/12/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
Governor of the State of Alabama, et al. _____, who issues or requests this subpoena, are:
Brian Barnes, Cooper & Kirk, PLLC, 1523 New Hampshire Ave. NW, Washington, DC, 20036, bbarnes@cooperkirk.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 2:22-cv-184-LCB

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____; or

I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**SUBPOENA FOR PRODUCTION OF DOCUMENTS DIRECTED TO
WORLD PROFESSIONAL ASSOCIATION FOR TRANSGENDER HEALTH &
UNITED STATES PROFESSIONAL ASSOCIATION FOR TRANSGENDER HEALTH**

YOU ARE COMMANDED, pursuant to Federal Rule of Civil Procedure 45, to produce to the Office of the Attorney General, State of Alabama, 501 Washington Avenue, Montgomery, AL, 36130, at the time and place noted on the subpoena to which this document is attached, the following documents, electronically stored information, or objects, and to permit inspection and copying of the same:

INSTRUCTIONS

Your responses should include all information, knowledge, or belief available not only to You, but also to any attorneys, investigators, consultants, agents, and other representatives acting on Your behalf. Please respond in accordance with the following instructions:

1. **Claims of Privilege and Exception to Discovery.** If any claim of privilege is asserted, in whole or in part, with respect to any Request, or if You refuse to disclose any requested information or Document, in whole or in part, based on any claim of privilege or immunity, please identify the specific privilege or protection claimed and state the basis for the claim, identifying the pertinent circumstances with sufficient specificity to permit Defendants to assess the basis of any such claim for privilege or protection.

2. **Continuing Nature.** These Requests are intended to be and shall be answered or responded to fully as of the date of response and shall be deemed to be continuing thereafter until the conclusion of this matter. If You should subsequently acquire any further responsive information or Documents called for by these Requests, You should promptly furnish such information or Documents to the undersigned counsel.

3. **Answer to the Fullest Extent Possible.** If any of the Requests cannot be fulfilled in full, please answer to the fullest extent possible, explaining why you cannot answer the remainder of the Request, and stating any information or knowledge which You have concerning the unanswered portion.

4. **Objections.** If You have a good-faith objection to any of these Requests, or any part thereof, the specific nature of the objection and whether it applies to the entire Request or to a certain portion thereof shall be clearly stated. If there is an objection to any part of a Request, then the part or parts objected to should be indicated and information responsive to the remaining unobjectionable parts should be provided.

5. **Language.** The use of the singular form of any word includes the plural and vice versa. Reference to one gender includes the other gender(s). The word “all” means any and all. The word “including” means “including without limitation.”

DEFINITIONS

1. The word “**Communication**” refers to any transmission, receipt, or exchange of information, whether orally, electronically, or in writing, including, without limitation, any conversation or discussion by means of Documents, letters, notes, in-person conversations, memoranda, reports, statements, voicemail, audio or video transmission, telephone calls, telegraph, telex, telecopier, facsimile, email, text message, electronic or other instant message, cable, Social Media post or message, Internet post or message, or any other form or medium of transmission or exchange.

2. The words “**Document**” and “**Documents**” are used in the most comprehensive and inclusive sense permitted by Rule 34 of the Federal Rules of Civil Procedure, as elaborated by the official Comment on the 2006 Amendment. The terms “Document” and “Documents” also

include any drafts or versions thereof, and all copies on which any mark, alteration, writing, attachment, or any other change from the original appears.

3. The terms “**regarding**,” “**with regards to**,” “**relate**,” “**relating**,” “**relating to**,” “**concerning**,” and/or “**related to**” mean recording, summarizing, embodying, constituting, reflecting, digesting, referring to, commenting upon, describing, reporting, listing, analyzing, studying, or otherwise discussing in any way a subject matter identified in the Request, and is defined so as to reach all matters within the scope of discovery under the Federal Rules of Civil Procedure.

4. The terms “**You**” and “**Your**” refer to the World Professional Association for Transgender Health (WPATH) and the United States Professional Association for Transgender Health (USPATH) as well as the officers, agents, employees, members, representatives, present or former counsel, and all other persons acting on behalf of WPATH and USPATH.

5. The connectives “**and**” and “**or**” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of each of the Requests any and all information and Documents that might otherwise be construed to be outside of their scope.

6. “**Alabama Vulnerable Child Compassion and Protection Act**” (or “**Act**”) shall mean Alabama Act No. 2022-289, introduced in the Alabama Legislature as Senate Bill 184 and signed into law on or around April 8, 2022.

7. “**Sex**” or “**Biological Sex**” shall mean the biological state of being male or female, based on the individual’s chromosomes and reproductive organs at birth.

8. “**Male**” shall mean the biological state of being male, based on the individual’s chromosomes and reproductive organs at birth.

9. “**Female**” shall mean the biological state of being female, based on the individual’s chromosomes and reproductive organs at birth.

10. “**Gender Dysphoria**” is the diagnosis of Gender Dysphoria under the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). “**Related Conditions**” include “gender incongruence” as defined by the ICD-11 and any other issues concerning trans (or transgender), gender diverse, and non-binary gender identities.

11. “**Puberty Blockers**” shall mean medication administered to Minors to delay or prevent the onset or continuation of puberty, or otherwise to delay or prevent the formation or maturation of secondary sex characteristics. This includes, but is not limited to, common puberty blockers such as histrelin acetate and leuprolide acetate if administered for the purpose of Transitioning. For purposes of these Requests, “Puberty Blockers” does not include GnRH agonists administered to young children (7 and younger) for the treatment of central precocious puberty or to adult men (19+) for the treatment of prostate cancer.

12. “**Cross-sex Hormones**” shall mean hormones administered to induce the physical characteristics of a sex or gender profile other than the Biological Sex of the patient (including non-cross-sex gender identities such as “non-binary”). It includes, but is not limited to, administering androgenic hormones such as testosterone, fluoxymesterone, and methyltestosterone to a biological female, and estrogenic hormones such as estrogen and estradiol to a biological male. It also includes the administration of hormone blockers and anti-androgens such as flutamide, spironolactone, and cyproterone if used as part of Transitioning.

13. “**Desistance**” shall mean the resolution of diagnosed Gender Dysphoria or Related Conditions in a Minor without the continued administration of Puberty Blockers, Cross-Sex Hormones, or surgical interventions.

14. “**Transitioning**” shall mean the administration of medicines such as Puberty Blockers, Cross-Sex Hormones, and surgical interventions to change the physical appearance of a Minor in a way that is not consistent with the patient’s Biological Sex. This includes changing the appearance to appear as a cross-sex identification as well as non-cross-sex identifications such as “non-binary.”

15. “**Detransitioning**” shall mean any actions taken to conceal or reverse the effects of Transitioning, including the administration of medicines, surgical interventions, and social actions such as changing pronouns, dress, or other forms of gender expression.

16. “**Minor**” shall mean a person under the age of 19.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce all Communications and Documents relating to the application and selection process for the WPATH Guideline Steering Committee, the Co-Chairs of the Standards of Care 8 (SOC-8) Revision Committee, each of the Chapter Leads for the SOC-8, each of the Chapter Workgroup Members for the SOC-8, each of the Chapter Stakeholder Members for the SOC-8, and each member of the WPATH Standards of Care 8th Version Evidence Review Team. *See generally* SOC-8 at S247-48 (Overview of SOC-8 development process).

2. Produce all Communications and Documents relating to the decision regarding what chapters to include and not include in SOC-8, including but not limited to the decision not to include a chapter on Detransitioning.

3. Produce all Communications and Documents relating to the development and approval of chapters 6 (Adolescents), 7 (Children), 8 (Nonbinary), 9 (Eunuchs), 12 (Hormone Therapy), 13 (Surgery and Postoperative Care), 14 (Voice and Communication), 15 (Primary Care), 16 (Reproductive Health), 17 (Sexual Health), and 18 (Mental Health) of SOC-8.

4. Produce all Communications and Documents relating to the Delphi process for the SOC-8 chapters listed in Request #3, including who participated and voted in the Delphi process. *See, e.g.*, SOC-8 at S247, 250.

5. Produce all Communications and Documents relating to the systematic review, “evidence tables[,] and other results of the systematic reviews” that the Evidence Review Team presented related to the chapters listed in Request #3. *See* SOC-8 at S249 (“The Evidence Review Team presented evidence tables and other results of the systematic reviews to the members of the relevant chapter for feedback.”)

6. Produce all Communications and Documents relating to the Evidence Review Team’s search criteria, study selection results, and data extraction for the chapters listed in Request #3. *See* SOC-8 at S249.

7. Produce all Communications and Documents relating to the evidence grades assigned by the Evidence Review Team for all studies, research questions, and statements for the chapters listed in Request #3. *See* SOC-8 at S250 (“The Evidence Review Team assigned evidence grades using the GRADE methodology.”).

8. Produce all Communications and Documents relating to the value factors that were included in the GRADE review process, including “the balance of potential benefits and harms” and “values and preferences of providers and patients.” SOC-8 at S250.

9. Produce all Communications and Documents comprising comments and survey responses to the draft SOC-8. *See* SOC-8 at S251 (“A final SOC-8 draft was made available for comments.... A total of 1,279 people made comments on the draft with a total of 2,688 comments.”).

10. Produce all Communications and Documents relating to revisions of SOC-8 as a result of, or in response to, comments received on the draft SOC-8. *See* SOC-8 at S251 (“The Chapters Leads and Guideline Steering Committee considered the feedback and made any necessary revisions....”).

11. Produce all Communications and Documents relating to the minimum age for treatments in SOC-8, including the initial decision to include minimum ages for treatments and the later decision not to include minimum ages for treatments. *See, e.g.*, “New Standards of Transgender Health Care Raises Eyebrows,” *The Economist* (Sept. 23, 2022), <https://www.economist.com/united-states/2022/09/22/new-standards-of-transgender-health-care-raise-eyebrows> (“Known as SOC8, they originally included a list of minimum ages for treatments—14 for cross-sex hormones, 15 for removal of breasts, 17 for testicles. Hours later, a ‘correction’ eliminated the age limits.”).

12. Produce all Communications and Documents relating to the role played by, and the identities of, non-professional “stakeholders” in the development and approval of SOC-8 and, in particular, the chapters listed in Request #3. *See, e.g.*, SOC-8 at S248 (“Each chapter also included stakeholders as members who bring perspectives of transgender health advocacy or work in the community....”).

13. Produce all Communications and Documents identifying funding sources for SOC-7 and SOC-8.

14. Produce all Communications and Documents relating to the development, review, and approval of the “Assessment and Treatment of Children and Adolescents with Gender Dysphoria” chapter in SOC-7.

15. Produce all Communications and Documents regarding Dr. Lisa Littman, her article, *Rapid-Onset Gender Dysphoria in Adolescents and Young Adults: A Study of Parental Reports*, and any subsequent revisions to that article.
16. Produce all Communications and Documents relating to the September 2018 WPATH public statement entitled, "WPATH POSITION ON 'Rapid-Onset Gender Dysphoria (ROGD).'"
17. Produce all Communications with the journal PLOS One, its officers, agents, employees, or other representatives dated after July 1, 2017.
18. Produce all Communications and Documents relating to the article by Abigail Shrier entitled "Top Trans Doctors Blow the Whistle on 'Sloppy' Care," available at <https://www.commonsense.news/p/top-trans-doctors-blow-the-whistle>.
19. Produce all Communications and Documents relating to the October 2021 "Joint Letter from USPATH and WPATH," available at <https://www.wpath.org/media/cms/Documents/Public%20Policies/2021/Joint%20WPATH%20USPATH%20Letter%20Dated%20Oct%2012%202021.pdf>.
20. Produce all Communications and Documents regarding the resignation of Dr. Erica Anderson from USPATH.
21. Produce all Communications and Documents related to the article by Dr. Laura Edwards-Leeper and Dr. Erica Anderson entitled, "The Mental Health Establishment Is Failing Trans Kids," and published in The Washington Post, available at <https://www.washingtonpost.com/outlook/2021/11/24/trans-kids-therapy-psychologist/>.

22. Produce all Communications and Documents related to the drafting of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), and any subsequent editions or revisions.
23. Produce all Communications and Documents related to the drafting of the ICD-11 coding for gender identity-related health.
24. Produce all Communications and Documents relating to Dr. Kenneth Zucker's participation in the February 2017 USPATH conference, including Communications and Documents relating to any review and acceptance of any papers or presentations by Dr. Zucker and any decision to cancel any part of his planned participation.
25. Produce all Communications and Documents related to the review, scoring, and acceptance of all presentations for the February 2017 USPATH conference.
26. Produce all Communications and Documents relating to the review, scoring, and acceptance of all presentation submissions for the WPATH 27th Scientific Symposium held in September 2022.
27. Produce all Communications and Documents relating to the review, scoring, and acceptance of all presentation submissions for the USPATH 2021 Scientific Symposium.
28. Produce all video recordings of the sessions (including any "town-hall" or informal sessions) of any USPATH or WPATH conference since January 1, 2015.
29. Produce all Communications and Documents distributed to attendees or participants of any USPATH or WPATH conference since January 1, 2017.
30. Produce all Communications between You and other medical organizations, associations, or societies regarding Gender Dysphoria, Related Conditions, and Transitioning for minors.

31. Produce all Communications regarding the drafting of Jason Rafferty et al., *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, Pediatrics (Oct. 2018).

32. Produce all Communications regarding the drafting of Wylie C. Hembree, *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline*, J. Clin. Endocrinol. Metab (Nov. 2017).

33. Produce all Communications and Documents relating to any perceived change in the last ten years in the proportion of female minors to male minors who are diagnosed with Gender Dysphoria or Related Conditions.

34. Produce all Communications and Documents relating to the possibility of Desistance among Minors diagnosed with Gender Dysphoria or Related Conditions.

35. Produce all Communications and Documents relating to the possibility of individuals Detransitioning after receiving either puberty blockers or cross-sex hormones.

36. Produce all Communications and Documents relating to the risks of Transitioning.

37. Produce all Communications and Documents relating to the effects on minors of medications used to effect Transitioning.

38. Produce all Communications and Documents relating to the appropriate age for beginning Transitioning treatments in Minors.

39. Produce all Communications and Documents relating to the informed consent process for minors considering or undergoing Transitioning treatments.

40. Produce all Communications with the Plaintiffs in this lawsuit, including the United States of America and any agencies, departments, or employees thereof.

41. Produce all Communications and Documents dated after February 1, 2019¹, regarding consideration or evaluation of the following as part of the drafting or evidence review process of SOC-8: Nat'l Inst. for Health and Care Excellence, *Evidence Review: Gender-Affirming Hormones for Children and Adolescents with Gender Dysphoria* (2021); Nat'l Inst. for Health and Care Excellence, *Evidence Review: Gonadotrophin Releasing Hormone Analogues for Children and Adolescents with Gender Dysphoria* (2021); Abigail Shrier, *Irreversible Damage* (2020); William J. Malone et al., *Proper Care of Transgender and Gender-diverse Persons in the Setting of Proposed Discrimination*, 106 J. Clinical Endocrinology & Metabolism e3287 (2021); Diane Chen et al., *Consensus Parameter: Research Methodologies to Evaluate Neurodevelopmental Effects of Pubertal Suppression in Transgender Youth*, *Transgender Health*, Vol. 5, No. 4, 2020, DOI: 10.1089/trgh.2020.0006; The Cass Review, *Independent Review of Gender Identity Services for Children and Young People: Interim Report* (Feb. 2022), <https://cass.independent-review.uk/publications/interim-report/>; Stephen Levine et al., *Reconsidering Informed Consent for Trans-Identified Children, Adolescents, and Young Adults*, *J. Sex & Marital Therapy*, 7 (Mar. 2022); Socialstyrelsen, *Care of children and adolescents with gender dysphoria* (Feb. 2022); Académie Nationale de Médecine, *Medicine and gender transidentity in children and adolescents* (Feb. 2022); Jack L. Turban et al., *Sex Assigned at Birth Ratio Among Transgender and Gender Diverse Adolescents in the United States*, *Pediatrics* (Aug. 3, 2022); Jack L. Turban et al., *Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation*, *Pediatrics* (2020); Jack L. Turban et al., *Access to Gender-Affirming Hormones During Adolescence and Mental Health Outcomes Among Transgender Adults*, *PLoS ONE* (Jan. 12, 2022); Diana M. Tordoff et al., *Mental Health*

¹ See SOC-8 at S247 (noting that the Evidence Review Team started conducting systematic reviews in March 2019).

Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care, JAMA Network Open (Feb. 25, 2022); Division of Florida Medicaid, *Generally Accepted Professional Medical Standard Determination on the Treatment of Gender Dysphoria* (June 2022), <https://ahca.myflorida.com/letkidsbekids>.

42. Produce all Documents identifying types of participation in WPATH and USPATH meetings and/or committees by members and nonmembers.

43. Produce all Communications and Documents regarding the Society for Evidence Based Gender Medicine (“SEGM”), the American College of Pediatricians, 4th Wave Now, Transgender Trend, Michael Laidlaw, MD, William Malone, MD, Paul Hruz, MD, Quentin Van Meter, MD, Julie Mason, MD, Stephen Levine, MD, Andre Van Mol, MD, Michelle Cretella, MD, Deborah Soh, Abigail Schrier, Jesse Singal, and Hilary Cass.

44. Produce all Communications and Documents regarding Transitioning treatments in Alabama.

45. Produce all Communications and Documents regarding advertisements for Transitioning treatments.

46. Produce all Communications and Documents regarding funding for patients seeking Transitioning treatments, funding for research concerning Transitioning treatments, income earned from providing Transitioning treatments, and costs associated with providing Transitioning treatments.

47. Produce all Communications and Documents related to the Coalition for the Advancement & Application of Psychological Science’s Position Statement on Rapid Onset Gender Dysphoria (<https://www.caaps.co/rogd-statement>) that You signed.

Exhibit 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

BRIANNA BOE, et al.,

Plaintiffs,

v.

STEVE MARSHALL, in his official
capacity as Attorney General of the State
of Alabama, et al.,

Defendants.

No. 2:22-cv-00184-LCB-CWB

**WORLD PROFESSIONAL ASSOCIATION FOR TRANSGENDER
HEALTH'S RESPONSES AND OBJECTIONS TO RULE 45 SUBPOENA
TO PRODUCE DOCUMENTS**

Pursuant to Rules 26 and 45 of the Federal Rules of Civil Procedure, non-party World Professional Association for Transgender Health (“WPATH”), through its undersigned counsel, hereby responds and objects to the subpoena for the production of documents (“Requests”) served by the State of Alabama (“Defendant”) in the above-captioned proceeding.

GENERAL OBJECTIONS

The following General Objections are incorporated in full into all Specific Objections set forth below:

1. These responses are made solely for the purpose of this action. By responding to the Requests, WPATH does not waive any objections that it may have to admission into evidence of these responses or any documents produced in response to the Requests on any applicable grounds.

2. WPATH objects to the Requests to the extent that they impose obligations that go beyond, or that are otherwise inconsistent with, the Federal Rules of Civil Procedure, the Local Rules of the Court, any Order of the Court, or any other applicable law, rule, or order (collectively “Discovery Rules”).

3. WPATH objects to the Requests because the subpoena violates Federal Rule of Civil Procedure 45, as it commands WPATH, an Illinois-based organization, to produce documents in Alabama, more than 100 miles from where WPATH resides.

4. WPATH objects to the Requests to the extent they seek discovery beyond any relevant, responsive, non-privileged, and non-duplicative information or documents in its possession, custody, or control that would be located after a reasonable search proportional to the needs of the case. WPATH will respond to these Requests in good faith, but observes that the Requests on their face appear to seek information that is not relevant to any party’s claims or defenses. *See Boe v. Marshall*, No. 2:22-CV-184-LCB, 2022 WL 14049505, at *2 (M.D. Ala. Oct. 24, 2022) (finding materials sought from a third party were irrelevant to this case,

reasoning that the “materials are unlikely to reveal or lead to any information that would help resolve the fundamental issue in this case, which is whether Section 4(a)(1)–(3) of the Alabama Vulnerable Child Compassion and Protection Act is constitutional under the Fourteenth Amendment. Thus, the requested material has little—if any—relevance for purposes of discovery.”); *see also North Carolina Right to Life, Inc. v. Leake*, 231 F.R.D. 49, 51–52 (D.D.C. 2005) (holding that “[t]he mere filing of an amicus brief . . . does not open oneself to broad discovery demands, nor does it make one’s bias, if any, relevant to the underlying action” and that “imposing such a burden on amici would undoubtedly discourage entities from making amicus filings at all, so as to avoid subjecting themselves to severe scrutiny and onerous discovery requests.”).

5. WPATH objects to the Requests as overly broad and unduly burdensome, particularly the burden of requiring a non-party to respond to 47 Requests, many with multiple sub-parts, which demand “*all Communications and Documents*” (emphasis added) and are unbounded by time or any other limiting criteria. The cumulative burden of responding to these Requests is not proportional to the needs of the case, particularly because WPATH is not a party to the case. Indeed, “concern for the unwanted burden thrust upon non-parties is a factor entitled to special weight in evaluating the balance of competing needs” under Rule 45 of the Federal Rules of Civil Procedure. *See, e.g., Va. Dep’t of*

Corrs. v. Jordan, 921 F.3d 180, 189 (4th Cir. 2019) (holding that “a more demanding variant of the proportionality analysis” applies, and that courts “must give the recipient’s nonparty status special weight, leading to an even more demanding and sensitive inquiry than the one governing discovery generally.”).

6. WPATH objects to the Requests, and to the definitions and instructions included in the Requests, to the extent that they assume facts and events, include characterizations that are assumed to be accurate, or contain legal conclusions. By responding to the Requests, WPATH does not admit or concede that any fact, event, characterization, or legal conclusion is correct or accurate, and WPATH reserves the right to contest all assumed facts, events, characterizations, and legal conclusions.

7. WPATH objects to the Requests, and to the definitions and instructions included in this set of Requests, to the extent that they purport to require that WPATH identify and provide discovery with regard to “each,” “all,” “any,” or similar all-encompassing wording on the grounds that the Requests are individually and collectively overly broad and unduly burdensome and seek discovery not relevant to the parties’ claims and defenses nor proportional to the needs of the case. To the extent that the Requests seek information or documents that are not reasonably accessible because they cannot be retrieved or produced

without undue burden or cost, WPATH objects because the Requests are overly broad and unduly burdensome.

8. WPATH objects to the Requests to the extent that they seek information that can be obtained from the parties to this case, publicly available sources, or other third parties, including from the parties' experts. For example, many of the materials sought by the Requests are available on the WPATH website.

9. WPATH objects to the Requests to the extent they seek documents no longer reasonably obtainable by WPATH due to the passage of time, employee turnover, or because the information is not stored on active systems.

10. WPATH objects to the Requests to the extent that they seek production of confidential or other sensitive information, and to the extent they seek discovery of sensitive non-public information or disclosure of information protected by any confidentiality obligation owed a third party.

11. WPATH objects to the Requests to the extent that they seek production of documents that are protected by the attorney-client privilege, the work product doctrine, the joint-defense or common interest privilege, privacy laws (including patient and healthcare privacy laws), any other applicable privilege, protection, or immunity, or that are otherwise exempted from discovery. WPATH hereby asserts all applicable privileges and protections to the extent

implicated by each Request, whether based on statute or regulation or recognized at common law. In the event that any privileged document is produced by WPATH, its production is inadvertent and does not constitute waiver of any privilege, protection, or immunity.

12. WPATH objects to the Requests to the extent that they seek production of documents that are protected by the First Amendment privilege, including but not limited to associational information. *See, e.g., Perry v. Schwarzenegger*, 591 F.3d 1147, 1152 (9th Cir. 2010) (recognizing that where “discovery would have the practical effect of discouraging the exercise of First Amendment associational rights, the party seeking such discovery must demonstrate a need for the information sufficient to outweigh the impact on those rights”).

13. WPATH’s objections are made to the best of its knowledge, information, and belief. WPATH reserves the right to revise, correct, clarify, supplement, and/or amend the objections set forth herein, and reserves its right to assert any and all other defenses or objections, including those permitted by the Discovery Rules and the case law.

OBJECTIONS TO DEFINITIONS

14. WPATH objects to the definitions of “You” and “Your” on the grounds that they are overly broad, vague, ambiguous, and unduly burdensome to

the extent they seek production of information from entities other than WPATH. In responding to these Requests, WPATH will construe “You” and “Your” to refer to WPATH.

15. WPATH objects to the definition of “Document” and “Documents” to the extent that they seek to impose obligations on WPATH beyond those imposed by the Discovery Rules and/or seek information or documents not in WPATH’s possession, custody, or control.

16. WPATH objects to the definition of “Communication” and “Communications” to the extent that they seek to impose obligations on WPATH beyond those imposed by the Discovery Rules and/or seek information or documents not in WPATH’s possession, custody, or control.

17. WPATH objects to the definitions of “Sex,” “Biological Sex,” “Transitioning,” “Cross-sex Hormones,” “Puberty Blockers,” “Male,” “Female,” “Related Conditions,” “Desistance,” and “Detransitioning” as argumentative and inaccurate. However, solely for purposes of responding to the subpoena, WPATH will interpret the Requests consistent with the provided Definitions, to the extent that they can be understood.

OBJECTIONS TO INSTRUCTIONS

18. WPATH objects to Instruction No. 1 to the extent that it imposes obligations that go beyond, or that are otherwise inconsistent with the Discovery Rules.

19. WPATH objects to Instruction No. 2 as overly broad and unduly burdensome to the extent it seeks to impose a continuing obligation on WPATH to conduct discovery and produce documents responsive to the Requests. To the extent WPATH produces any material in response to the subpoena, it will be material that existed as of the date of service of the subpoena.

20. WPATH objects to Instruction No. 3 to the extent that it imposes obligations that go beyond, or that are otherwise inconsistent with the Discovery Rules.

21. WPATH objects to Instruction No. 4 to the extent that it imposes obligations that go beyond, or that are otherwise inconsistent with the Discovery Rules.

22. WPATH objects to Instruction No. 5 as inaccurate to the extent that it attempts to define “gender.”

SPECIFIC RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1:

Produce all Communications and Documents relating to the application and selection process for the WPATH Guideline Steering Committee, the Co-Chairs of the Standards of Care 8 (SOC-8) Revision Committee, each of the Chapter Leads for the SOC-8, each of the Chapter Workgroup Members for the SOC-8, each of the Chapter Stakeholder Members for the SOC-8, and each member of the WPATH Standards of Care 8th Version Evidence Review Team. *See generally* SOC-8 at S247-48 (Overview of SOC-8 development process).

RESPONSE TO REQUEST NO. 1:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to the application and selection process” and because it is unbounded by time. WPATH further objects to this Request to the extent that it seeks documents that are publicly available and therefore equally available to all parties. WPATH further

objects to the Request to the extent it seeks information subject to a third-party's right of privacy or protection.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 2:

Produce all Communications and Documents relating to the decision regarding what chapters to include and not include in SOC-8, including but not limited to the decision not to include a chapter on Detransitioning.

RESPONSE TO REQUEST NO. 2:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to the decision what chapters to include and not include” and because it is unbounded by time. WPATH further objects to this Request to the extent that it seeks documents that are publicly available and therefore equally available to all parties.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 3:

Produce all Communications and Documents relating to the development and approval of chapters 6 (Adolescents), 7 (Children), 8 (Nonbinaty), 9 (Eunuchs), 12 (Hormone Therapy), 13 (Surgery and Postoperative Care), 14 (Voice and Communication), 15 (Primary Care), 16 (Reproductive Health), 17 (Sexual Health), and 18 (Mental Health) of SOC-8.

RESPONSE TO REQUEST NO. 3:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to the development and approval of” and because it is unbounded by time. WPATH

further objects to this Request to the extent that it seeks documents that are publicly available and therefore equally available to all parties.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 4:

Produce all Communications and Documents relating to the Delphi process for the SOC-8 chapters listed in Request #3, including who participated and voted in the Delphi process. *See, e.g.*, SOC-8 at S247, 250.

RESPONSE TO REQUEST NO. 4:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to the Delphi process” and “participated,” and because it is unbounded by time. WPATH

further objects to this Request to the extent that it seeks documents that are publicly available and therefore equally available to all parties.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 5:

Produce all Communications and Documents relating to the systematic review, “evidence tables[,] and other results of the systematic reviews” that the Evidence Review Team presented related to the chapters listed in Request #3. *See* SOC-8 at S249 (“The Evidence Review Team presented evidence tables and other results of the systematic reviews to the members of the relevant chapter for feedback.”)

RESPONSE TO REQUEST NO. 5:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous,

overly broad, and unduly burdensome, particularly as to the phrase “relating to the systematic review” and because it is unbounded by time. WPATH further objects to this Request to the extent that it seeks documents that are publicly available and therefore equally available to all parties. WPATH further objects to this Request as duplicative of, *inter alia*, Request Nos. 6 and 7.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 6:

Produce all Communications and Documents relating to the Evidence Review Team’s search criteria, study selection results, and data extraction for the chapters listed in Request #3. *See* SOC-8 at S249.

RESPONSE TO REQUEST NO. 6:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous,

overly broad, and unduly burdensome, particularly as to the phrase “relating to ... search criteria, study selection results, and data extraction” and because it is unbounded by time. WPATH further objects to this Request to the extent that it seeks documents that are publicly available and therefore equally available to all parties. WPATH further objects to this Request as duplicative of, *inter alia*, Request Nos. 5 and 7.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 7:

Produce all Communications and Documents relating to the evidence grades assigned by the Evidence Review Team for all studies, research questions, and statements for the chapters listed in Request #3. *See* SOC-8 at S250 (“The Evidence Review Team assigned evidence grades using the GRADE methodology.”).

RESPONSE TO REQUEST NO. 7:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is

neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all studies, research questions, and statements” and because it is unbounded by time. WPATH further objects to this Request to the extent that it seeks documents that are publicly available and therefore equally available to all parties. WPATH further objects to this Request as duplicative of, *inter alia*, Request Nos. 5 and 6.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 8:

Produce all Communications and Documents relating to the value factors that were included in the GRADE review process, including “the balance of potential benefits and harms” and “values and preferences of providers and patients.” SOC-8 at S250.

RESPONSE TO REQUEST NO. 8:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH

further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to the value factors” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 9:

Produce all Communications and Documents comprising comments and survey responses to the draft SOC-8. *See* SOC-8 at S251 (“A final SOC-8 draft was made available for comments A total of 1,279 people made comments on the draft with a total of 2,688 comments.”).

RESPONSE TO REQUEST NO. 9:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of

the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “comprising comments and survey responses” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 10:

Produce all Communications and Documents relating to revisions of SOC-8 as a result of, or in response to, comments received on the draft SOC-8. *See* SOC-8 at S251 (“The Chapters Leads and Guideline Steering Committee considered the feedback and made any necessary revisions “).

RESPONSE TO REQUEST NO. 10:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to

revisions of SOC-8 as a result of, or in response to, comments receive on the draft SOC-8” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 11:

Produce all Communications and Documents relating to the minimum age for treatments in SOC-8, including the initial decision to include minimum ages for treatments and the later decision not to include minimum ages for treatments. *See, e.g.,* “New Standards of Transgender Health Care Raises Eyebrows,” *The Economist* (Sept. 23, 2022), <https://www.economist.com/united-states/2022/09/22/new-standards-of-transgender-health-care-raise-eyebrows> (“Known as SOC8, they originally included a list of minimum ages for treatments- 14 for cross-sex hormones, 15 for removal of breasts, 17 for testicles. Hours later, a ‘correction’ eliminated the age limits.”).

RESPONSE TO REQUEST NO. 11:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is

neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “initial decision,” “later decision,” and “treatments,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 12:

Produce all Communications and Documents relating to the role played by, and the identities of, non-professional “stakeholders” in the development and approval of SOC-8 and, in particular, the chapters listed in Request #3. *See, e.g.*, SOC-8 at S248 (“Each chapter also included stakeholders as members who bring perspectives of transgender health advocacy or work in the community”).

RESPONSE TO REQUEST NO. 12:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231

F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to the role played by ... non-professional ‘stakeholders’ in the development and approval of SOC-8” and because it is unbounded by time. WPATH further objects to this Request to the extent that it seeks documents that are publicly available and therefore equally available to all parties. WPATH further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 13:

Produce all Communications and Documents identifying funding sources for SOC-7 and SOC-8.

RESPONSE TO REQUEST NO. 13:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH’s status as a non-party. *See Leake*, 231

F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “identifying funding sources” and because it is unbounded by time. WPATH further objects to this Request to the extent that it seeks documents that are publicly available and therefore equally available to all parties.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 14:

Produce all Communications and Documents relating to the development, review, and approval of the “Assessment and Treatment of Children and Adolescents with Gender Dysphoria” chapter in SOC-7.

RESPONSE TO REQUEST NO. 14:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous,

overly broad, and unduly burdensome, particularly as to the phrase “relating to the development, review, and approval” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 15:

Produce all Communications and Documents regarding Dr. Lisa Littman, her article, *Rapid-Onset Gender Dysphoria in Adolescents and Young Adults: A Study of Parental Reports*, and any subsequent revisions to that article.

RESPONSE TO REQUEST NO. 15:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “regarding” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 16:

Produce all Communications and Documents relating to the September 2018 WPATH public statement entitled, “WPATH POSITION ON ‘Rapid-Onset Gender Dysphoria (ROGD).”

RESPONSE TO REQUEST NO. 16:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request because it is unbounded by time. WPATH further objects to the Request to the extent that the document speaks for itself.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 17:

Produce all Communications with the journal PLOS One, its officers, agents, employees, or other representatives dated after July 1, 2017.

RESPONSE TO REQUEST NO. 17:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “journal PLOS One, its officers, agents, employees, or other representatives” and because it seeks “all Communications” over a time period of more than five years.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 18:

Produce all Communications and Documents relating to the article by Abigail Shrier entitled “Top Trans Doctors Blow the Whistle on ‘Sloppy’ Care,” *available at* <https://www.commonsense.news/p/top-trans-doctors-blow-the-whistle>.

RESPONSE TO REQUEST NO. 18:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to the article” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 19:

Produce all Communications and Documents relating to the October 2021 “Joint Letter from USPATH and WPATH,” *available at*

<https://www.WPATH.org/media/cms/Documents/Public%20Policies/2021/Joint%20WPATH%20USPATH%20Letter%20Dated%20Oct%2012%202021.pdf>.

RESPONSE TO REQUEST NO. 19:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to the [letter]” and because it is unbounded by time. WPATH further objects to the Request to the extent that the document speaks for itself.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 20:

Produce all non-privileged Communications and Documents regarding the resignation of Dr. Erica Anderson from USPATH.

RESPONSE TO REQUEST NO. 20:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “regarding the resignation” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 21:

Produce all Communications and Documents related to the article by Dr. Laura Edwards-Leeper and Dr. Erica Anderson entitled, “The Mental Health Establishment Is Failing Trans Kids,” and published in The Washington Post, *available at* <https://www.washingtonpost.com/outlook/2021/11/24/trans-kids-therapy-psychologist/>.

RESPONSE TO REQUEST NO. 21:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “related to the article” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 22:

Produce all Communications and Documents related to the drafting of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), and any subsequent editions or revisions.

RESPONSE TO REQUEST NO. 22:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is

neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “related to the drafting” and “any subsequent editions or revisions,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 23:

Produce all Communications and Documents related to the drafting of the ICD-11 coding for gender identity-related health.

RESPONSE TO REQUEST NO. 23:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “related to the

drafting” and “gender identity-related health,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 24:

Produce all Communications and Documents relating to Dr. Kenneth Zucker’s participation in the February 2017 USPATH conference, including Communications and Documents relating to any review and acceptance of any papers or presentations by Dr. Zucker and any decision to cancel any part of his planned participation.

RESPONSE TO REQUEST NO. 24:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “relating to

Dr. Kenneth Zucker’s participation” and “any decision to cancel any part of his planned participation,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 25:

Produce all Communications and Documents related to the review, scoring, and acceptance of all presentations for the February 2017 USPATH conference.

RESPONSE TO REQUEST NO. 25:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “related to the review, scoring, and acceptance of all presentations” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 26:

Produce all Communications and Documents relating to the review, scoring, and acceptance of all presentation submissions for the WPATH 27th Scientific Symposium held in September 2022.

RESPONSE TO REQUEST NO. 26:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “related to the review, scoring, and acceptance of all presentation submissions” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 27:

Produce all Communications and Documents relating to the review, scoring, and acceptance of all presentation submissions for the USPATH 2021 Scientific Symposium.

RESPONSE TO REQUEST NO. 27:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “related to the review, scoring, and acceptance of all presentation submissions” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 28:

Produce all video recordings of the sessions (including any “town-hall” or informal sessions) of any USPATH or WPATH conference since January 1, 2015.

RESPONSE TO REQUEST NO. 28:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “video recordings of the sessions” and because it seeks all recordings over a time period of more than five years. WPATH further objects to this Request to the extent that it seeks documents that are publicly available and therefore equally available to all parties.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 29:

Produce all Communications and Documents distributed to attendees or participants of any USPATH or WPATH conference since January 1, 2017.

RESPONSE TO REQUEST NO. 29:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “distributed to attendees or participants” and because it seeks “all Communications and Documents” over a time period of more than five years. WPATH further objects to this Request to the extent that it seeks documents that are publicly available and therefore equally available to all parties.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 30:

Produce all Communications between You and other medical organizations, associations, or societies regarding Gender Dysphoria, Related Conditions, and Transitioning for minors.

RESPONSE TO REQUEST NO. 30:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “You and other medical organizations, associations, or societies” and “regarding Gender Dysphoria, Related Conditions, and Transitioning for minors,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 31:

Produce all Communications regarding the drafting of Jason Rafferty et al., *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, Pediatrics (Oct. 2018).

RESPONSE TO REQUEST NO. 31:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “regarding the drafting” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 32:

Produce all Communications regarding the drafting of Wylie C. Hembree, *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline*, J. Clin. Endocrinol. Metab (Nov. 2017).

RESPONSE TO REQUEST NO. 32:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “regarding the drafting” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 33:

Produce all Communications and Documents relating to any perceived change in the last ten years in the proportion of female minors to male minors who are diagnosed with Gender Dysphoria or Related Conditions.

RESPONSE TO REQUEST NO. 33:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to any perceived change in the last ten years in the proportion of female minors to male minors who are diagnosed with Gender Dysphoria or Related Conditions” and because it seeks “all Communications and Documents” over a time period of at least ten years.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 34:

Produce all Communications and Documents relating to the possibility of Desistance among Minors diagnosed with Gender Dysphoria or Related Conditions.

RESPONSE TO REQUEST NO. 34:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to the possibility of Desistance among Minors diagnosed with Gender Dysphoria or Related Conditions” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 35:

Produce all Communications and Documents relating to the possibility of individuals Detransitioning after receiving either puberty blockers or cross-sex hormones.

RESPONSE TO REQUEST NO. 35:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to the possibility of individuals Detransitioning after receiving either puberty blockers or cross-sex hormones” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 36:

Produce all Communications and Documents relating to the risks of Transitioning.

RESPONSE TO REQUEST NO. 36:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to” the risks of Transitioning” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 37:

Produce all Communications and Documents relating to the effects on minors of medications used to effect Transitioning.

RESPONSE TO REQUEST NO. 37:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of

the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to the effects on minors of medications used to effect Transitioning” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 38:

Produce all Communications and Documents relating to the appropriate age for beginning Transitioning treatments in Minors.

RESPONSE TO REQUEST NO. 38:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to the

appropriate age for beginning Transitioning treatments in Minors” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 39:

Produce all Communications and Documents relating to the informed consent process for minors considering or undergoing Transitioning treatments.

RESPONSE TO REQUEST NO. 39:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “relating to the informed consent process for minors considering or undergoing Transitioning treatments” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 40:

Produce all Communications with the Plaintiffs in this lawsuit, including the United States of America and any agencies, departments, or employees thereof.

RESPONSE TO REQUEST NO. 40:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications with the Plaintiffs in this lawsuit” and “United States of America and any agencies, departments, or employees thereof,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH states that it does not have possession, custody, or control of any documents responsive to this Request.

REQUEST NO. 41:

Produce all Communications and Documents dated after February 1, 2019, regarding consideration or evaluation of the following as part of the drafting or evidence review process of SOC-8: Nat'l Inst. for Health and Care Excellence, *Evidence Review: Gender-Affirming Hormones for Children and Adolescents with Gender Dysphoria* (2021); Nat'l Inst. for Health and Care Excellence, Evidence Review: *Gonadotrophin Releasing Hormone Analogues for Children and Adolescents with Gender Dysphoria* (2021); Abigail Shrier, *Irreversible Damage* (2020); William J. Malone et al., *Proper Care of Transgender and Gender-diverse Persons in the Setting of Proposed Discrimination*, 106 J. Clinical Endocrinology & Metabolism e3287 (2021); Diane Chen et al., *Consensus Parameter: Research Methodologies to Evaluate Neurodevelopmental Effects of Pubertal Suppression in Transgender Youth*, *Transgender Health*, Vol. 5, No. 4, 2020, DOI: 10.1089/trgh.2020.0006; The Cass Review, *Independent Review of Gender Identity Services for Children and Young People: Interim Report* (Feb. 2022), <https://cass.independent-review.uk/publications/interim-report/>; Stephen Levine et

al., *Reconsidering Informed Consent for Trans-Identified Children, Adolescents, and Young Adults*, 1. Sex & Marital Therapy, 7 (Mar. 2022); Socialstyrelsen, *Care of children and adolescents with gender dysphoria* (Feb. 2022); Academie Nationale de Medecine, *Medicine and gender transidentity in children and adolescents* (Feb. 2022); Jack L. Turban et al., *Sex Assigned at Birth Ratio Among Transgender and Gender Diverse Adolescents in the United States*, Pediatrics (Aug. 3, 2022); Jack L. Turban et al., *Pubertal Suppression for Trans gender Youth and Risk of Suicidal Ideation*, Pediatrics (2020); Jack L. Turban et al., *Access to Gender-Affirming Hormones During Adolescence and Mental Health Outcomes Among Transgender Adults*, PLoS ONE (Jan. 12, 2022); Diana M. Tordoff et al., *Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care*, JAMA Network Open (Feb. 25, 2022); Division of Florida Medicaid, *Generally Accepted Professional Medical Standard Determination on the Treatment of Gender Dysphoria* (June 2022), <https://ahca.myflorida.com/letkidsbekids>.

RESPONSE TO REQUEST NO. 41:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of

the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “regarding consideration or evaluation of the following as part of the drafting or evidence review process.”

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 42:

Produce all Documents identifying types of participation in WPATH and USPATH meetings and/or committees by members and nonmembers.

RESPONSE TO REQUEST NO. 42:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, unintelligible, and unduly burdensome, particularly as to the phrase

“identifying types of participation in ... meetings and/or committees” and because it is unbounded by time. WPATH further objects to this Request to the extent that it seeks documents that are publicly available and therefore equally available to all parties.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 43:

Produce all Communications and Documents regarding the Society for Evidence Based Gender Medicine (“SEGM”), the American College of Pediatricians, 4th Wave Now, Transgender Trend, Michael Laidlaw, MD, William Malone, MD, Paul Hruz, MD, Quentin Van Meter, MD, Julie Mason, MD, Stephen Levine, MD, Andre Van Mol, MD, Michelle Cretella, MD, Deborah Soh, Abigail Schrier, Jesse Singal, and Hilary Cass.

RESPONSE TO REQUEST NO. 43:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of

the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “regarding” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 44:

Produce all Communications and Documents regarding Transitioning treatments in Alabama.

RESPONSE TO REQUEST NO. 44:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “regarding Transitioning treatments in Alabama” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 45:

Produce all Communications and Documents regarding advertisements for Transitioning treatments.

RESPONSE TO REQUEST NO. 45:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “regarding advertisements for Transitioning treatments” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 46:

Produce all Communications and Documents regarding funding for patients seeking Transitioning treatments, funding for research concerning Transitioning treatments, income earned from providing Transitioning treatments, and costs associated with providing Transitioning treatments.

RESPONSE TO REQUEST NO. 46:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “regarding funding for patients seeking Transitioning treatments,” “funding for research concerning Transitioning treatments,” “income earned from providing Transitioning treatments,” and “costs associated with providing Transitioning Treatments,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

REQUEST NO. 47:

Produce all Communications and Documents related to the Coalition for the Advancement & Application of Psychological Science’s Position Statement on Rapid Onset Gender Dysphoria (<https://www.caaps.co/rogd-statement>) that You signed.

RESPONSE TO REQUEST NO. 47:

WPATH incorporates the foregoing General Objections, Objections to Definitions, and Objections to Instructions as if fully set forth herein. WPATH further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of WPATH’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. WPATH further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “related to” and because it is unbounded by time. WPATH further objects to the Request to the extent that the document speaks for itself.

Subject to and without waiving the foregoing objections, WPATH is willing to meet and confer about this Request and to discuss what, if any, responsive documents WPATH may agree to produce.

Dated: November 1, 2022

Respectfully submitted,

/s/ Cortlin H. Lannin

Cortlin H. Lannin

Covington & Burling LLP
Salesforce Tower
415 Mission St., Suite 5400
San Francisco, CA 94105
Phone: (415) 591-6000
clannin@cov.com

*Counsel for Non-Party World
Professional Association for
Transgender Health*

CERTIFICATE OF SERVICE

I, the undersigned, certify that copies of the foregoing **World Professional Association for Transgender Health's Responses and Objections to Rule 45 Subpoena to Produce Documents** were delivered to the following parties by electronic mail:

Barrett Bowdre
Deputy Solicitor General
Office of the Attorney General
State of Alabama
501 Washington Avenue
Montgomery, AL 36130
Barrett.Bowdre@AlabamaAG.gov

Dated: November 1, 2022

/s/ Dylan M. Silva
Dylan M. Silva
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission St., Suite 5400
San Francisco, CA 94105
Phone: (415) 591-7007
dsilva@cov.com

Exhibit 5

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Middle District of Alabama

Brianna Boe, et al

Plaintiff

v.

Governor of the State of Alabama, et al.

Defendant

Civil Action No. 2:22-cv-184-LCB

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Endocrine Society
c/o CT Corporation System, 1015 15th Street, NW, Suite 1000, Washington, DC 20005

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attachment.

Place: Office of the Attorney General, State of Alabama, 501 Washington Avenue, Montgomery, AL, 36130

Date and Time:

01/03/2022 12:00 am

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/01/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Governor of the State of Alabama, et al., who issues or requests this subpoena, are:

Brian Barnes, Cooper & Kirk, PLLC, 1523 New Hampshire Ave. NW, Washington, DC, 20036, bbarnes@cooperkirk.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 2:22-cv-184-LCB

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**SUBPOENA FOR PRODUCTION OF DOCUMENTS DIRECTED TO
ENDOCRINE SOCIETY**

YOU ARE COMMANDED, pursuant to Federal Rule of Civil Procedure 45, to produce to the Office of the Attorney General, State of Alabama, 501 Washington Avenue, Montgomery, AL, 36130, at the time and place noted on the subpoena to which this document is attached, the following documents, electronically stored information, or objects, and to permit inspection and copying of the same:

INSTRUCTIONS

Your responses should include all information, knowledge, or belief available not only to You, but also to any attorneys, investigators, consultants, agents, and other representatives acting on Your behalf. Please respond in accordance with the following instructions:

1. **Claims of Privilege and Exception to Discovery.** If any claim of privilege is asserted, in whole or in part, with respect to any Request, or if You refuse to disclose any requested information or Document, in whole or in part, based on any claim of privilege or immunity, please identify the specific privilege or protection claimed and state the basis for the claim, identifying the pertinent circumstances with sufficient specificity to permit Defendants to assess the basis of any such claim for privilege or protection.

2. **Continuing Nature.** These Requests are intended to be and shall be answered or responded to fully as of the date of response and shall be deemed to be

continuing thereafter until the conclusion of this matter. If You should subsequently acquire any further responsive information or Documents called for by these Requests, You should promptly furnish such information or Documents to the undersigned counsel.

3. **Answer to the Fullest Extent Possible.** If any of the Requests cannot be fulfilled in full, please answer to the fullest extent possible, explaining why you cannot answer the remainder of the Request, and stating any information or knowledge which You have concerning the unanswered portion.

4. **Objections.** If You have a good-faith objection to any of these Requests, or any part thereof, the specific nature of the objection and whether it applies to the entire Request or to a certain portion thereof shall be clearly stated. If there is an objection to any part of a Request, then the part or parts objected to should be indicated and information responsive to the remaining unobjectionable parts should be provided.

5. **Language.** The use of the singular form of any word includes the plural and vice versa. Reference to one gender includes the other gender(s). The word "all" means any and all. The word "including" means "including without limitation."

DEFINITIONS

1. The word "**Communication**" refers to any transmission, receipt, or exchange of information, whether orally, electronically, or in writing, including,

without limitation, any conversation or discussion by means of Documents, letters, notes, in-person conversations, memoranda, reports, statements, voicemail, audio or video transmission, telephone calls, telegraph, telex, telecopier, facsimile, email, text message, electronic or other instant message, cable, Social Media post or message, Internet post or message, or any other form or medium of transmission or exchange.

2. The words “**Document**” and “**Documents**” are used in the most comprehensive and inclusive sense permitted by Rule 34 of the Federal Rules of Civil Procedure, as elaborated by the official Comment on the 2006 Amendment. The terms “**Document**” and “**Documents**” also include any drafts or versions thereof, and all copies on which any mark, alteration, writing, attachment, or any other change from the original appears.

3. The terms “**regarding**,” “**with regards to**,” “**relate**,” “**relating**,” “**relating to**,” “**concerning**,” and/or “**related to**” mean recording, summarizing, embodying, constituting, reflecting, digesting, referring to, commenting upon, describing, reporting, listing, analyzing, studying, or otherwise discussing in any way a subject matter identified in the Request, and is defined so as to reach all matters within the scope of discovery under the Federal Rules of Civil Procedure.

4. The terms “**You**” and “**Your**” refer to the Endocrine Society and any journals or publications of the Endocrine Society (including *Endocrine Reviews*, *Endocrinology*, *Journal of the Endocrine Society*, *The Journal of Clinical*

Endocrinology & Metabolism, and *JCEM Case Reports*), as well as the officers, agents, employees, members, representatives, present or former counsel, and all other persons acting on behalf of Endocrine Society.

5. The connectives “**and**” and “**or**” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of each of the Requests any and all information and Documents that might otherwise be construed to be outside of their scope.

6. “**Alabama Vulnerable Child Compassion and Protection Act**” (or “**Act**”) shall mean Alabama Act No. 2022-289, introduced in the Alabama Legislature as Senate Bill 184 and signed into law on or around April 8, 2022.

7. “**Sex**” or “**Biological Sex**” shall mean the biological state of being male or female, based on the individual’s chromosomes and reproductive organs at birth.

8. “**Male**” shall mean the biological state of being male, based on the individual’s chromosomes and reproductive organs at birth.

9. “**Female**” shall mean the biological state of being female, based on the individual’s chromosomes and reproductive organs at birth.

10. “**Gender Dysphoria**” is the diagnosis of Gender Dysphoria under the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). “**Related Conditions**” include “gender incongruence” as defined by the ICD-11 and

any other issues concerning trans/transgender, gender diverse, and/or non-binary gender identities.

11. **“Puberty Blockers”** shall mean medication administered to Minors to delay or prevent the onset or continuation of puberty, or otherwise to delay or prevent the formation or maturation of secondary sex characteristics. This includes, but is not limited to, common puberty blockers such as histrelin acetate and leuprolide acetate if administered for the purpose of Transitioning. For purposes of these Requests, “Puberty Blockers” does not include GnRH agonists administered to young children (7 and younger) for the treatment of central precocious puberty or to adult men (19+) for the treatment of prostate cancer.

12. **“Cross-sex Hormones”** shall mean hormones administered to induce the physical characteristics of a sex or gender profile other than the Biological Sex of the patient (including non-cross-sex gender identities such as “non-binary”). It includes, but is not limited to, administering androgenic hormones such as testosterone, fluoxymesterone, and methyltestosterone to a biological female, and estrogenic hormones such as estrogen and estradiol to a biological male. It also includes the administration of hormone blockers and anti-androgens such as flutamide, spironolactone, and cyproterone if used as part of Transitioning.

13. “**Desistance**” shall mean the resolution of Gender Dysphoria or a Related Condition in a Minor without the continued administration of Puberty Blockers, Cross-Sex Hormones, or surgical interventions.

14. “**Transitioning**” shall mean the administration of medicines such as Puberty Blockers, Cross-Sex Hormones, and surgical interventions to change the physical appearance of a Minor in a way that is not consistent with the patient’s Biological Sex. This includes changing the appearance to appear as a cross-sex identification as well as non-cross-sex identifications such as “non-binary.”

15. “**Detransitioning**” shall mean any actions taken to conceal or reverse the effects of Transitioning, including the administration of medicines, surgical interventions, and social actions such as changing pronouns, dress, or other forms of gender expression.

16. “**Minor**” shall mean a person under the age of 19.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce all Communications and Documents relating to the application and selection process the Clinical Guidelines Subcommittee of the Endocrine Society used to “appoint[] a task force to formulate evidence-based recommendations” for the “diagnosis and treatment of individuals with GD/gender incongruence.” Wylie C. Hembree et al., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice*

Guideline, J. Clin. Endocrinol. Metab., Nov. 2017, 102(11) at 3872 [hereafter 2017 ES Guideline].

2. Produce all Communications and Documents between You and the cosponsoring associations—including the American Association of Clinical Endocrinologists, American Society of Andrology, European Society for Pediatric Endocrinology, European Society of Endocrinology, Pediatric Endocrine Society, and World Professional Association for Transgender Health—regarding the need for and development of the 2017 ES Guideline.

3. Produce Communications and Documents sufficient to identify all people who participated in the development of the 2017 ES Guideline.

4. Produce all Documents and Communications relating to any systematic reviews that were commissioned or used for the development of the 2017 ES Guideline. *See* 2017 ES Guideline at 3873.

5. Produce all Documents and Communications relating to the drafting and inclusion of Table 5, Criteria for Gender-Affirming Hormone Therapy for Adolescents, in the 2017 ES Guideline.

6. Produce all Documents and Communications relating to the drafting and inclusion of the “Treatment of Adolescents” section, pp. 3880-3885, in the 2017 ES Guideline.

7. Produce all Documents and Communications relating to the “values

and preferences” used in crafting the “Treatment of Adolescents” section, pp. 3880-3885, in the 2017 ES Guideline.

8. Produce all Communications and Documents reflecting comments on drafts of the 2017 ES Guideline by Endocrine Society committees, members, and co-sponsoring organizations. *See* ES 2017 Guideline at 3869 (“Endocrine Society committees, members and cosponsoring organizations reviewed and commented on preliminary drafts of the guidelines.”).

9. Produce all Documents and Communications relating to any debate, consideration, or approval process for the 2017 ES Guideline by Endocrine Society committees or the membership at large.

10. Produce all Documents and Communications relating to the impetus for, creation of, and approval of Your “Position Statement on Transgender Health” (Dec. 16, 2020), <https://www.endocrine.org/advocacy/position-statements/transgender-health>. This request includes, but is not limited to, Documents and Communications reflecting the impetus for the statement; the selection process used for determining who would draft the statement; who the drafters were; the revision process used; whether members commented on the statement and, if so, what those comments were; and who approved the statement and how.

11. Produce all Communications and Documents You sent to the National

Institutes of Health in support of, or commenting on, Dr. Johanna Olson's research application for "The Impact of Early Medical Treatments in Transgender Youth," NIH Project #1R01HD082554.

12. Produce all Communications and Documents reflecting Endocrine Society members' criticisms or concerns of the 2017 ES Guideline and/or Your "Position Statement on Transgender Health."

13. Produce all Communications and Documents relating to the article by Abigail Shrier entitled "Top Trans Doctors Blow the Whistle on 'Sloppy' Care," available at <https://www.commonsense.news/p/top-trans-doctors-blow-the-whistle>.

14. Produce all Communications and Documents related to the article by Dr. Laura Edwards-Leeper and Dr. Erica Anderson entitled, "The Mental Health Establishment Is Failing Trans Kids," and published in The Washington Post, available at <https://www.washingtonpost.com/outlook/2021/11/24/trans-kids-therapy-psychologist/>.

15. Produce all Communications and Documents related to the drafting of the ICD-11 coding for gender identity-related health.

16. Produce all Communications regarding the drafting of Jason Rafferty et al., *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, Pediatrics (Oct. 2018).

17. Produce all Communications regarding the drafting of E. Coleman et

al., *Standards of Care for the Health of Transgender and Gender Diverse People, Version 8* (2022) (“WPATH SOC-8”).

18. Produce all Communications and Documents since January 1, 2017, relating to any perceived change in the last ten years in the proportion of female minors to male minors who are diagnosed with Gender Dysphoria or Related Conditions.

19. Produce all Communications and Documents since January 1, 2017, relating to the possibility of Desistance among Minors diagnosed with Gender Dysphoria or Related Conditions.

20. Produce all Communications and Documents since January 1, 2017, relating to the possibility of individuals Detransitioning after receiving either puberty blockers or cross-sex hormones.

21. Produce all Communications and Documents since January 1, 2017, relating to the risks of Transitioning.

22. Produce all Communications and Documents since January 1, 2017, relating to the effects on minors of medications used to effect Transitioning.

23. Produce all Communications and Documents since January 1, 2017, relating to the appropriate age for beginning Transitioning treatments in Minors.

24. Produce all Communications and Documents since January 1, 2017, relating to the informed consent process for minors considering or undergoing

Transitioning treatments.

25. Produce all Communications with the Plaintiffs in this lawsuit, including the United States of America and any agencies, departments, or employees thereof.

26. Produce all Communications and Documents regarding any updates to or revisions of the 2017 ES Guideline.

27. Produce all Communications and Documents since January 1, 2017, regarding Your consideration or evaluation of the following as part of any consideration or discussion to update or revise the 2017 ES Guideline: Nat'l Inst. for Health and Care Excellence, *Evidence Review: Gender-Affirming Hormones for Children and Adolescents with Gender Dysphoria* (2021); Nat'l Inst. for Health and Care Excellence, *Evidence Review: Gonadotrophin Releasing Hormone Analogues for Children and Adolescents with Gender Dysphoria* (2021); Abigail Shrier, *Irreversible Damage* (2020); The Cass Review, *Independent Review of Gender Identity Services for Children and Young People: Interim Report* (Feb. 2022), <https://cass.independent-review.uk/publications/interim-report/>; Socialstyrelsen, *Care of children and adolescents with gender dysphoria* (Feb. 2022); Académie Nationale de Médecine, *Medicine and gender transidentity in children and adolescents* (Feb. 2022); Division of Florida Medicaid, *Generally Accepted Professional Medical Standard Determination on the Treatment of Gender*

Dysphoria (June 2022), <https://ahca.myflorida.com/letkidsbekids>.

28. Produce all Communications and Documents regarding Transitioning treatments in Alabama.

29. Produce all Communications and Documents regarding advertisements for Transitioning treatments.

Exhibit 6

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

BRIANNA BOE, et al.,

Plaintiffs,

v.

STEVE MARSHALL, et al.,

Defendants.

No. 2:22-cv-00184-LCB-CWB

**ENDOCRINE SOCIETY’S RESPONSES AND OBJECTIONS TO RULE 45
SUBPOENA TO PRODUCE DOCUMENTS**

Pursuant to Rules 26 and 45 of the Federal Rules of Civil Procedure, non-party Endocrine Society (“Endocrine Society”), through its undersigned counsel, hereby responds and objects to the subpoena for the production of documents (“Requests”) served by the State of Alabama (“Defendant”) in the above-captioned proceeding.

GENERAL OBJECTIONS

The following General Objections are incorporated in full into all Specific Objections set forth below:

1. These responses are made solely for the purpose of this action. By responding to the Requests, Endocrine Society does not waive any objections that

it may have to admission into evidence of these responses or any documents produced in response to the Requests on any applicable grounds.

2. Endocrine Society objects to the Requests to the extent that they impose obligations that go beyond, or that are otherwise inconsistent with, the Federal Rules of Civil Procedure, the Local Rules of the Court, any Order of the Court, or any other applicable law, rule, or order (collectively “Discovery Rules”).

3. Endocrine Society objects to the Requests to the extent that the subpoena would violate Federal Rule of Civil Procedure 45 by commanding it to produce documents more than 100 miles from where it resides.

4. Endocrine Society objects to the Requests to the extent they seek discovery beyond any relevant, responsive, non-privileged, and non-duplicative information or documents in its possession, custody, or control that would be located after a reasonable search proportional to the needs of the case. Endocrine Society will respond to these Requests in good faith, but observes that the Requests on their face appear to seek information that is not relevant to any party’s claims or defenses. *See, e.g., North Carolina Right to Life, Inc. v. Leake*, 231 F.R.D. 49, 51–52 (D.D.C. 2005) (holding that “[t]he mere filing of an amicus brief ... does not open oneself to broad discovery demands, nor does it make one’s bias, if any, relevant to the underlying action” and that “imposing such a burden on amici

would undoubtedly discourage entities from making amicus filings at all, so as to avoid subjecting themselves to severe scrutiny and onerous discovery requests.”).

5. Endocrine Society objects to the Requests as overly broad and unduly burdensome, particularly the burden of requiring a non-party to respond to 25 Requests, many with multiple sub-parts, which demand “*all Communications and Documents*” (emphasis added) and are unbounded by time or any other limiting criteria. The cumulative burden of responding to these Requests is not proportional to the needs of the case, particularly because Endocrine Society is not a party to the case. Indeed, “concern for the unwanted burden thrust upon non-parties is a factor entitled to special weight in evaluating the balance of competing needs” under Rule 45 of the Federal Rules of Civil Procedure. *See, e.g., Va. Dep’t of Corrs. v. Jordan*, 921 F.3d 180, 189 (4th Cir. 2019) (holding that a “a more demanding variant of the proportionality analysis” applies, and that courts “must give the recipient’s nonparty status special weight, leading to an even more demanding and sensitive inquiry than the one governing discovery generally.”).

6. Endocrine Society objects to the Requests, and to the definitions and instructions included in the Requests, to the extent that they assume facts and events, include characterizations that are assumed to be accurate, or contain legal conclusions. By responding to the Requests, Endocrine Society does not admit or concede that any fact, event, characterization, or legal conclusion is correct or

accurate, and Endocrine Society reserves the right to contest all assumed facts, events, characterizations, and legal conclusions.

7. Endocrine Society objects to the Requests, and to the definitions and instructions included in this set of Requests, to the extent that they purport to require that Endocrine Society identify and provide discovery with regard to “each,” “all,” “any,” or similar all-encompassing wording on the grounds that the Requests are individually and collectively overly broad and unduly burdensome and seek discovery not relevant to the parties’ claims and defenses nor proportional to the needs of the case. To the extent that the Requests seek information or documents that are not reasonably accessible because they cannot be retrieved or produced without undue burden or cost, Endocrine Society objects because the Requests are overly broad and unduly burdensome.

8. Endocrine Society objects to the Requests to the extent that they seek information that can be obtained from the parties to this case, publicly-available sources, or other third parties, including from the parties’ experts.

9. Endocrine Society objects to the Requests to the extent they seek documents no longer reasonably obtainable by Endocrine Society due to the passage of time, employee turnover, or because the information is not stored on active systems.

10. Endocrine Society objects to the Requests to the extent that they seek production of confidential or other sensitive information, and to the extent they seek discovery of sensitive non-public information or disclosure of information protected by any confidentiality obligation owed a third party.

11. Endocrine Society objects to the Requests to the extent that they seek production of documents that are protected by the attorney-client privilege, the work product doctrine, the joint-defense or common interest privilege, privacy laws (including patient and healthcare privacy laws), any other applicable privilege, protection, or immunity, or that are otherwise exempted from discovery. Endocrine Society hereby asserts all applicable privileges and protections to the extent implicated by each Request, whether based on statute or regulation or recognized at common law. In the event that any privileged document is produced by Endocrine Society, its production is inadvertent and does not constitute waiver of any privilege, protection, or immunity.

12. Endocrine Society objects to the Requests to the extent that they seek production of documents that are protected by the First Amendment privilege, including but not limited to associational information. *See, e.g., Perry v. Schwarzenegger*, 591 F.3d 1147, 1152 (9th Cir. 2010) (recognizing that where “discovery would have the practical effect of discouraging the exercise of First Amendment associational rights, the party seeking such discovery must

demonstrate a need for the information sufficient to outweigh the impact on those rights”).

13. Endocrine Society’s objections are made to the best of its knowledge, information, and belief. Endocrine Society reserves the right to revise, correct, clarify, supplement, and/or amend the objections set forth herein, and reserve its right to assert any and all other defenses or objections, including those permitted by the Discovery Rules and the case law.

OBJECTIONS TO DEFINITIONS

14. Endocrine Society objects to the definitions of “You” and “Your” on the grounds that they are overly broad, vague, ambiguous, and unduly burdensome to the extent they seek production of information from entities other than Endocrine Society.

15. Endocrine Society objects to the definition of “Document” and “Documents” to the extent that they seek to impose obligations on Endocrine Society beyond those imposed by the Discovery Rules and/or seek information or documents not in Endocrine Society’s possession, custody, or control.

16. Endocrine Society objects to the definition of “Communication” to the extent that it seeks to impose obligations on Endocrine Society beyond those imposed by the Discovery Rules and/or seek information or documents not in Endocrine Society’s possession, custody, or control.

17. Endocrine Society objects to the definitions of “Sex,” “Biological Sex,” “Male,” “Female,” “Gender Dysphoria,” “Puberty Blockers,” “Cross-sex Hormones,” “Desistance,” “Transitioning,” and “Detransitioning,” as argumentative and inaccurate. However, solely for purposes of responding to the subpoena, Endocrine Society will interpret the Requests consistent with the provided Definitions, to the extent that they can be understood.

OBJECTIONS TO INSTRUCTIONS

18. Endocrine Society objects to Instruction No. 1 to the extent that it imposes obligations that go beyond, or that are otherwise inconsistent with the Discovery Rules.

19. Endocrine Society objects to Instruction No. 2 as overly broad and unduly burdensome to the extent it seeks to impose a continuing obligation on Endocrine Society to conduct discovery and produce documents responsive to the Requests. To the extent Endocrine Society produces any material in response to the subpoena, it will be material that existed as of the date of service of the subpoena.

20. Endocrine Society objects to Instruction No. 3 to the extent that it imposes obligations that go beyond, or that are otherwise inconsistent with the Discovery Rules.

21. Endocrine Society objects to Instruction No. 4 to the extent that it imposes obligations that go beyond, or that are otherwise inconsistent with the Discovery Rules.

22. Endocrine Society objects to Instruction No. 5 as inaccurate to the extent that it attempts to define “gender.”

23. Endocrine Society objects to Instruction No. 6 to the extent that it is insufficiently protective of confidential or sensitive patient information.

SPECIFIC RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1:

Produce all Communications and Documents relating to the application and selection process the Clinical Guidelines Subcommittee of the Endocrine Society used to “appoint[] a task force to formulate evidence-based recommendations” for the “diagnosis and treatment of individuals with GD/gender incongruence.” Wylie C. Hembree et al., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline*, J. Clin. Endocrinol. Metab., Nov. 2017, 102(11) at 3872 [hereafter 2017 ES Guideline].

RESPONSE TO REQUEST NO. 1:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “the application and selection process,” and because it is unbounded by time.

Endocrine Society further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 2:

Produce all Communications and Documents between You and the cosponsoring associations—including the American Association of Clinical Endocrinologists, American Society of Andrology, European Society for Pediatric Endocrinology, European Society of Endocrinology, Pediatric Endocrine Society, and World Professional Association for Transgender Health—regarding the need for and development of the 2017 ES Guideline.

RESPONSE TO REQUEST NO. 2:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly

burdensome, particularly as to the phrases “all Communications and Documents,” “cosponsoring associations,” and “regarding the need for and development of the 2017 ES Guideline,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 3:

Produce Communications and Documents sufficient to identify all people who participated in the development of the 2017 ES Guideline.

RESPONSE TO REQUEST NO. 3:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrase “all people who participated in the development of the 2017 ES Guideline,” and because it is unbounded by time.

Endocrine Society further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 4:

Produce all Documents and Communications relating to any systematic reviews that were commissioned or used for the development of the 2017 ES Guideline. *See* 2017 ES Guideline at 3873.

RESPONSE TO REQUEST NO. 4:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Documents and Communications”

and “commissioned or used for the development of the 2017 ES Guideline,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 5:

Produce all Documents and Communications relating to the drafting and inclusion of Table 5, Criteria for Gender-Affirming Hormone Therapy for Adolescents, in the 2017 ES Guideline.

RESPONSE TO REQUEST NO. 5:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Documents and Communications” and “relating to the drafting and inclusion,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 6:

Produce all Documents and Communications relating to the drafting and inclusion of the “Treatment of Adolescents” section, pp. 3880-3885, in the 2017 ES Guideline.

RESPONSE TO REQUEST NO. 6:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Documents and Communications” and “relating to the drafting and inclusion,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 7:

Produce all Documents and Communications relating to the “values and preferences” used in crafting the “Treatment of Adolescents” section, pp. 3880-3885, in the 2017 ES Guideline.

RESPONSE TO REQUEST NO. 7:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Documents and Communications” and “relating to the ‘values and preferences’ used in crafting,” and because it is unbounded by time. Endocrine Society further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 8:

Produce all Communications and Documents reflecting comments on drafts of the 2017 ES Guideline by Endocrine Society committees, members, and co-sponsoring organizations. See ES 2017 Guideline at 3869 (“Endocrine Society committees, members and cosponsoring organizations reviewed and commented on preliminary drafts of the guidelines.”).

RESPONSE TO REQUEST NO. 8:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Documents and Communications” and “reflecting comments on drafts of the 2017 ES Guideline by Endocrine Society

committees, members, and co-sponsoring organizations,” and because it is unbounded by time. Endocrine Society further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 9:

Produce all Documents and Communications relating to any debate, consideration, or approval process for the 2017 ES Guideline by Endocrine Society committees or the membership at large.

RESPONSE TO REQUEST NO. 9:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Documents and Communications”

and “relating to any debate, consideration, or approval process” and because it is unbounded by time. Endocrine Society further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 10:

Produce all Documents and Communications relating to the impetus for, creation of, and approval of Your “Position Statement on Transgender Health” (Dec. 16, 2020), <https://www.endocrine.org/advocacy/position-statements/transgender-health>. This request includes, but is not limited to, Documents and Communications reflecting the impetus for the statement; the selection process used for determining who would draft the statement; who the drafters were; the revision process used; whether members commented on the statement and, if so, what those comments were; and who approved the statement and how.

RESPONSE TO REQUEST NO. 10:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks

information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Documents and Communications” and “relating to the impetus for, creation of, and approval” and because it is unbounded by time. Endocrine Society further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 11:

Produce all Communications and Documents You sent to the National Institutes of Health in support of, or commenting on, Dr. Johanna Olson's research application for “The Impact of Early Medical Treatments in Transgender Youth,” NIH Project #1R01HD082554.

RESPONSE TO REQUEST NO. 11:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein.

Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” “sent to the National Institutes of Health in support of, or commenting on, Dr. Johanna Olson's research application,” and because it is unbounded by time. Endocrine Society further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 12:

Produce all Communications and Documents reflecting Endocrine Society members' criticisms or concerns of the 2017 ES Guideline and/or Your "Position Statement on Transgender Health."

RESPONSE TO REQUEST NO. 12:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases "all Communications and Documents" and "reflecting Endocrine Society members' criticisms or concerns of," and because it is unbounded by time. Endocrine Society further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 13:

Produce all Communications and Documents relating to the article by Abigail Shrier entitled “Top Trans Doctors Blow the Whistle on ‘Sloppy’ Care,” available at <https://www.commonsense.news/p/top-trans-doctors-blow-the-whistle>.

RESPONSE TO REQUEST NO. 13:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “relating to the article,” and because it is unbounded by time. Endocrine Society further objects to this Request to the extent it seeks information that is protected by the First Amendment privilege.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 14:

Produce all Communications and Documents related to the article by Dr. Laura Edwards-Leeper and Dr. Erica Anderson entitled, “The Mental Health Establishment Is Failing Trans Kids,” and published in The Washington Post, *available at* <https://www.washingtonpost.com/outlook/2021/11/24/trans-kids-therapy-psychologist/>.

RESPONSE TO REQUEST NO. 14:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “related to the article,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 15:

Produce all Communications and Documents related to the drafting of the ICD-11 coding for gender identity-related health.

RESPONSE TO REQUEST NO. 15:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “related to the drafting of,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 16:

Produce all Communications regarding the drafting of Jason Rafferty et al., *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, Pediatrics (Oct. 2018).

RESPONSE TO REQUEST NO. 16:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications” and “regarding the drafting of,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 17:

Produce all Communications regarding the drafting of E. Coleman et al., *Standards of Care for the Health of Transgender and Gender Diverse People*, Version 8 (2022) (“WPATH SOC-8”).

RESPONSE TO REQUEST NO. 17:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications” and “regarding the drafting of,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 18:

Produce all Communications and Documents since January 1, 2017, relating to any perceived change in the last ten years in the proportion of female minors to male minors who are diagnosed with Gender Dysphoria or Related Conditions.

RESPONSE TO REQUEST NO. 18:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “relating to any perceived change in the last ten years in the proportion of female minors to male minors who are diagnosed with Gender Dysphoria or Related Conditions,” and because it covers a substantial period of time spanning many years.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 19:

Produce all Communications and Documents since January 1, 2017, relating to the possibility of Desistance among Minors diagnosed with Gender Dysphoria or Related Conditions.

RESPONSE TO REQUEST NO. 19:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “relating to the possibility of Desistance among Minors diagnosed with Gender Dysphoria or Related Conditions,” and because it covers a substantial period of time spanning many years.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 20:

Produce all Communications and Documents since January 1, 2017, relating to the possibility of individuals Detransitioning after receiving either puberty blockers or cross-sex hormones.

RESPONSE TO REQUEST NO. 20:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “relating to the possibility of individuals Detransitioning after receiving either puberty blockers or cross-sex hormones,” and because it covers a substantial period of time spanning many years.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 21:

Produce all Communications and Documents since January 1, 2017, relating to the risks of Transitioning.

RESPONSE TO REQUEST NO. 21:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “relating to the risks of Transitioning,” and because it covers a substantial period of time spanning many years.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 22:

Produce all Communications and Documents since January 1, 2017, relating to the effects on minors of medications used to effect Transitioning.

RESPONSE TO REQUEST NO. 22:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “relating to the effects on minors of medications used to effect Transitioning,” and because it covers a substantial period of time spanning many years.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 23:

Produce all Communications and Documents since January 1, 2017, relating to the appropriate age for beginning Transitioning treatments in Minors.

RESPONSE TO REQUEST NO. 23:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “relating to the appropriate age for beginning Transitioning treatments in Minors,” and because it covers a substantial period of time spanning many years.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 24:

Produce all Communications and Documents since January 1, 2017, relating to the informed consent process for minors considering or undergoing Transitioning treatments.

RESPONSE TO REQUEST NO. 24:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “relating to the informed consent process for minors considering or undergoing Transitioning treatments,” and because it covers a substantial period of time spanning many years.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 25:

Produce all Communications with the Plaintiffs in this lawsuit, including the United States of America and any agencies, departments, or employees thereof.

RESPONSE TO REQUEST NO. 25:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications with the Plaintiffs in this lawsuit” and “United States of America and any agencies, departments, or employees thereof,” and because it is unbounded by time.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 26:

Produce all Communications and Documents regarding any updates to or revisions of the 2017 ES Guideline.

RESPONSE TO REQUEST NO. 26:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “regarding any updates to or revisions of,” and because it covers a substantial period of time spanning many years.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 27:

Produce all Communications and Documents since January 1, 2017, regarding Your consideration or evaluation of the following as part of any consideration or discussion to update or revise the 2017 ES Guideline: Nat'l Inst. for Health and Care Excellence, *Evidence Review: Gender-Affirming Hormones for Children and Adolescents with Gender Dysphoria* (2021); Nat'l Inst. for Health and Care Excellence, *Evidence Review: Gonadotrophin Releasing Hormone Analogues for Children and Adolescents with Gender Dysphoria* (2021); Abigail Shrier, *Irreversible Damage* (2020); The Cass Review, *Independent Review of Gender Identity Services for Children and Young People: Interim Report* (Feb. 2022), <https://cass.independent-review.uk/publications/interim-report/>; Socialstyrelsen, *Care of children and adolescents with gender dysphoria* (Feb. 2022); Académie Nationale de Médecine, *Medicine and gender transidentity in children and adolescents* (Feb. 2022); Division of Florida Medicaid, *Generally Accepted Professional Medical Standard Determination on the Treatment of Gender Dysphoria* (June 2022), <https://ahca.myflorida.com/letkidsbekids>.

RESPONSE TO REQUEST NO. 27:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks

information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society's status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “regarding Your consideration or evaluation of the following as part of any consideration or discussion to update or revise the 2017 ES Guideline,” and because it covers a substantial period of time spanning many years.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 28:

Produce all Communications and Documents regarding Transitioning treatments in Alabama.

RESPONSE TO REQUEST NO. 28:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor

proportional to the needs of the case, particularly in light of Endocrine Society’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “regarding Transitioning treatments in Alabama,” and because it covers a substantial period of time spanning many years.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

REQUEST NO. 29:

Produce all Communications and Documents regarding advertisements for Transitioning treatments.

RESPONSE TO REQUEST NO. 29:

Endocrine Society incorporates the foregoing General Objections, Objections to Definitions, and Objection to Instructions as if fully set forth herein. Endocrine Society further objects to this Request on the ground that it seeks information that is neither relevant to any claim or defense in this case nor proportional to the needs of the case, particularly in light of Endocrine Society’s status as a non-party. *See Leake*, 231 F.R.D. at 51–52. Endocrine Society further

objects to this Request as vague, ambiguous, overly broad, and unduly burdensome, particularly as to the phrases “all Communications and Documents” and “regarding advertisements for Transitioning treatments,” and because it covers a substantial period of time spanning many years.

Subject to and without waiving the foregoing objections, Endocrine Society is willing to meet and confer about this Request and to discuss what, if any, responsive documents Endocrine Society may agree to produce.

Dated: December 15, 2022

Respectfully submitted,

/s/ Cortlin H. Lannin

Cortlin H. Lannin
Dylan M. Silva
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission St., Suite 5400
San Francisco, CA 94105
Phone: (415) 591-6000
clannin@cov.com

Counsel for Non-Party Endocrine Society

CERTIFICATE OF SERVICE

I, the undersigned, certify that copies of the foregoing **Endocrine Society's Responses and Objections to Rule 45 Subpoena to Produce Documents** were delivered to the following parties by electronic mail:

Barrett Bowdre
Deputy Solicitor General
Office of the Attorney General
State of Alabama
501 Washington Avenue
Montgomery, AL 36130
Barrett.Bowdre@AlabamaAG.gov

Dated: December 15, 2022

/s/ Dylan M. Silva
Dylan M. Silva
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission St., Suite 5400
San Francisco, CA 94105
Phone: (415) 591-7007
dsilva@cov.com

Exhibit 7

From: [Brian Barnes](#)
To: [Silva, Dylan](#); [John Ramer](#)
Cc: [Bowdre, Barrett](#); [Davis, Jim](#); [Lannin, Cortlin](#); [BRagsdale@dfhlaw.com](#); [Bernick, Daniel](#)
Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP
Date: Thursday, December 22, 2022 11:39:13 AM
Attachments: [image001.jpg](#)

[EXTERNAL]

See below for dial-in information we can use for tomorrow's call.

Date: December 23, 2022
Time: 1:00 PM EST
Dial-in No.: [+1 800-567-5900](#)
Access Code: 2359207

From: Brian Barnes <BBarnes@cooperkirk.com>
Sent: Wednesday, December 21, 2022 5:49 PM
To: Silva, Dylan <DSilva@cov.com>; John Ramer <jramer@cooperkirk.com>
Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>
Subject: Re: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

Thanks, Dylan. That time works — I will circulate a dial in in the AM.

Get [Outlook for iOS](#)

From: Silva, Dylan <DSilva@cov.com>
Sent: Wednesday, December 21, 2022 2:19:12 PM
To: Brian Barnes <BBarnes@cooperkirk.com>; John Ramer <jramer@cooperkirk.com>
Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com <BRagsdale@dfhlaw.com>; Bernick, Daniel <DBernick@cov.com>
Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

Hi Brian,

I'm sorry to hear that. Does Friday at 1pm ET work for you? If so, will you please circulate a dial-in?

Thanks,
Dylan

From: Brian Barnes <BBarnes@cooperkirk.com>
Sent: Wednesday, December 21, 2022 11:07 AM
To: Silva, Dylan <DSilva@cov.com>; John Ramer <jramer@cooperkirk.com>
Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>
Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

[EXTERNAL]

Hi Dylan,

Thanks for the note below. It's unfortunate, but I think we have reached an impasse. That said, we're happy to have one last call, as you suggest. Would you be available either tomorrow or Friday? I'll be tied up tomorrow after 4pm Eastern, but any time before 4pm Eastern tomorrow or on Friday would work on our end.

Best regards,

Brian

From: Silva, Dylan <DSilva@cov.com>

Sent: Friday, December 16, 2022 7:13 PM

To: Brian Barnes <BBarnes@cooperkirk.com>; John Ramer <jramer@cooperkirk.com>

Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>

Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

Brian and John,

Thanks again for taking the time today to discuss Alabama's subpoenas to AAP, WPATH, and the Endocrine Society.

As I explained during the call, although you have agreed to withdraw some of the requests, the remaining requests still seek documents that are (1) irrelevant to any claims or defenses in this case, and (2) beyond the scope of the limited third party discovery that the Court has deemed potentially relevant and appropriate. Additionally, we have conferred with our clients and understand that complying with the remaining requests would impose substantial and undue burdens on these organizations.

That said, in the spirit of compromise and without waiving any of our objections to the subpoena, I explained that my clients would agree to produce the studies relied on in crafting their guidelines and policy positions cited in the amicus brief. We agreed that before (and if) the parties reach an impasse on this subpoena and/or seek the assistance of the Court in resolving this dispute, we would have one final meet-and-confer to assess our positions.

Please let me know when you are available for our next meet and confer. If we don't talk next week, I hope you both have a wonderful holiday.

Regards,
Dylan

From: Brian Barnes <BBarnes@cooperkirk.com>

Sent: Tuesday, December 13, 2022 8:49 AM

To: Silva, Dylan <DSilva@cov.com>; John Ramer <jramer@cooperkirk.com>

Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>

Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

[EXTERNAL]

See below for dial-in information we can use at 1pm Eastern on Friday.

Date: Friday, December 16, 2022

Time: 1:00 p.m. EST

Dial-in No.: +1 800-567-5900

Access code: 2359207

From: Brian Barnes

Sent: Tuesday, December 13, 2022 11:32 AM

To: Silva, Dylan <DSilva@cov.com>; John Ramer <jramer@cooperkirk.com>

Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>

Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

Hi Dylan,

1pm on Friday works on our end. I'll send a dial in we can use shortly.

Brian

From: Silva, Dylan <DSilva@cov.com>

Sent: Tuesday, December 13, 2022 11:23 AM

To: Brian Barnes <BBarnes@cooperkirk.com>; John Ramer <jramer@cooperkirk.com>

Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>

Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

Hi Brian,

We unfortunately have a conflict at that time now. Are you free Friday at 1pm ET?

Thanks,
Dylan

From: Brian Barnes <BBarnes@cooperkirk.com>

Sent: Tuesday, December 13, 2022 4:47 AM

To: Silva, Dylan <DSilva@cov.com>; John Ramer <jramer@cooperkirk.com>

Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>
Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

[EXTERNAL]

Hi Dylan,

Does 4.30pm Eastern on Wednesday still work for you? If so, we'll go ahead and send around a dial-in number we can use for that time.

Best regards,

Brian

From: Silva, Dylan <DSilva@cov.com>

Sent: Friday, December 9, 2022 7:47 PM

To: Brian Barnes <BBarnes@cooperkirk.com>; John Ramer <jramer@cooperkirk.com>

Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>

Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

Hi Brian,

Of course. How about Wednesday at 4:30 pm ET? We will aim to send you our responses to the Endocrine Society subpoena by Tuesday night so we can meet and confer about that subpoena as well.

Have a nice weekend,
Dylan

From: Brian Barnes <BBarnes@cooperkirk.com>

Sent: Friday, December 9, 2022 7:24 AM

To: Silva, Dylan <DSilva@cov.com>; John Ramer <jramer@cooperkirk.com>

Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>

Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

[EXTERNAL]

Hi Dylan,

Would it make sense to set up a call for early next week to discuss the proposal below? We're still hopeful that it will be possible to reach an agreement on these subpoenas, but one way or another we think it's important to bring these discussions to a close by the end of the year. My schedule is pretty flexible next week, so please let us know a time or two that works well on your end.

Best regards,

Brian

From: Brian Barnes

Sent: Monday, December 5, 2022 4:43 PM

To: Silva, Dylan <DSilva@cov.com>; John Ramer <jramer@cooperkirk.com>

Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>

Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

Hi Dylan,

As discussed during our last call, we've gone back and taken a hard look at ways to narrow the third-party document requests directed to AAP and WPATH. If your clients would be willing to work with us in good faith to provide responsive documents with respect to the other RFPs, Defendants would be willing to withdraw or narrow the RFPs as outlined below.

AAP

1. We are willing to withdraw the following RFPs: 9, 12, 16, 17, 19, 20, 21, 24, 25.
2. We are willing to narrow RFP 23 so that it would only request materials dated after January 1, 2020, regarding AAP's review or consideration of the following: Nat'l Inst. for Health and Care Excellence, *Evidence Review: Gender-Affirming Hormones for Children and Adolescents with Gender Dysphoria* (2021); Nat'l Inst. for Health and Care Excellence, *Evidence Review: Gonadotrophin Releasing Hormone Analogues for Children and Adolescents with Gender Dysphoria* (2021); Abigail Shrier, *Irreversible Damage* (2020); Abigail Shrier, *Top Trans Doctors Blow the Whistle on 'Sloppy' Care*, Common Sense (Oct. 4, 2021); Abigail Shrier, *A Pediatric Association Stifles Debate on Gender Dysphoria*, Wall St. Journal (Aug. 9, 2021); Socialstyrelsen, *Care of children and adolescents with gender dysphoria* (Feb. 2022); Académie Nationale de Médecine, *Medicine and gender transidentity in children and adolescents* (Feb. 2022).

WPATH

1. We are willing to withdraw the following RFPs: 13, 17, 22, 25, 26, 27, 29, 30, 36, 37, 38, 39, 42, 45, 46.
2. We are willing to narrow RFP 41 so that it would only request materials dated after February 1, 2019, regarding consideration or evaluation of the following as part of the drafting or evidence review process of SOC-8: Nat'l Inst. for Health and Care Excellence, *Evidence Review: Gender-Affirming Hormones for Children and Adolescents with Gender Dysphoria* (2021); Nat'l Inst. for Health and Care Excellence, *Evidence Review: Gonadotrophin Releasing Hormone Analogues for Children and Adolescents with Gender Dysphoria* (2021); The Cass Review, *Independent Review of Gender Identity Services for Children and Young People: Interim Report* (Feb. 2022), <https://cass.independent-review.uk/publications/interim-report/>; Socialstyrelsen,

Care of children and adolescents with gender dysphoria (Feb. 2022); Académie Nationale de Médecine, *Medicine and gender transidentity in children and adolescents* (Feb. 2022); Division of Florida Medicaid, *Generally Accepted Professional Medical Standard Determination on the Treatment of Gender Dysphoria* (June 2022), <https://ahca.myflorida.com/letkidsbekids>.

Best regards,

Brian W. Barnes
Cooper & Kirk, PLLC
(202) 220-9623

From: Silva, Dylan <DSilva@cov.com>
Sent: Friday, November 11, 2022 1:32 PM
To: Brian Barnes <BBarnes@cooperkirk.com>; John Ramer <jramer@cooperkirk.com>
Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>
Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

Hi Brian,

How about any time after 11am PT Friday?

Thanks,
Dylan

From: Brian Barnes <BBarnes@cooperkirk.com>
Sent: Friday, November 11, 2022 4:34 AM
To: Silva, Dylan <DSilva@cov.com>; John Ramer <jramer@cooperkirk.com>
Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>
Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

[EXTERNAL]

Hi Dylan,

Are there any times on Friday that you'd be able to make work? Wednesday and Thursday are both tough on our end, though we can come back with some times on Thursday if Friday is no good for you.

Best regards,

Brian

From: Silva, Dylan <DSilva@cov.com>

Sent: Thursday, November 10, 2022 1:41 PM

To: Brian Barnes <BBarnes@cooperkirk.com>; John Ramer <jramer@cooperkirk.com>

Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>

Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

Hi Brian,

Hope you're well too. Monday and Tuesday unfortunately do not work for us -- could you please propose some times on Wednesday or Thursday?

Thanks,
Dylan

From: Brian Barnes <BBarnes@cooperkirk.com>

Sent: Thursday, November 10, 2022 5:30 AM

To: Silva, Dylan <DSilva@cov.com>; John Ramer <jramer@cooperkirk.com>

Cc: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>

Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

[EXTERNAL]

Hi Dylan,

I hope all is well. Would you be able to do another call on both the AAP and WPATH subpoenas on either Monday afternoon or Tuesday afternoon of next week? We could make any time either of those afternoons work.

Best regards,

Brian W. Barnes
Cooper & Kirk, PLLC
(202) 220-9623

From: Silva, Dylan <DSilva@cov.com>

Sent: Tuesday, November 1, 2022 8:09 PM

To: John Ramer <jramer@cooperkirk.com>

Cc: Brian Barnes <BBarnes@cooperkirk.com>; Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com; Bernick, Daniel <DBernick@cov.com>

Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

Hi John,

Thanks for providing the below. Can you please let me know some convenient times on your side to

discuss further?

Thanks,
Dylan

From: John Ramer <jramer@cooperkirk.com>

Sent: Friday, October 14, 2022 6:44 AM

To: Silva, Dylan <DSilva@cov.com>

Cc: Brian Barnes <BBarnes@cooperkirk.com>; Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Lannin, Cortlin <clannin@cov.com>; BRagsdale@dfhlaw.com

Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

[EXTERNAL]

Dylan,

Thank you for taking the time to speak with us earlier this week. We appreciated having the opportunity to hear your concerns so that we can try to find a way to work together to move things forward. Based on your suggestion, we have organized our requests into three tiers with Tier 1 being the most important, Tier 2 being the next most important, and Tier 3 being the third most important. We've also narrowed the requests to relevant time periods to address your concerns about the lack of a timeframe. Unless otherwise indicated below, the narrowed timeframe would be for responsive documents and communications from January 1, 2017, to the present. We look forward to hearing your thoughts.

Tier 1

- Request Nos. 1 through 7
- Request No. 10
- Requests Nos. 11 through 15
- Request No. 23

Tier 2

- Request Nos. 8-9
- Request No. 17
- Request No. 20
- Request No. 22

Tier 3

- Request No. 16
- Request No. 18 from January 1, 2015, to the present.
- Request No. 19
- Request No. 21

- Request No. 24 from January 1, 2015, to the present.
- Request No. 25 from January 1, 2015, to the present.

All the best,

John

John D. Ramer
COOPER & KIRK, PLLC
1523 New Hampshire Ave., NW
Washington, D.C. 20036
202.220.9621

From: Brian Barnes <BBarnes@cooperkirk.com>
Sent: Thursday, October 6, 2022 8:17 PM
To: Silva, Dylan <DSilva@cov.com>; Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>
Cc: Lannin, Cortlin <clannin@cov.com>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; John Ramer <jramer@cooperkirk.com>; Barry A. Ragsdale <BRagsdale@dfhlaw.com>
Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

Hi Dylan,

Tuesday at 3.30pm Eastern works well on our end. We'll send around a dial-in we can use at that time.

Best regards,

Brian

From: Silva, Dylan <DSilva@cov.com>
Sent: Wednesday, October 5, 2022 12:45 PM
To: Brian Barnes <BBarnes@cooperkirk.com>; Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>
Cc: Lannin, Cortlin <clannin@cov.com>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; John Ramer <jramer@cooperkirk.com>; Barry A. Ragsdale <BRagsdale@dfhlaw.com>
Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

Hi Brian,

Nice to meet you. How about Tuesday at 3:30 pm ET?

Thanks,
Dylan

From: Brian Barnes <BBarnes@cooperkirk.com>
Sent: Wednesday, October 5, 2022 4:55 AM
To: Silva, Dylan <DSilva@cov.com>; Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>
Cc: Lannin, Cortlin <clannin@cov.com>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; John Ramer <jramer@cooperkirk.com>; Barry A. Ragsdale <BRagsdale@dfhlaw.com>
Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

[EXTERNAL]

Hi Dylan,

I hope this message finds you well. I represent the defendants in *Boe v. Marshall* (formerly *Eknes-Tucker v. Marshall*), and I'm writing to see if there would be a good time next week to schedule a call to meet and confer regarding your responses and objections to our Rule 45 subpoena. Would there be a time on either on Tuesday afternoon or after 2.30pm on Wednesday that would work for you? If not, please let me know if there are any alternative times that would work on your end.

Best regards,

Brian W. Barnes
Cooper & Kirk, PLLC
(202) 220-9623

From: Silva, Dylan <DSilva@cov.com>
Sent: Friday, September 9, 2022 7:05 PM
To: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>
Cc: Lannin, Cortlin <clannin@cov.com>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Brian Barnes <BBarnes@cooperkirk.com>; John Ramer <jramer@cooperkirk.com>; Barry A. Ragsdale <BRagsdale@dfhlaw.com>
Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

Hi Barrett,

Thank you again for granting us the brief extension. Please see attached AAP's objections and responses to the subpoena. As noted in the attached, we are available to meet and confer about the requests.

Best,
Dylan

From: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>
Sent: Wednesday, August 17, 2022 11:37 AM
To: Silva, Dylan <DSilva@cov.com>
Cc: Lannin, Cortlin <clannin@cov.com>; Davis, Jim <Jim.Davis@AlabamaAG.gov>; Brian Barnes <BBarnes@cooperkirk.com>; John Ramer <jramer@cooperkirk.com>

Subject: RE: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

[EXTERNAL]

Yes, September 9 is fine with us. Thanks Dylan.

Barrett

Barrett Bowdre
Deputy Solicitor General
Office of the Attorney General
State of Alabama
501 Washington Avenue
Post Office Box 300152
Montgomery, AL 36130
334.353.8892 Office
334.353.8400 Fax

From: Silva, Dylan <DSilva@cov.com>
Sent: Wednesday, August 17, 2022 10:40 AM
To: Bowdre, Barrett <Barrett.Bowdre@AlabamaAG.gov>
Cc: Lannin, Cortlin <clannin@cov.com>
Subject: Eknes-Tucker v. Alabama: Non-Party Subpoena to AAP

This message has originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Dear Mr. Bowdre,

We are in receipt of the Rule 45 document subpoena you issued to our client, the American Academy of Pediatrics (AAP), dated August 10, 2022. To afford us sufficient time to assess the scope of the subpoena and what responsive documents, if any, AAP may be able to produce, we would appreciate an extension of our time to serve the responses and objections that are currently due on August 24, 2022. Will you please extend us the courtesy of agreeing to extend the deadline for responses and objections to September 9, 2022?

Thanks, and please feel free to call my office line below if you would like to discuss any of this further.

Best,
Dylan

Dylan Silva

Covington & Burling LLP
Salesforce Tower, 415 Mission Street, Suite 5400
San Francisco, CA 94105-2533

T +1 415 591 7007 | dsilva@cov.com
www.cov.com



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e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of C&K, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to C&K in reply that you expect to be held in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of C&K, you should maintain its contents in confidence in order to preserve any attorney-client or work product privilege that may be available to protect confidentiality.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

BRIANNA BOE, et al.,

Plaintiffs,

v.

STEVE MARSHALL, et al.,

Defendants.

No. 2:22-cv-00184-LCB-CWB

**DECLARATION OF AMERICAN ACADEMY OF PEDIATRICS IN
SUPPORT OF JOINT MOTION OF NONPARTIES AMERICAN
ACADEMY OF PEDIATRICS, WORLD PROFESSIONAL ASSOCIATION
FOR TRANSGENDER HEALTH, AND ENDOCRINE SOCIETY TO
QUASH RULE 45 SUBPOENAS**

I, [REDACTED], declare as follows:

1. I am the [REDACTED] at the American Academy of Pediatrics (“AAP”). If called upon to testify as to the facts set forth herein, I could and would testify competently thereto.
2. Before becoming AAP’s [REDACTED] on [REDACTED] [REDACTED], I was a member of AAP’s [REDACTED] team since [REDACTED]. In that role, my responsibilities included legislative research and analysis on pediatric health care issues; strategic consultation and technical assistance to AAP chapters, AAP committees, AAP

councils, AAP sections, and other AAP entities on pediatric health care issues; developing and disseminating state advocacy resources; providing advocacy education and training; and partner engagement.

3. I have spent nearly 15 years working with hundreds of AAP physician-members and hundreds of our partner organizations in the medical community to advance the cause of children's health and wellbeing. Through this work, I have developed extensive knowledge of pediatric health care issues and AAP's internal operations and procedures.

Background

4. AAP is a 501(c)(3) organization founded in 1930 by a group of 35 pediatricians who wanted to address pediatric healthcare standards, and today is the largest professional association of pediatricians in the United States. AAP's mission is to attain optimal physical, mental, and social health and well-being for all infants, children, adolescents and young adults. To accomplish this mission, AAP supports the professional needs of our more than 67,000 pediatrician members.
5. AAP engages in a number of associational activities, including our large pediatric publishing program, with more than 300 titles for consumers and over 500 titles for physicians and other healthcare professionals. AAP also publishes hundreds of policy statements, clinical reports, and technical

reports, ranging from advocacy issues to practice recommendations, all of which are available on AAP's website.

6. AAP does not conduct clinical studies. We work with experts in the field to review and analyze publicly available evidence. We then publish those analyses freely online, citing all of the evidence we reviewed, the methodology we used to evaluate the evidence, the basis of our conclusions, and all potential conflicts of interest.
7. We have published numerous policy statements examining pediatric health care issues and providing recommendations. Most recently, AAP published policy statements on the prevention and control of influenza, patient safety in emergency care settings, ATV injuries and deaths, and immunization information systems.
8. Related specifically to gender-affirming care, we published a Policy Statement that examined the medical literature and provided recommendations for the care of transgender and gender-diverse youth. AAP does not generate or publish clinical guidelines regarding gender-affirming care. Our Policy Statement recommends that "TGD (transgender and gender-diverse) youth have access to comprehensive, gender-affirming, and developmentally appropriate health care that is provided in a safe and inclusive clinical space," among other recommendations. The Policy

Statement is not clinical guidance for the care of transgender and gender-diverse youth.

The Subpoena

9. I have reviewed the non-party subpoena issued to AAP by the State of Alabama. While I understand that the State has agreed to withdraw certain of the document requests, there are still 16 requests that cover a broad range of topics and issues that relate to many different aspects of AAP's work. In my judgment, responding to the requests as drafted would require AAP to identify and speak with multiple potential document custodians from across the organization, including at least the following teams within AAP: Advocacy Communications; Chapter, District, & Member Engagement; Convention & Meeting Services; News, Media, and Public Relations; Information Technology; Medical & Surgical Subspecialties; State Advocacy; and Systems of Services for Children with Special Health Care Needs. We would then need to collect potentially responsive documents from those individuals. Given the breadth of the requests as drafted, it is possible AAP would need to collect Electronically Stored Information ("ESI"), such as custodial email files, from some or all of those individuals.
10. AAP does not have an in-house e-discovery team. To the extent AAP needed to collect more than a *de minimus* number of documents, and certainly if any

ESI collections were required, we would likely need to retain a third-party vendor to collect and process those documents. Any collected documents would also need to be reviewed by attorneys for responsiveness to the subpoena requests and for privilege, among other issues. Our pro bono counsel would be involved in that work, but I understand that depending on the volume of documents, AAP could need to retain additional contract attorneys to review the materials.

11. AAP has only one in-house counsel, who currently has a full plate with wide ranging legal matters to attend to and hundreds of contracts to review in a short timeframe. Moreover, my team would need to closely review the responsiveness and privilege determinations, especially because many of our organizational and internal documents are highly context-specific. For example, we extensively use acronyms or medical terminology. Further, many of our internal documents may involve third parties who have their own privacy rights, or sensitive patient or health data. Screening for this information would require additional time from my team. Finally, I understand that we would likely need a vendor to process the responsive documents for production to the State.
12. While we have not obtained quotes from discovery vendors for the work I described above, I understand that discovery costs of this type can often run

into the tens of thousands of dollars. AAP is a non-profit organization with limited resources, and this effort would quickly supplant and exceed AAP's existing legal budget. In my view, the work I have described that would be required to respond to the subpoena as drafted would distract our team from the critically important, time-sensitive work we do advancing children's health and wellbeing.

13. We also view this subpoena — which is incredibly broad, and which requests our private, confidential internal communications — as incredibly invasive. As drafted, the subpoena requests production of various internal communications with our members and partners, internal chats, notes, drafts, social media posts, and private email. Our members use all of these channels to communicate with each other and engage in robust, frank, and healthy discussion of AAP's work product.
14. Based on my nearly 15 years of experience working with AAP members, I believe that our staff and members will communicate less, and less freely, if the State's subpoena were enforced. Already, just the service of this subpoena, and the prospect that we may be required to produce internal messages and communications, has chilled our internal communications. My previous work in AAP State Advocacy required the ability to have honest, open discussions about policy issues and then strategize with colleagues and

partners on how best to approach issues and provide guidance to AAP chapters, AAP committee, AAP councils, AAP sections, and other AAP entities. The subpoena has greatly hampered our ability to engage in those discussions. I am anxious of updating my colleagues on the current state of affairs around gender-affirming care in Alabama for concern of those open discussions being pulled into court. I am unable to seek guidance from colleagues or my previous supervisor on this issue for concern of bringing them under the umbrella of the subpoena. The answer has been to not update colleagues out of trepidation and not to seek guidance.

15. The subpoena has not just affected our work in Alabama. During discussions on the State of Florida's effort to ban gender-affirming care, we were required to be very cautious about communications between us and the Florida Chapter of the AAP out of concern that those discussions could be pulled into court as well. We have since had to take a more cautious approach in other states as well on this issue, thereby greatly diminishing our ability to engage in open discussions with state AAP chapters on how best to advocate against efforts to ban gender-affirming care. State AAP chapters are small, with very limited budgets and staff. They rely on us to be able to provide guidance and have open discussions on advocacy strategies. Since the subpoena was issued, that ability has greatly diminished.

16. The subpoena is not just an issue for myself and other AAP staff, it also directly effects the ability of our physician-member experts to volunteer and provide their expertise. The AAP is an evidence-based, policy driven organization and we rely on our physician-member experts to develop our policy statements, clinical reports, and technical reports. Physician members with expertise in gender-affirming care have to be very cautious in the political environment surrounding gender-affirming care and the subpoena has added to that burden. The subpoena has made it extremely difficult to seek out our physician-member expertise on gender-affirming care because we risk putting those physician-members under the umbrella of the subpoena. Our physician-members have been harassed and threatened for providing this care and many are unwilling to engage in public support or serve as spokespersons on the issue for the AAP.
17. I am also concerned that our staff and members will avoid communicating with each other, and that new members will fear joining if they know their private emails and comments shared with us will become public fodder in contentious policy debates and potentially subject them to harassment.
18. This subpoena has also created a notable chill on our educational efforts, which aim to benefit all pediatricians and their patients. As a result of this subpoena, whenever AAP prepares to submit a new amicus filing, send a letter

to the government, or issue a new policy statement, our board now considers whether this will open us up to a similarly invasive subpoena from those who oppose our policy positions.

19. Open, honest dialogue is also essential to the accuracy of our work product and practice recommendations, which pediatricians use every day to inform their medical decision-making. We work with dozens of pediatric care experts every year to understand the latest science, and to review and edit our publications materials. These experts are volunteers, and do this work out of a desire to help improve pediatric care. Having personally worked with many of them for years, I know that many would think twice before volunteering their expertise if their confidential feedback could be shared with the world. Our ability to receive candid feedback depends on the confidence that peer reviews and communications with AAP will not be publicly disclosed. Based on my experience, I believe enforcement of this subpoena will reduce the quality and accuracy of our work product, which in turn will worsen the care that our pediatrician members provide to their patients across all health domains.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Naperville, IL, on December 23, 2022.

A large black rectangular redaction box covers the signature and name of the declarant. The box is positioned to the right of the text 'Executed in Naperville, IL, on December 23, 2022.' and above the text 'American Academy of Pediatrics'.

American Academy of Pediatrics

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

BRIANNA BOE, et al.,

Plaintiffs,

v.

STEVE MARSHALL, et al.,

Defendants.

No. 2:22-cv-00184-LCB-CWB

**DECLARATION OF WORLD PROFESSIONAL ASSOCIATION FOR
TRANSGENDER HEALTH IN SUPPORT OF JOINT MOTION OF
NONPARTIES AMERICAN ACADEMY OF PEDIATRICS, WORLD
PROFESSIONAL ASSOCIATION FOR TRANSGENDER HEALTH, AND
ENDOCRINE SOCIETY TO QUASH RULE 45 SUBPOENAS**

I, [REDACTED], declare as follows:

1. I am the [REDACTED] of the World Professional Association for Transgender Health (“WPATH”). If called upon to testify as to the facts set forth herein, I could and would testify competently thereto.
2. I have been the [REDACTED] of WPATH since [REDACTED], and was an [REDACTED] from [REDACTED] to [REDACTED]. As [REDACTED], my work involves, among other things, developing board policies and systems to ensure the efficiency and effectiveness of the organization; ensuring ongoing measurement of deliverables for projects and initiatives; supporting

the organization's mission and strategies; continuously improving processes for the organization to meet both long- and short-term objectives; setting standards and expectations for governing the organization; understanding and overseeing the current and future financial resources and expenditures of the organization; and guiding revenue-generating activities to ensure adequate income to the organization.

3. I have spent nearly seven years working with hundreds of members and dozens of partner organizations on issues in transgender health, and I have extensive knowledge of, and oversee WPATH's internal operations.

Background

4. WPATH, founded in 1979, is a 501(c)(3) non-profit interdisciplinary professional and educational organization devoted to transgender health. WPATH's mission is to promote evidence-based care, education, research, public policy, and respect in transgender health. To that end, WPATH is internationally recognized for establishing Standards of Care for the treatment of individuals with gender dysphoria—these standards articulate a professional consensus about the psychiatric, psychological, medical, and surgical management of gender dysphoria. Many WPATH members engage in clinical and academic research to develop evidence-based medicine.

5. WPATH is an international membership organization, and it has regional affiliated organizations in Europe, Asia, and the United States. These organizations work collaboratively to help ensure safe, competent, and available healthcare for transgender and gender diverse (“TGD”) people around the world. The voting membership of WPATH consists of professionals working across a wide range of disciplines that encompass total care for TGD individuals, such as medicine, psychology, law, social work, counseling, psychotherapy, nursing, family studies, sociology, speech, and voice therapy, sexology, and more. WPATH members work together to increase access to competent care and address the needs and concerns of TGD people through collaboration of their expertise in education, advocacy, clinical medicine, research, and communication.
6. WPATH engages in a number of activities, including the publishing of its official journal, the International Journal of Transgender Health, a peer-reviewed medical journal. WPATH also hosts book clubs and journal clubs, which provide members and others working in TGD health the opportunity to interact, collaborate, and learn from their colleagues who are leading authors, clinicians, and expert researchers in transgender health. WPATH holds educational symposia, courses, and workshops to improve access to accurate and up-to-date information and research in the field of transgender health.

The Subpoena

7. I have reviewed the non-party subpoena issued to WPATH by the State of Alabama, which covers a broad range of topics and issues that relate to many different aspects of WPATH's work. Responding to the subpoena would require WPATH to identify and speak with multiple potential document custodians from across the organization, including at least the following groups within WPATH: the board of directors, executive committee, SOC8 co-chairs, SOC8 chapter leads, SOC8 chapter members, IT department, and consultants. Then, we would need to collect potentially responsive documents from those individuals. These documents would then need to be reviewed by me. The scope of these requests, in their current state, would mean that I could no longer dedicate my time to completing the daily tasks necessary to manage the association. The scope of this search would also unduly burden my staff, in that it would require the assistance of other team members, who would then be unable to function in their roles at WPATH.
8. Given the breadth of the requests as drafted, it is possible WPATH would need to collect Electronically Stored Information ("ESI"), such as custodial email files, from some or all of those individuals. Moreover, a number of our members utilize their own personal and business e-mail addresses to communicate with other members. These members come from a wide range

of disciplines and employers, including hospitals, medical groups, and educational institutions. Any ESI search and production of these e-mail addresses would require notice to their employers, as well as additional review to ensure that protected or confidential information was properly redacted.

9. Because WPATH does not have an in-house e-discovery function, we would likely need to retain a third-party vendor to collect and process those documents. Any collected documents would also need to be reviewed by attorneys for responsiveness, privilege, and other issues. While our pro bono counsel may assist with that, depending on the volume of documents, WPATH could need to retain additional contract attorneys to review the materials. I would also need to closely review the responsiveness and privilege determinations. Screening for this information would require additional time from my team. We would also likely need a vendor to process the responsive documents for production to the State. I have reviewed a number of quotes from associations that needed to retain these services and I understand that discovery costs of this type can often run into the tens of thousands of dollars.
10. In my view, the work I have described that would be required to respond to the subpoena as drafted would distract my team from the critically important,

time-sensitive work we do advancing and improving healthcare for transgender individuals.

11. I also view this subpoena, which requests our private, confidential internal communications, as exceedingly intrusive. It requests the production of internal communications with our members and partners, including internal chats, emails, notes, drafts, and social media posts. Our members use all of these channels to communicate with each other and engage in open discussions of WPATH's work product.
12. Based on my nearly seven years of experience working WPATH members, I believe that our staff and members will communicate less if the State's subpoena is enforced. Our staff is already more cautious about sending written communications for fear that they will be produced and taken out-of-context in an attempt to misuse and harm the persons we are trying help. I am also concerned that new members will fear joining if they know their private emails and comments shared with us could subject them to harassment arising from this litigation. Over the last several years, as TGD health has become the subject of charged rhetoric, our members have been increasingly harassed, intimidated, and subjected to threats of harm. For example, our members have been illegally videotaped during educational presentations and had their intellectual property misused and edited to fit an agenda that has led to threats

of violence. Members experience weekly attacks via email, phone calls and threatening voicemails, and social media messages and posts threatening and harassing them by name.

13. My staff and I have received weekly emails that include threats of violence and shaming; some excerpts from these include: *“It is unconscionable that you have lowered the age for hormone treatment from an age that was already TOO LOW. What you are doing amounts to child abuse and I will do everything in my power to 1) spread the word that you are abusing and mutilating children and 2) undermine and destroy your organization before you can do any more harm to children. Mark my words: this is a war.”* Not only is this statement false, but it was sent to us almost immediately following false news reports regarding age limits.
14. Another example reads, *“I am filing with the international criminal court against you. Transgender people are scientifically proven molestation and sexual abuse victims. Your attempt to hide the child molesters will get you killed. If I see you or anyone who supports you. I will kill them.”* These examples are only two of many examples of attempts to harass, intimidate, and ultimately chill the work of members and staff of WPATH.
15. This subpoena has also created a notable chill on our educational efforts. As a result of this subpoena, whenever WPATH prepares to submit a new amicus

filing, send a letter to the government, or issue a new policy statement, our board now considers whether this will open us to more subpoenas. In addition, due to the recent breaches that have occurred involving snippets of presentations being taken out of context, digitally manipulated, and used against the care we are seeking to provide, WPATH has had to cancel its planned educational courses and workshops in November and December to investigate stronger security measures to protect the faculty and staff. Faculty that have participated in many past projects are tenuous, and must now seek approval from their employers (hospitals, universities, etc.) to participate, as they must now consider whether risking the safety of their facilities is worth getting the research and data out to those in the field.

16. Open, honest dialogue is also essential to the accuracy of our work and practice recommendations, which medical professionals across many specialties use to inform their medical decision-making. We work with dozens of medical experts every year to understand the latest science, and to review and edit our publications, educational materials, curriculum, and public statements. These experts are volunteers and do this work out of a need to help improve care for transgender individuals. Having personally worked with many of them for years, I know that many would think twice before volunteering their expertise if their confidential feedback could be shared with

the world. Our ability to receive candid feedback depends on the confidence that peer reviews and communications within WPATH will not be publicly disclosed. Based on my experience, I believe enforcement of this subpoena will greatly hinder the quality and accuracy of our work product, which in turn will worsen the care that our members provide to their patients across all health domains.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Roanoke, VA, on December 23, 2022.



WPATH

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

BRIANNA BOE, et al.,

Plaintiffs,

v.

STEVE MARSHALL, et al.,

Defendants.

No. 2:22-cv-00184-LCB-CWB

**DECLARATION OF ENDOCRINE SOCIETY IN SUPPORT OF JOINT
MOTION OF NONPARTIES AMERICAN ACADEMY OF PEDIATRICS,
WORLD PROFESSIONAL ASSOCIATION FOR TRANSGENDER
HEALTH, AND ENDOCRINE SOCIETY TO QUASH RULE 45
SUBPOENAS**

I, [REDACTED], declare as follows:

1. I am the [REDACTED] at the Endocrine Society. If called upon to testify as to the facts set forth herein, I could and would testify competently thereto.
2. I have served as the [REDACTED] since [REDACTED]. In my role, I oversee the Endocrine Society's Government and Public Affairs Department, which manages the Society's public policy agenda and advocacy efforts. I develop strategies to create and improve policies that affect access to and quality of care, and I engage in advocacy related to endocrine-disrupting chemicals. I also serve as

liaison to the Endocrine Society's Clinical Affairs, Research Affairs, and Advocacy & Public Outreach Core Committees. These committees play an integral role in implementing the Society's mission, sharing the latest clinical and research information, and making policy recommendations. Over the past nine years, I have had the opportunity to work closely with our staff, our members, our partner organizations, and others in the medical society, scientific organization, and policy communities. As a result, I have developed a broad and deep knowledge of Endocrine Society's operations and of the clinicians, scientists, and groups with which we collaborate.

Background

3. The Endocrine Society, founded in 1916, is a 501(c)(3) charitable, non-profit organization of physicians and scientists dedicated to accelerating scientific breakthroughs and improving patient health and wellbeing. The Endocrine Society is one of the largest and most active organizations devoted to the study of hormones and clinical practice in endocrinology. Its mission is to advance excellence in endocrinology and promote endocrinology's role in scientific discovery, medical practice, and human health. To accomplish this, the Endocrine Society publishes multiple peer-reviewed journals and publications, hosts forums for the exchange of clinical and scientific

knowledge in the field, and supports over 18,000 clinicians and scientists through every stage of their careers.

4. The Endocrine Society has a top-ranked peer-reviewed journal publishing program that addresses dozens of endocrine issues. The Endocrine Society also publishes policy statements, scientific statements, and clinical practice guidelines. In addition, the Endocrine Society hosts meetings and conferences to provide opportunities to share the latest information and updates in endocrinology and to facilitate professional development and networking for members and all professionals involved in the specialized field of hormone research and clinical endocrinology.
5. The Endocrine Society also offers educational and training opportunities that cover all areas of endocrinology, diabetes, and metabolism. The Endocrine Society's Center for Learning provides a wealth of activities that offer our members opportunities to obtain and maintain specialty certification. The Endocrine Society's Special Interest Groups and online platforms allow our members to share information with their peers, learn best practices, and find research collaborations. The Endocrine Society also works with its members to develop policy positions and educate policy makers about them.
6. As a 501(c)(3) organization, the majority of the Society's policy work involves education; however, as part of its civic responsibility and to represent

the interests of its members and the patients they care for, the Society also engages in advocacy to support or oppose specific legislation as necessary and well within the limits of 501(c)(3) requirements. The Society is viewed as a trusted and credible policy advisor by policy makers around the globe and has also had the opportunity as an *amicus* to provide information to courts considering scientific or clinical information related to endocrinology and endocrine-related science.

7. While the Endocrine Society directs its members to potential endocrine-related research opportunities, the Endocrine Society does not itself conduct clinical research. In other words, the Endocrine Society's work related to clinical practice guidelines involves working with our members who are experts in the field to analyze the publicly available evidence. The Endocrine Society determines the topics for guidelines, selects an expert writing committee, and provides the infrastructure for the development and publication by using a robust and rigorous process that adheres to the highest standards of trustworthiness and transparency as defined by the Institute of Medicine. The Endocrine Society also follows the Grading of Recommendations, Assessment, Development and Evaluation (GRADE) methodology to develop its recommendations. GRADE is a transparent framework for summarizing evidence and provides a systematic approach for

making clinical practice recommendations. Additionally, Endocrine Society guidelines are not developed in a vacuum. Guidelines take an average of 2-3 years to develop through a multi-step drafting, comment, review, and approval process. This includes a public comment period and expert review period, and all comments are addressed by the guideline development panel prior to publication. There is ample opportunity for feedback and debate through this years-long development process. Consequently, the Endocrine Society's guidelines represent a high-quality resource to be used for patient care based on medical evidence, author expertise, rigorous scientific review, and a transparent process.

The Subpoena

8. I have reviewed the non-party subpoena issued to Endocrine Society by the State of Alabama. There are dozens of requests that cover a sweeping set of categories, implicating many different elements of Endocrine Society's work. Based on my experience, responding to the requests as drafted would require us to undertake a substantial and burdensome process of identifying and speaking with a great number of individuals across our organization who may have been involved with our work in these areas, including at least the Clinical Practice Guideline team, the Publications Department, the Communications and Media Relations teams, the Executive Office, the Membership

Department, and the IT team as well as the Government & Public Affairs team. In addition to Endocrine Society staff, responding to the requests as drafted would also require us to interrupt the work of several Endocrine Society members, including the expert writing panel of the guidelines, the authors of our position statement and policy documents, the Board of Directors, and other member experts in transgender medicine who have participated in the Endocrine Society's work. Then, we would need to collect potentially responsive documents from those individuals. Given the number and breadth of the requests, Endocrine Society may need to collect Electronically Stored Information ("ESI") from some or all of those individuals, and we would likely need to retain a third-party vendor to collect and process those documents.

9. Any collected documents would also need to be reviewed by attorneys for responsiveness and privilege. Our pro bono counsel would be involved in that work, but I understand that depending on the volume of documents, Endocrine Society could need to retain additional contract attorneys to review the materials. Moreover, my team would need to closely review the responsiveness and privilege determinations, because many of our documents may be highly technical (including use of acronyms and medical information) or require familiarity or expertise to properly categorize. Further, many of

our documents may involve third parties with their own privacy interests, or sensitive patient or health data. Screening for this information would require a substantial commitment of time and resources from Endocrine Society.

10. I understand that discovery costs of this type can often run into the hundreds of thousands of dollars, which has significant budget implications for a 501(c)(3) organization like our medical society. Approximately eight years ago, the Endocrine Society was involved in discovery related to a different matter. At that time, our costs were close to \$100,000 plus significant staff time. Consequently, based on the breadth of the subpoena in this case, we estimate that our costs would be well over that amount plus weeks of IT and other relevant staff time. For a medical society like ours, this cost and staff burden is not easily absorbed and would have significant effect on our budget. Our Finance Department is already considering the budget impact of compliance to the subpoena and identifying what programs, products, and services will be affected, moved, delayed, or stopped. Our IT Department also must consider what the budgetary impact of compliance will be on technology infrastructure plans as well as its staff capacity and what additional help would be needed.
11. The work I have described that would be required to respond to the subpoena as drafted would divert our staff from the vital, urgent work Endocrine Society

does to advance endocrine practice for patients and endocrine research. It would compromise our ability to deliver on other critical programs and services of the Society, including the preparation for our annual meeting; development of educational products and programs such as other guidelines; and hinder our ability to do core functions of the Society. In addition, the subpoena requests would create new burdens on not only Society member leaders but also rank-and-file members who volunteered to lend their expertise. Our members, like other physicians and researchers across the country, are overwhelmed with patient and administrative activities particularly during the ongoing public health emergency. Responding to these broad requests would reduce their time for caring for patients and for research.

12. I am also seriously concerned about the effect this subpoena will have on our ability to freely communicate as an organization. As drafted, the subpoena requests production of internal communications with our members and partners, internal chats, notes, drafts, social media posts, and private emails. Our staff and members use these tools to communicate with each other and engage in robust, frank, and healthy discussion of the Society's work product.
13. Based on my experience working with Endocrine Society members, I believe that our staff and members will communicate less, and less freely, if the State's subpoena were enforced. Already, our staff are more cautious about

sending written communications. In addition to disrupting communications between staff, the subpoena has already created an environment in which departments and teams affected are pausing some new activities or reducing current activities out of concern that if required to comply with the subpoena they will be unable to perform other duties and responsibilities of their jobs. For example, the guidelines team already feels forced to delay an update of the gender dysphoria guideline; the media relations team is hesitant to respond to reporter inquiries; and the Government and Public Affairs Department has paused certain activities related to work on other issues, such as engagement in coalitions, and expansion of policy priorities to provide capacity to respond.

14. I am also concerned that if this subpoena is enforced our staff and members will avoid communicating with each other to complete work on Endocrine Society projects and programs; that our members will step back from volunteering to work on future clinical practice guidelines, educational sessions and materials, and participating in Endocrine Society committees and work groups; and that new members will fear joining. While Endocrine Society members are committed to ensuring access to care for individuals suffering from gender dysphoria, we are hearing that our members do not feel comfortable using our platforms to discuss the issue. Currently, our members who see people with gender dysphoria or who are transgender are working in

hostile environments in which their clinics are subject to threats and in some cases actual violence. Consequently, some members have requested that we remove their contact information from our online directory. While this keeps their name out of public attention, it also has the effect of making it harder for patients to find a physician with this expertise. If these members learn that their communications with their professional society are now discoverable, I am concerned that it will cause some to walk away from the Society just when they need it the most and when their contributions will be helpful to others.

15. This subpoena has also created a notable strain on our activities to help educate policy makers and the courts about transgender medicine so that they have medical evidence and scientific information to inform their decisions. As a result of this subpoena, whenever Endocrine Society prepares to submit a new amicus filing, send a letter to the government, meet with a legislator or government official, or issue a new policy statement, our board now must consider whether this will result in future document subpoenas. This is truly crushing to the Endocrine Society's ability to participate in the policy, legislative, and regulatory process and share our views as well as clinical and scientific information with policy makers. In my view, the effect of the subpoena on the Endocrine Society's advocacy activities is a blow to our First Amendment protections.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Washington, D.C., on December 23, 2022.

A large black rectangular redaction box covers the signature area. The box is composed of two overlapping rectangles: a larger one on top and a smaller one on the bottom left, creating a stepped effect.

Endocrine Society