

RAÚL R. LABRADOR
ATTORNEY GENERAL

JAMES E.M. CRAIG, ISB #6365
Chief, Civil Litigation and
Constitutional Defense

RAFAEL J. DROZ, ISB #9934
Deputy Attorney General
Office of the Attorney General
P. O. Box 83720
Boise, ID 83720-0010
Telephone: (208) 334-2400
Facsimile: (208) 854-8073
james.craig@ag.idaho.gov
rafael.droz@ag.idaho.gov

Attorneys for Defendant Raúl Labrador

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

PAM POE, by and through her parents and next
friend, Penny and Peter Poe, et al.,

Plaintiffs,

v.

RAÚL LABRADOR, in his official capacity as
Attorney General of the State of Idaho, et al.,

Defendants.

Case No. 1:23-cv-00269-BLW

**ATTORNEY GENERAL'S
MOTION FOR ENTRY OF
PREVIOUSLY AGREED
UPON PROTECTIVE ORDER**

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, the Attorney General hereby moves for entry of the proposed Protective Order (“Protective Order”) attached hereto as Exhibit 1, which sets forth a protocol that was previously agreed to by the parties. The parties had anticipated the production of

ATTORNEY GENERAL'S MOTION FOR ENTRY OF
PREVIOUSLY AGREED UPON PROTECTIVE ORDER — 1

documents and information that a party may believe is, or may contain, confidential, proprietary, trade secret, or commercially or personally sensitive information, and which may be appropriately subject to protection under Federal Rule of Civil Procedure 26(c).

As set forth in the previously agreed to protective order, the parties had agreed that good cause exists to protect the confidential nature of the information contained in certain documents, interrogatory responses, responses to requests for admission, or deposition testimony and that entry of the protective order was warranted to protect against such disclosure of documents and information. In September 2023, the parties reached agreement on the terms of the protective order, and all that was left was for one or more parties to file a motion for entry of the protective order. This did not happen, and so the protective order, which was agreed upon in September 2023, has not yet been issued by the Court. *See* attached Ex. 2.

On July 28, 2023, the Attorney General provided notice to all parties that it was planning on serving a subpoena duces tecum upon the World Professional Association for Transgender Health, Inc. (“WPATH”), and provided a copy of the subpoena along with the notice. *See* attached Ex. 3. On October 3, 2023, in response to the subpoena the Attorney General served upon it, and with the belief that a protective order was, or soon would be, entered in this case, WPATH produced over 100,000 pages of documents to the Attorney General, each of which

was marked “Confidential.”¹ The Attorney General intends to file a motion with this Court under Fed. R. Civ. P. 62(d) to dissolve the preliminary injunction based upon, in part, certain of those documents, along with other recently released public information that goes to the reliability of the evidence the Plaintiffs used to support their motion for a preliminary injunction. In order to produce the WPATH documents to counsel for the other parties in this case, the entry of a protective order is necessary.

This Court previously stayed this matter “pending the Ninth Circuit’s resolution of the Attorney General’s pending appeal.” Dkt. 094. However, under Fed. R. Civ. P. 62(d), the Court retains authority to “suspend, modify, restore, or grant an injunction” while “an appeal is pending from an interlocutory order ... that grants ... an injunction.” Further, while “the general rule [is] that a district court is divested of jurisdiction upon the filing of the notice of appeal with respect to any matters involved in the appeal,” where “an appeal is allowed from an interlocutory order, the district court may still proceed with matters not involved in the appeal.” *Taylor v. Sterrett*, 640 F.2d 663, 667–68 (5th Cir. 1981). “The same court that imposes a stay of litigation has the inherent power and discretion to lift the stay.” *Tugaw Ranches, LLC v. United States Dep’t of the Interior*, 2020 WL 61282 * 1 (D.

¹ The documents were produced to the Office of the Attorney General in response to identical subpoenas issued both in this case and in another case. *Roe v. Critchfield*, Case No. 1:23-cv-00315 (DCN). The other case does have a protective order issued protecting the documents. *Id.* (Dkt 046).

Idaho 2020) (quoting *Canady v. Erbe Elektromedizin GmbH*, 271 F. Supp. 2d 64, 74 (D.D.C. 2002)).

Undersigned counsel has conferred with counsel for the other parties regarding the entry of the Protective Order. Plaintiffs' counsel has advised that they will oppose this motion for entry of a protective order, despite their agreement in September 2023 to the terms and entry of the protective order at that time; counsel for the Ada County Prosecuting Attorney has indicated that the Ada County Prosecuting Attorney does not oppose this motion. Based on the foregoing, the Attorney General respectfully requests that the Court enter the attached Protective Order as an Order of the Court.

The Attorney General further respectfully requests that this motion be heard on an expedited basis in order to allow the Attorney General to provide the WPATH documents to opposing counsel as soon as possible and to allow the Attorney General to file its motion to dissolve the preliminary injunction as soon as possible.

Dated: March 29, 2024.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By: /s/ James E.M. Craig
JAMES E. M. CRAIG
Chief, Civil Litigation and
Constitutional Defense

Counsel for Defendant
Raúl Labrador

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 29, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

Alexia D. Korberg
akorber@paulweiss.com
mao_fednational@paulweiss.com

Heather M. McCarthy
hmccarthy@adacounty.id.gov
telemons@adacounty.id.gov

Ariella C. Barel
ariella.barel@groombridgewu.com

Jackson Cory Yates
jyates@paulweiss.com

Brad S. Karp
bkarp@paulweiss.com

Jordan E. Orosz
jorosz@paulweiss.com

Casey Parsons
casey@wrest.coop

Kyle N. Bersani
kyle.bersani@groombridgewu.com

Colleen Rosannah Smith
csmith@stris.com
6969944420@filings.docketbird.com

Cortlin H. Lannin
clannin@cov.com
docketing@cov.com

Richard Alan Eppink
ritchie@wrest.coop

Li Nowlin-Sohl
lnowlin-sohl@aclu.org

D Jean Veta
jveta@cov.com

Meredith Taylor Brown
tbrown@aclu.org

Dana Kennedy
dkennedy@paulweiss.com

Philip S. May
philip.may@groombridgewu.com

Leslie Jill Cooper
lcooper@aclu.org
ccaicedo@aclu.org
sgarcia@aclu.org

Dayton Patrick Reed
dreed@adacounty.id.gov
civilpfiles@adacounty.id.gov
citedemann@adacounty.id.gov

Dina M. Flores-Brewer
dfloresbrewer@alcu.org

William Isasi
wisasi@cov.com

/s/ James E.M. Craig

JAMES E. M. CRAIG

Chief, Civil Litigation and
Constitutional Defense

RAÚL R. LABRADOR
ATTORNEY GENERAL

JAMES E. M. CRAIG, ISB #6365
Chief, Civil Litigation and
Constitutional Defense

RAFAEL J. DROZ, ISB #9934
Deputy Attorney General
Office of the Attorney General
P. O. Box 83720
Boise, ID 83720-0010
Telephone: (208) 334-2400
Facsimile: (208) 854-8073
james.craig@ag.idaho.gov
rafael.droz@ag.idaho.gov

Attorneys for Defendant Raúl Labrador

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

PAM POE, et al.,

Plaintiffs,

v.

RAÚL LABRADOR, et al.,

Defendants.

Case No. 1:23-cv-269-BLW

PROTECTIVE ORDER

One or more of the parties in this matter anticipates the production of documents or information that at least one party considers to be, or to contain, confidential, proprietary, trade secret, or commercially or personally sensitive

information, and that may be appropriately subject to protection under Federal Rule of Civil Procedure 26(c).

The Court finds that good cause exists to protect the confidential nature of the information contained in certain documents, interrogatory responses, responses to requests for admission, or deposition testimony. The Court finds that the entry of this Protective Order (“Protective Order”) is warranted to protect against disclosure of such documents and information.

Based upon the Attorney General’s motion, and the Court being duly advised, IT IS HEREBY ORDERED as follows:

1. Use of any information or documents labeled “Confidential” or “Highly Confidential: and subject to this Protective Order, including all information derived therefrom, shall be restricted solely to the litigation of this case and shall not be used by any party for any other purpose. This Protective Order, however, does not restrict the disclosure or use of any information or documents lawfully obtained by the receiving party through means or sources outside of this litigation. Should a dispute arise as to any specific information or document, the burden shall be on the party claiming that such information or document was lawfully obtained through means and sources outside of this litigation.

2. This Protective Order does not confer blanket protections on all disclosures during discovery or in the course of making initial or supplemental disclosures under Rule 26(a). Designations under this Protective Order shall be made with care and shall not be made absent a good faith belief that the designated

material satisfies the criteria set forth below. The Designating Party shall consider whether appropriate redactions can address the need for confidentiality in lieu of designating a document as confidential. If it comes to the attention of any party or non-party that discloses or produces any discovery material that designated material does not qualify for protection at all or does not qualify for the level of protection initially asserted, the designating party must promptly notify all other parties that it is withdrawing or changing the designation.

3. The parties, and third parties subpoenaed by one of the parties, may designate as “Confidential” or “Highly Confidential” documents, testimony, written responses, or other materials produced in this case if they contain information that the producing party has a good faith basis for asserting is confidential under the applicable legal standards. Information may be designated as “Confidential” or “Highly Confidential” as follows:

- a. Information may be designated “Confidential” if the Designating Party claims in good faith that such information, document, or tangible item embodies, constitutes, contains, reveals, relates to, or reflects any trade secret or other proprietary or confidential information within the meaning of Federal Rule of Civil Procedure 26(c)(1)(G).
- b. Information may be designated “Highly Confidential” if the Designating Party believes that such information, document, or tangible item is so highly sensitive that disclosure of such

information must be restricted to be reviewed on a more limited basis in order to preserve Plaintiffs' anonymity. Such information shall include medical records, health records, and other medical information that may be subject to privacy and security protection under The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or other applicable U.S. data security and privacy laws or regulations. Information designated "Highly Confidential" may be reviewed as set forth in paragraph 9 below.

4. The party shall designate each page of the document with a stamp identifying it as "Confidential" or "Highly Confidential" if practical to do so. Within thirty (30) days after receipt of the final transcript of the deposition of any party or witness in this case, a party or the witness may designate as "Confidential" or "Highly Confidential" any portion of the transcript that the party or witness contends discloses confidential information. Unless otherwise agreed, all deposition transcripts shall be treated as "Confidential" until the expiration of the thirty-day period, and any portion of a deposition transcript that discusses documents designated "Highly Confidential" shall be treated as "Highly Confidential" until the expiration of the thirty-day period.

5. If portions of documents or other materials deemed "Confidential" or "Highly Confidential," or any papers containing or making reference to confidential portions of such materials are filed with the Court, they shall be filed under seal and marked according to the provisions of District of Idaho Local Civil Rule 5.3. This

Protective Order may not entitle the parties to permanently seal all documents or information marked “Confidential” filed with the Court.

6. In seeking to file a document under seal, there is a strong presumption in the Ninth Circuit in favor of access to court records and that sealing a document from public view is the exception. In addition, the Court will evaluate any motion to seal either under a finding of good cause for non-dispositive motions or a compelling reason supported by specific facts for dispositive motions. *See Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179–80 (9th Cir. 2006). The designating party bears the burden to establish the facts necessary to seal such information or documents.

7. If the designating party is filing with the Court documents or information that it marked “Confidential” or “Highly Confidential” it shall file a motion to seal pursuant to District of Idaho Local Civil Rule 5.3 that sets forth the specific facts necessary to justify the sealing of the documents or information. If the non-designating party is filing with the Court documents or information marked “Confidential” by another party, the non-designating party shall file a motion to seal pursuant to District of Idaho Local Civil Rule 5.3 explaining that it is not the party that designated the documents or information as “Confidential” or “Highly Confidential” and either: (a) setting forth its understanding as to why the documents or information have been designated “Confidential” or “Highly Confidential” by another party, or (b) specifically objecting to the documents or information being designated as “Confidential” or “Highly Confidential” by another party and/or

maintained under seal by the Court. If the non-designating party raises an objection or fails to adequately support the justification for sealing, the designating party may respond to the motion to seal, setting forth the specific facts necessary to justify maintaining confidentiality and filing the documents under seal.

8. Use of any information, documents, or portions of documents marked “Confidential,” including all information derived therefrom, shall be restricted solely to the following persons, who are bound by the terms of this Protective Order, unless additional persons are added by the stipulation of counsel or authorized by the Court:

- a. Outside counsel of record for the parties, and the administrative staff of outside counsel’s law firms.
- b. In-house counsel for the parties, and the administrative staff for each in-house counsel.
- c. Any party to this action who is an individual, and every employee, director, officer, or manager of any party to this action who is not an individual, but only to the extent necessary to further the interest of the parties in this litigation.
- d. Independent consultants or expert witnesses (including partners, associates, and employees of the firm which employs such consultant or expert) retained by a party or its attorneys for purposes of this litigation, but only to the extent necessary to further the interest of the parties in this litigation.

- e. The Court and its personnel, including, but not limited to, stenographic reporters regularly employed by the Court and stenographic reporters not regularly employed by the Court who are engaged by the Court or the parties during the litigation of this action.
- f. The authors and the original recipients of the documents.
- g. Any court reporter or videographer reporting a deposition.
- h. Employees of copy services, microfilming or database services, trial support firms, and/or translators who are engaged by the parties during the litigation of this action.
- i. Any mediator who is assigned to hear this matter, and his or her staff, subject to their agreement to maintain confidentiality to the same degree as required by this Protective Order.
- j. Any fact witness in this matter to whom disclosure is reasonably necessary.
- k. Any other person with the prior written consent of the designating party.

9. Use of any information, documents, or portions of documents marked “Highly Confidential,” including all information derived therefrom, shall be restricted solely to the same individuals in Paragraph 8, with the exception that individuals in Paragraph 8(c) may not access “Highly Confidential” information.

10. Prior to being shown any documents produced by another party marked “Confidential” or “Highly Confidential,” any person listed under Paragraphs 8(d), 8(i), 8(j), and 8(k) shall agree to be bound by the terms of this Order by signing the agreement attached as Exhibit A.

11. Whenever information designated as “Confidential” or “Highly Confidential” pursuant to this Protective Order is to be discussed by a party or disclosed in a deposition proceeding, the designating party may exclude from the room any person, other than persons designated in Paragraphs 8 and 9, as appropriate, for that portion of the deposition.

12. Notwithstanding the above, the Court shall determine a party’s right to use documents or information marked “Confidential” or “Highly Confidential” at a hearing, trial, or other proceeding in this action. The Court may also require the redaction of personal identifiers of confidential information before use at a hearing, trial, or other proceeding in this action. The designation of “Confidential” or “Highly Confidential” shall not affect the Court’s determination as to whether the material shall be received into evidence; nor shall such designation constitute the authentication of such material or a waiver of any right to challenge the relevance, confidentiality, or admissibility of such material. This Protective Order shall not govern the admission of evidence at trial in open court. Should a designating party believe that documents, materials, or information designated as “Confidential” should not be used in open court during trial, the designating party will have the burden to seek such protections from the Court prior to trial.

13. Each party reserves the right to dispute the confidential status of documents or information claimed by any other party or subpoenaed party in accordance with this Protective Order. If a party believes that any documents or materials have been inappropriately designated as “Confidential” or “Highly Confidential” by another party or subpoenaed party, that party shall confer in good faith with counsel for the designating party. As part of that conferral, the designating party must assess whether redaction is a viable alternative to a confidential designation. If the parties cannot reach an agreement, the parties shall use the Court’s informal discovery dispute process to seek a resolution, if the Court uses one. If the parties are unable to resolve the matter informally, the designating party shall file an appropriate motion before the Court requesting that the Court determine whether the Protective Order covers the document in dispute. The designating party bears the burden of establishing good cause for why the document should not be disclosed. A party who disagrees with another party’s designation must nevertheless abide by that designation until the matter is resolved by agreement of the parties or by order of the Court.

14. The inadvertent failure to designate a document, testimony, or other material as “Confidential” or “Highly Confidential” prior to disclosure shall not operate as a waiver of the party’s right to later designate the document, testimony, or other material as “Confidential” or “Highly Confidential” or limit in any way a party’s ability to recall or “claw back” privileged materials that may have been inadvertently disclosed. The receiving party or its counsel shall not disclose such

documents or materials if that party knows or reasonably should know that a claim of confidentiality would be made by the producing party. Promptly after receiving notice from the producing party of confidentiality claim, the receiving party or its counsel shall inform the producing party of all pertinent facts relating to the prior disclosure of the newly designated documents or materials and shall make reasonable efforts to retrieve such documents and materials and to prevent further disclosure.

15. Designation by either party of information or documents as “Confidential” or “Highly Confidential,” or failure to so designate, will not constitute an admission that information or documents are or are not confidential or trade secrets. Neither party may introduce into evidence in the litigation, other than a motion to determine whether the Protective Order covers the information or documents in dispute, the fact that the other party designated or failed to designate information or documents as “Confidential” or “Highly Confidential.”

16. Upon the request of the producing party, within 30 days after the entry of a final judgment no longer subject to appeal on the merits of this case, or the execution of any agreement between the parties to resolve and settle this case, the parties, and any person authorized by this Protective Order to receive confidential information, shall return to the producing party or third party, or destroy, all information and documents subject to this Protective Order. Returned materials shall be delivered in sealed envelopes marked “Confidential” or “Highly Confidential” to respective counsel. The party requesting the return of materials shall pay the reasonable costs of responding to its request. Notwithstanding the foregoing, counsel

for a party may retain archival copies of confidential documents including any copies which contain work-product.

17. This Protective Order shall not constitute a waiver of any party's or non-party's right to oppose any discovery request or object to the admissibility of any document, testimony, or other information.

18. Nothing in this Protective Order shall prejudice any party from seeking amendments to expand or restrict the rights of access to, and use of, confidential information, or other modifications, subject to order by the Court.

19. The restrictions on disclosure and use of confidential information shall survive the conclusion of this action.

The Court has reviewed the reasons offered in support of entry of this Protective Order and finds that there is good cause to protect the confidential nature of certain information. Accordingly, the Court adopts the above Protective Order in this action.

IT IS SO ORDERED.

DATED: _____

B. Lynn Winmill
Senior United States District Judge

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

PAM POE, et al.,

Plaintiffs,

v.

RAÚL LABRADOR, et al.,

Defendants.

Case No. 1:23-cv-269-BLW

I, _____, have been advised by counsel of record for _____ in the above-captioned action of the protective order governing the delivery, publication, and disclosure of confidential documents and information produced in this litigation. I have read a copy of the protective order and agree to abide by its terms.

Signed

Printed

Date

Exhibit 2

From: [Philip May](#)
To: [Lincoln Wilson](#); [Rafael Droz](#); [Li Nowlin-Sohl](#); [dreed@adacounty.id.gov](#); [External- Ritchie Eppink](#); [Heather McCarthy](#); [Josh Turner](#)
Cc: [Eric Stone](#); [akorberg](#); [Leslie Cooper](#); [John Ramer](#); [Brian Barnes](#); [David Thompson](#); [Laura Kauffmann](#); [Chyvonne Tiedemann](#)
Subject: RE: Poe: Proposed Stipulated Protective Order & Joint Motion for Entry
Date: Wednesday, September 27, 2023 11:56:06 AM
Attachments: [image001.png](#)

Lincoln,

We are fine with your revisions. Will you handle filing or would you like us to?

Regards,
Philip

Philip S. May
Groombridge, Wu, Baughman & Stone LLP
801 17th St NW, Suite 1050
Washington, DC 20006
202-539-6620 (O) | 202-577-2199 (M)
philip.may@groombridgewu.com
Pronouns: He/Him/His

From: Lincoln Wilson <Lincoln.Wilson@ag.idaho.gov>
Sent: Tuesday, September 19, 2023 1:01 PM
To: Philip May <philip.may@groombridgewu.com>; Rafael Droz <Rafael.Droz@ag.idaho.gov>; Li Nowlin-Sohl <lnowlin-sohl@aclu.org>; dreed@adacounty.id.gov; External- Ritchie Eppink <ritchie@wrest.coop>; Heather McCarthy <hmccarthy@adacounty.id.gov>; Josh Turner <josh.turner@ag.idaho.gov>
Cc: Eric Stone <eric.stone@groombridgewu.com>; 'Korberg, Alexia D' <akorberg@paulweiss.com>; Leslie Cooper <LCOOPER@aclu.org>; John Ramer <jramer@cooperkirk.com>; Brian Barnes <BBarnes@cooperkirk.com>; David Thompson <dthompson@cooperkirk.com>; Laura Kauffmann <Laura.Kauffmann@ag.idaho.gov>; Chyvonne Tiedemann <ctiedemann@adacounty.id.gov>
Subject: RE: Poe: Proposed Stipulated Protective Order & Joint Motion for Entry

Hi Phillip,

Attached is a proposed mark-up of the protective order that accepts your changes and adds just a few more. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

If these changes are acceptable to you, I think we can get this filed. Thanks for working with us on this.



Lincoln Davis Wilson | Division Chief
Civil Litigation and Constitutional Defense
Office of the Attorney General | State of Idaho
M: 208-809-1077 | W: ag.idaho.gov

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[ATTORNEY INFORMATION]

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

PAM POE, et al.,

Plaintiffs,

v.

RAÚL LABRADOR, et al.,

Defendants.

Case No. 1:23-cv-269-BLW (hs)

STIPULATED PROTECTIVE ORDER

One or more of the parties in this matter anticipates the production of documents or information that at least one party considers to be, or to contain, confidential, proprietary, trade secret, or commercially or personally sensitive information, and that may be appropriately subject to protection under Federal Rule of Civil Procedure 26(c).

The parties agree that good cause exists to protect the confidential nature of the information contained in certain documents, interrogatory responses, responses to requests for admission, or deposition testimony. The parties agree that the entry of this Stipulated Protective Order (“Protective Order”) is warranted to protect against disclosure of such documents and information.

Based upon the above stipulation of the parties, and the Court being duly advised, IT IS HEREBY ORDERED as follows:

1. Use of any information or documents labeled “Confidential” or “Highly Confidential: and subject to this Protective Order, including all information derived therefrom, shall be restricted solely to the litigation of this case and shall not be used by any party for any other purpose. This Protective Order, however, does not restrict the disclosure or use of any information or documents lawfully obtained by the receiving party through means or sources outside of this litigation. Should a dispute arise as to any specific information or document, the burden shall be on the party claiming that such information or document was lawfully obtained through means and sources outside of this litigation.

2. The Parties acknowledge that this Protective Order does not confer blanket protections on all disclosures during discovery or in the course of making initial or supplemental disclosures under Rule 26(a). Designations under this Protective Order shall be made with care and shall not be made absent a good faith belief that the designated material satisfies the criteria set forth below. The Designating Party shall consider whether appropriate redactions can address the need for confidentiality in lieu of designating a document as confidential. If it comes to the attention of any party or non-party that discloses or produces any discovery material that designated material does not qualify for protection at all or does not qualify for the level of protection initially asserted, the designating party must promptly notify all other parties that it is withdrawing or changing the designation.

3. The parties, and third parties subpoenaed by one of the parties, may designate as “Confidential” or “Highly Confidential” documents, testimony, written responses, or other materials produced in this case if they contain information that the producing party has a good faith basis for asserting is confidential under the applicable legal standards. Information may be designated as “Confidential” or “Highly Confidential” as follows:

- a. Information may be designated “Confidential” if the Designating Party claims in good faith that such information, document, or tangible item embodies, constitutes, contains, reveals, relates to, or reflects any trade secret or other proprietary or confidential information within the meaning of Federal Rule of Civil Procedure 26(c)(1)(G).
- b. Information may be designated “Highly Confidential” if the Designating Party believes that such information, document, or tangible item is so highly sensitive that disclosure of such information must be restricted to be reviewed on a more limited basis in order to preserve Plaintiffs’ anonymity. Such information shall include medical records, health records, and other medical information that may be subject to privacy and security protection under The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) or other applicable U.S. data security and privacy laws or regulations. Information designated “Highly Confidential” may be reviewed as set forth in paragraph 9 below.

4. The party shall designate each page of the document with a stamp identifying it as “Confidential” or “Highly Confidential” if practical to do so. Within thirty (30) days after receipt of the final transcript of the deposition of any party or witness in this case, a party or the witness may designate as “Confidential” or “Highly Confidential” any portion of the transcript that the party or witness contends discloses confidential information. Unless otherwise agreed, all deposition transcripts shall be treated as “Confidential” until the expiration of the thirty-day period, and any portion of a deposition transcript that discusses documents designated “Highly Confidential” shall be treated as “Highly Confidential” until the expiration of the thirty-day period.

5. If portions of documents or other materials deemed “Confidential” or “Highly Confidential,” or any papers containing or making reference to confidential portions of such materials are filed with the Court, they shall be filed under seal and marked according to the provisions of District of Idaho Local Civil Rule 5.3. The parties acknowledge that this Protective Order may not entitle them to permanently seal all documents or information marked “Confidential” filed with the Court.

6. In seeking to file a document under seal, the parties understand there is a strong presumption in the Ninth Circuit in favor of access to court records and that sealing a document from public view is the exception. In addition, the parties understand that the Court will evaluate any motion to seal either under a finding of good cause for non-dispositive motions or a compelling reason supported by specific facts for dispositive motions. See *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179-80 (9th Cir. 2006). The designating party bears the burden to establish the facts necessary to seal such information or documents.

7. If the designating party is filing with the Court documents or information that it marked “Confidential” or “Highly Confidential” it shall file a motion to seal pursuant to District of Idaho Local Civil Rule 5.3 that sets forth the specific facts necessary to justify the sealing of the documents or information. If the non-designating party is filing with the Court documents or information marked “Confidential” by another party, the non-designating party shall file a motion to seal pursuant to District of Idaho Local Civil Rule 5.3 explaining that it is not the party that designated the documents or information as “Confidential” or “Highly Confidential” and either: (a) setting forth its understanding as to why the documents or information have been designated “Confidential” or “Highly Confidential” by another party, or (b) specifically objecting to the documents or information being designated as “Confidential” or “Highly Confidential” by another

party and/or maintained under seal by the Court. If the non-designating party raises an objection or fails to adequately support the justification for sealing, the designating party may respond to the motion to seal, setting forth the specific facts necessary to justify maintaining confidentiality and filing the documents under seal.

8. Use of any information, documents, or portions of documents marked “Confidential,” including all information derived therefrom, shall be restricted solely to the following persons, who agree to be bound by the terms of this Protective Order, unless additional persons are added by the stipulation of counsel or authorized by the Court:

- a. Outside counsel of record for the parties, and the administrative staff of outside counsel’s law firms.
- b. In-house counsel for the parties, and the administrative staff for each in-house counsel.
- c. Any party to this action who is an individual, and every employee, director, officer, or manager of any party to this action who is not an individual, but only to the extent necessary to further the interest of the parties in this litigation.
- d. Independent consultants or expert witnesses (including partners, associates, and employees of the firm which employs such consultant or expert) retained by a party or its attorneys for purposes of this litigation, but only to the extent necessary to further the interest of the parties in this litigation.
- e. The Court and its personnel, including, but not limited to, stenographic reporters regularly employed by the Court and stenographic reporters not regularly employed by the Court who are engaged by the Court or the parties

during the litigation of this action.

- f. The authors and the original recipients of the documents.
- g. Any court reporter or videographer reporting a deposition.
- h. Employees of copy services, microfilming or database services, trial support firms, and/or translators who are engaged by the parties during the litigation of this action.
- i. Any mediator who is assigned to hear this matter, and his or her staff, subject to their agreement to maintain confidentiality to the same degree as required by this Protective Order.
- j. Any fact witness in this matter to whom disclosure is reasonably necessary.
- k. Any other person with the prior written consent of the designating party.

9. Use of any information, documents, or portions of documents marked “Highly Confidential,” including all information derived therefrom, shall be restricted solely to the same individuals in Paragraph 8, with the exception that individuals in Paragraph 8(c) may not access “Highly Confidential” information.

10. Prior to being shown any documents produced by another party marked “Confidential” or “Highly Confidential,” any person listed under Paragraphs 8(d), 8(i), 8(j), and 8(k) shall agree to be bound by the terms of this Order by signing the agreement attached as Exhibit A.

11. Whenever information designated as “Confidential” or “Highly Confidential” pursuant to this Protective Order is to be discussed by a party or disclosed in a deposition proceeding, the designating party may exclude from the room any person, other than persons designated in Paragraphs 8 and 9, as appropriate, for that portion of the deposition.

12. Notwithstanding the above, the Court shall determine a party's right to use documents or information marked "Confidential" or "Highly Confidential" at a hearing, trial, or other proceeding in this action. The Court may also require the redaction of personal identifiers of confidential information before use at a hearing, trial, or other proceeding in this action. The designation of "Confidential" or "Highly Confidential" shall not affect the Court's determination as to whether the material shall be received into evidence; nor shall such designation constitute the authentication of such material or a waiver of any right to challenge the relevance, confidentiality, or admissibility of such material. This Protective Order shall not govern the admission of evidence at trial in open court. Should a designating party believe that documents, materials, or information designated as "Confidential" should not be used in open court during trial, the designating party will have the burden to seek such protections from the Court prior to trial.

13. Each party reserves the right to dispute the confidential status of documents or information claimed by any other party or subpoenaed party in accordance with this Protective Order. If a party believes that any documents or materials have been inappropriately designated as "Confidential" or "Highly Confidential" by another party or subpoenaed party, that party shall confer in good faith with counsel for the designating party. As part of that conferral, the designating party must assess whether redaction is a viable alternative to a confidential designation. If the parties cannot reach an agreement, the parties shall use the Court's informal discovery dispute process to seek a resolution, if the Court uses one. If the parties are unable to resolve the matter informally, the designating party shall file an appropriate motion before the Court requesting that the Court determine whether the Protective Order covers the document in dispute. The designating party bears the burden of establishing good cause for why the document should not be disclosed. A party who disagrees with another party's designation must nevertheless abide by that designation

until the matter is resolved by agreement of the parties or by order of the Court.

14. The inadvertent failure to designate a document, testimony, or other material as “Confidential” or “Highly Confidential” prior to disclosure shall not operate as a waiver of the party’s right to later designate the document, testimony, or other material as “Confidential” or “Highly Confidential” or limit in any way a party’s ability to recall or “claw back” privileged materials that may have been inadvertently disclosed. The receiving party or its counsel shall not disclose such documents or materials if that party knows or reasonably should know that a claim of confidentiality would be made by the producing party. Promptly after receiving notice from the producing party of confidentiality claim, the receiving party or its counsel shall inform the producing party of all pertinent facts relating to the prior disclosure of the newly designated documents or materials and shall make reasonable efforts to retrieve such documents and materials and to prevent further disclosure.

15. Designation by either party of information or documents as “Confidential” or “Highly Confidential,” or failure to so designate, will not constitute an admission that information or documents are or are not confidential or trade secrets. Neither party may introduce into evidence in the litigation, other than a motion to determine whether the Protective Order covers the information or documents in dispute, the fact that the other party designated or failed to designate information or documents as “Confidential” or “Highly Confidential.”

16. Upon the request of the producing party, within 30 days after the entry of a final judgment no longer subject to appeal on the merits of this case, or the execution of any agreement between the parties to resolve and settle this case, the parties, and any person authorized by this Protective Order to receive confidential information, shall return to the producing party or third party, or destroy, all information and documents subject to this Protective Order. Returned

materials shall be delivered in sealed envelopes marked “Confidential” or “Highly Confidential” to respective counsel. The party requesting the return of materials shall pay the reasonable costs of responding to its request. Notwithstanding the foregoing, counsel for a party may retain archival copies of confidential documents including any copies which contain work-product.

17. This Protective Order shall not constitute a waiver of any party’s or non- party’s right to oppose any discovery request or object to the admissibility of any document, testimony, or other information.

18. Nothing in this Protective Order shall prejudice any party from seeking amendments to expand or restrict the rights of access to, and use of, confidential information, or other modifications, subject to order by the Court.

19. The restrictions on disclosure and use of confidential information shall survive the conclusion of this action.

So stipulated:

[Counsel for Plaintiff]

[Counsel for Defendant]

The Court has reviewed the reasons offered in support of entry of this Stipulated Protective Order and finds that there is good cause to protect the confidential nature of certain information. Accordingly, the Court adopts the above Stipulated Protective Order in this action.

IT IS SO ORDERED.

DATED: _____

United States District Judge

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

PAM POE, et al.,

Plaintiffs,

v.

RAÚL LABRADOR, et al.,

Defendants.

Case No. 1:23-cv-269-BLW (hs)

I, _____, have been advised by counsel of record for _____ in the above-captioned action of the protective order governing the delivery, publication, and disclosure of confidential documents and information produced in this litigation. I have read a copy of the protective order and agree to abide by its terms.

Signed

Printed

Date

Exhibit 3

From: [Lincoln Wilson](#)
To: [Li Nowlin-Sohl](#); [External- Ritchie Eppink](#); [Heather McCarthy](#); [Josh Turner](#); dreed@adacounty.id.gov
Cc: [Eric Stone](#); ["Korberg, Alexia D"](#); [Leslie Cooper](#)
Subject: RE: Draft Stipulation and Proposed Order
Date: Friday, July 28, 2023 9:00:00 PM
Attachments: [Poe - WPATH Notice.pdf](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[Poe - WPATH Subpoena.pdf](#)

Li,

[REDACTED]

Separately, following our Rule 26(f) conference, we do intend to serve a subpoena on WPATH for the same records it produced in the Alabama litigation and have attached a notice for same. We'll follow up with service.

[REDACTED]



Lincoln Davis Wilson | Division Chief
Civil Litigation and Constitutional Defense
Office of the Attorney General | State of Idaho
M: 208-809-1077 | W: ag.idaho.gov

[REDACTED]

[REDACTED]

RAÚL R. LABRADOR
ATTORNEY GENERAL

LINCOLN DAVIS WILSON, ISB #11860
Chief of Civil and Constitutional Defense

JOSHUA N. TURNER, ISB #12193
Deputy Solicitor General

ANDREA H. NIELSEN, ISB #7763
Deputy Attorney General

Office of the Attorney General

P. O. Box 83720

Boise, ID 83720-0010

Telephone: (208) 334-2400

Facsimile: (208) 854-8073

lincoln.wilson@ag.idaho.gov

josh.turner@ag.idaho.gov

andrea.nielsen@ag.idaho.gov

*Attorneys for Defendants Labrador and
the Individual Members of the Idaho Code Commission*

**UNITED STATE DISTRICT COURT
DISTRICT OF IDAHO**

PAM POE, by and through her parents and
next friends, Penny and Peter Poe; PENNY
POE; PETER POE; JANE DOE, by and
through her parents and next friends, Joan
and John Doe; JOAN DOE; JOHN DOE,

Plaintiffs,

v.

RAÚL LABRADOR, in his official capacity as
Attorney General of the State of Idaho; JAN
M. BENNETTS, in her official capacity as
County Prosecuting Attorney for Ada, Idaho;
and the INDIVIDUAL MEMBERS OF THE
IDAHO CODE COMMISSION, in their official
capacities,

Defendants.

Case No. 1:23-cv-00269-CWD

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE, pursuant to Rule 45 of the Federal Rules of Civil Procedure, Defendants intend to serve a Subpoena, in the form attached hereto, upon:

- (1) World Professional Association for Transgender Health, Inc. (“WPATH”)
2501 Chatham Rd., Suite N
Springfield, IL 62704

The Subpoena requires that the non-parties produce documents by August 14, 2023, at 12 p.m. by electronic means.

DATED: July 28, 2023.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By: */s/ Lincoln D. Wilson*
LINCOLN DAVIS WILSON
Chief, Civil Litigation and
Constitutional Defense

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July __, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

Li Nowlin-Sohl
lowlin-sohl@aclu.org

Dana L. Kennedy
dkennedy@paulweiss.com

Leslie Cooper
lcooper@aclu.org

Jordan Orosz
jorosz@paulweiss.com

Taylor Brown
tbrown@aclu.org

Richard Eppink
ritchie@wrest.coop

Alexia D Korberg
akorberg@paulweiss.com

Dina M. Flores-Brewer
dfloresbrewer@acluidaho.org

Jackson Yates
jyates@paulweiss.com

Casey Parsons
casey@wrest.coop

Ariella C. Barel
ariella.barel@groombridgewu.com

Eric Alan Stone
eric.stone@groombridgewu.com

Kyle N. Bersani
kyle.bersani@groombridgewu.com

Phillip S. May
philip.may@groombridgewu.com

/s/ Lincoln Davis Wilson

LINCOLN DAVIS WILSON
Chief, Civil Litigation and
Constitutional Defense

UNITED STATES DISTRICT COURT

for the
District of Idaho



PAM POE, et al.,

Plaintiff

v.
RAUL LABRADOR, et al.,

Defendant

Civil Action No. 1:23-cv-00269-CWD

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

To: Northwest Registered Agent Service, Inc., World Professional Association for Transgender Health, Inc.
2051 Chatham Rd., Suite N, Springfield, IL 62704

(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: All documents and information responsive to the request for production attached hereto as "Attachment A"

Place: Office of the Attorney General - State of Idaho 700 W. Jefferson Street, Suite 210 Boise, ID 83720 - Electronic Production (email or disc)	Date and Time: 08/14/2023 12:00 pm
---	---

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: 07/28/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

*/s/ Lincoln Davis Wilson
Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
Raul Labrador, et al. _____, who issues or requests this subpoena, are:
Lincoln D. Wilson, Division Chief, Civil Litigation and Constitutional Defense, Office of the Attorney General, State of Idaho, PO Box 83720, Boise, ID 83720-0010, lincoln.wilson@ag.idaho.gov, (208) 334-2400

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).

Civil Action No. 1:23-cv-00269-CWD

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 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 Idaho, 700 West Jefferson Street, Boise, ID 83720, 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

ATTACHMENT A

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, stating any information or knowledge which You have concerning the unanswered portion.

4. **Objection.** 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

ATTACHMENT A

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,” “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 formal 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

ATTACHMENT A

all information and Documents that might otherwise be construed to be outside of their scope.

6. **“Idaho Vulnerable Child Protection Act” (“VCPA”)** shall mean Idaho Legislature House Bill 71, to be codified at Idaho Code section 18-1506C and signed into law on or about April 4, 2023.

7. **“Sex”** or **“Biological Sex”** means the immutable biological and physiological characteristics, specifically the chromosomes and internal and external reproductive anatomy, genetically determined at conception and generally recognizable at birth, that define an individual as male or female.

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

ATTACHMENT A

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 identifies 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

ATTACHMENT A

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.

ATTACHMENT A

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.”).

ATTACHMENT A

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.

ATTACHMENT A

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

ATTACHMENT A

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 USPAT 2021 Scientific Symposium.

ATTACHMENT A

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, 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 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.

ATTACHMENT A

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, 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

ATTACHMENT A

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 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 and 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

ATTACHMENT A

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 Idaho.

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 relating to the Coalition for the Advancement & Application of Psychological Science's Position Statement on Rapid Onset Gender Dysphoria (<https://www.caaps.co/rogd-statment>) that You signed.

48. To the extent not already included in response to any of the foregoing Requests, produce all documents that were produced in response to Defendants' subpoena dated October 13, 2022, in the litigation *Brianna Boe, et al., v. Steve Marshall, et al.*, 2:22-cv-184-LCB (M.D. Ala.), a copy of which is attached hereto as Exhibit 1.

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

Brianna Boe, et al.)	
<i>Plaintiff</i>)	
v.)	Civil Action No. 2:22-cv-184-LCB
Governor of the State of Alabama, et al.)	
<i>Defendant</i>)	

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: <p style="text-align: center;">11/12/2022 12:00 pm</p>
---	--

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

B. W. B.
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)

EXHIBIT 1

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.:

EXHIBIT 1

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects for Permit Inspection of Premises in a Civil Action (Page 3)

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.

EXHIBIT 1

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.

EXHIBIT 1

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

EXHIBIT 1

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.

EXHIBIT 1

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.

EXHIBIT 1

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.

EXHIBIT 1

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.”).

EXHIBIT 1

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.

EXHIBIT 1

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%202021%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/>.

EXHIBIT 1

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.

EXHIBIT 1

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.

EXHIBIT 1

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).

EXHIBIT 1

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.