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Ms. Deborah S. Hunt
Clerk of Court
U.S. Court of Appeals for the Sixth Circuit
Potter Stewart U.S. Courthouse
100 East Fifth Street
Cincinnati, OH 45202

Re: Nos. 23-5600, 23-5609, *L.W. v. Skrmetti* and *Doe 1 v. Thornbury*

Dear Ms. Hunt:

Under FRAP 28(j),¹ Family Research Council notifies the Court of recent authority that again belies WPATH, AAP, and the Endocrine Society’s robotic repetition that their “clinical guidelines” for transitioning children with drugs and surgeries are “evidence-based.” *Skrmetti* Doc. 102, at 19. Recent events only confirm FRC’s argument that WPATH et al. have placed ideology over science. *See generally Skrmetti* Doc. 52 (“FRC Br.”).

Days before the American medical interest groups filed a facsimile of their brief below, AAP “commission[ed] a systematic review of medical research on the treatments, following similar efforts in Europe that found uncertain evidence for their effectiveness in adolescents.”² Yet even as the AAP implicitly acknowledged that it has never done any “systematic review” of the evidence, it chose to “reaffirm[] its position from 2018 on a medical approach that has since been banned in 19 states.”³ As shown and unrebutted, that position involved “a systematic exclusion and misrepresentation of the literature” and was “written by one doctor.” FRC Br. 20.

AAP justified sticking to its position while awaiting the evidence because its board had “confidence” in the interventions, while WPATH’s president said the position was appropriate because “[t]hey know the stories” “[a]necdotal.”⁴ Considering that the groups rely on Dr. Gordan Guyatt, father of evidence-based medicine, to support their “evidence-based” guidelines (Br. 15), it’s thus damning that Guyatt himself recognizes that AAP is “very clearly putting the cart before the horse” by “recommend[ing] the treatments for young people before completing a

¹ *E.g., Am. Atheists, Inc. v. Davenport*, 637 F.3d 1095, 1115 (10th Cir. 2010) (*amicus* 28j).

² Ghorayshi, *Medical Group Backs Youth Gender Treatments, but Calls for Research Review*, *New York Times* (Aug. 3, 2023), <https://www.nytimes.com/2023/08/03/health/aap-gender-affirming-care-evidence-review.html>.

³ *Id.*

⁴ *Id.*

rigorous review.”⁵ “Based on previous systematic reviews, Dr. Guyatt said, the [AAP’s] report will most likely find low-quality evidence for pediatric gender care.”⁶ He concluded: ““The policies of the Europeans are much more aligned with the evidence than are the Americans.””⁷

Do WPATH and AAP tell the Court any of this? Of course not. This is their “robust and transparent process” (Br. 15) in action.

Sincerely,

s/ Christopher Mills

Christopher Mills
Counsel for Family Research Council

Word Count: 348

cc: All Counsel of Record via CM/ECF

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*