

No. 20A155

IN THE SUPREME COURT OF THE UNITED STATES

HERBERT H. SLATERY III,
Attorney General and Reporter of the State of Tennessee, et al.,
Applicants,

v.

BRISTOL REGIONAL WOMEN'S CENTER, P.C., et al.,
Respondents.

To the Honorable Brett M. Kavanaugh,
Associate Justice of the Supreme Court of the United States
and Circuit Justice for the Sixth Circuit

**RESPONSE IN OPPOSITION TO APPLICATION FOR A STAY OF THE
JUDGMENT AND INJUNCTION ISSUED BY THE UNITED STATES DISTRICT
COURT FOR THE MIDDLE DISTRICT OF TENNESSEE**

AUTUMN C. KATZ
Counsel of Record
MICHELLE MORIARTY
RABIA MUQADDAM
CENTER FOR REPRODUCTIVE RIGHTS
199 Water Street, 22nd Floor
New York, NY 10038
(917) 637-3723
akatz@reprorights.org

MAITHREYI RATAKONDA
PLANNED PARENTHOOD FEDERATION OF
AMERICA
123 William St., 9th Floor
New York, NY 10038

MICHAEL J. DELL
JASON M. MOFF
KRAMER LEVIN NAFTALIS &
FRANKEL LLP
1177 Avenue of the Americas
New York, NY 10036

SCOTT TIFT
DAVID W. GARRISON
BARRETT JOHNSTON MARTIN &
GARRISON, LLC
Bank of America Plaza
414 Union Street, Suite 900
Nashville, TN 37219

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
PROCEDURAL BACKGROUND.....	3
ARGUMENT	6
I. Defendants’ Extraordinary Request for a Stay—While the Merits Are Nearly Briefed and a Stay Motion Is Pending Below—Should Be Denied.	6
II. This Court Is Not Likely to Grant Certiorari or Reverse Because This Case Involves a Fact-Bound Ruling That Faithfully Applies Existing Precedent.	9
A. <i>Casey</i> Did Not Announce a Blanket Rule on the Constitutionality of All Mandatory Delay Laws.	10
B. Tennessee’s Delay Law and the Substantial Obstacle It Imposes Are Materially Different Than Those Considered in <i>Casey</i>	12
C. The District Court Correctly Concluded, Based Upon the Extensive Factual Record, That Tennessee’s Interests Are Not Advanced and Are Actually Undermined by the Delay Law.	22
III. The District Court’s Decision Does Not Implicate a Circuit Split That Merits This Court’s Review.....	24
IV. Summary Reversal Is Not Warranted.	28
V. Denying the Stay Will Not Cause Any Irreparable Harms, But Granting It Will.	29
CONCLUSION	32

TABLE OF AUTHORITIES

	Page(s)
Federal Cases	
<i>Becker v. United States</i> , 451 U.S. 1306 (1981)	6
<i>Certain Named & Unnamed Non-Citizen Child. & Their Parents v. Texas</i> , 448 U.S. 1327 (1980)	30
<i>Colo. River Water Conservation Dist. v. United States</i> , 424 U.S. 800 (1976)	8
<i>DeBacker v. Brainard</i> , 396 U.S. 28 (1969)	26
<i>Elrod v. Burns</i> , 427 U.S. 347 (1976)	31
<i>EMW Women’s Surgical Ctr., P.S.C. v. Friedlander</i> , 978 F.3d 418 (6th Cir. 2020)	22
<i>Fargo Women’s Health Organization v. Schafer</i> , 507 U.S. 1013 (1993)	6
<i>Gainesville Woman Care, LLC v. State</i> , 210 So. 3d 1243 (Fla. 2017)	29
<i>Gonzales v. Carhart</i> , 550 U.S. 124 (2007)	15
<i>Graddick v. Newman</i> , 453 U.S. 928 (1981)	31
<i>Hollingsworth v. Perry</i> , 558 U.S. 183 (2010)	9
<i>Hopkins v. Jegley</i> , 968 F.3d 912 (8th Cir. 2020)	27
<i>Husted v. Ohio State Conference of NAACP</i> , 573 U.S. 988 (2014)	8

<i>June Med. Servs. L.L.C. v. Russo</i> , 140 S. Ct. 2103 (2020)	passim
<i>June Med. Servs. L.L.C. v. Russo</i> , Case No. 3:16-cv-00444 (M.D. La. July 15, 2016).....	29
<i>Karlin v. Foust</i> , 188 F.3d 446 (7th Cir. 1999)	21
<i>Maryland v. King</i> , 567 U.S. 1301 (2012)	30
<i>Maslenjak v. United States</i> , 137 S. Ct. 1918 (2017)	27
<i>O’Rourke v. Levine</i> , 80 S. Ct. 623 (1960)	6
<i>Packwood v. Senate Select Comm. on Ethics</i> , 510 U.S. 1319 (1994)	7
<i>Planned Parenthood of the Heartland v. Reynolds ex rel. State</i> , No. EQCV081855 (Iowa Dist. Ct. June 30, 2020)	29
<i>Planned Parenthood of Se. Pa. v. Casey</i> , 510 U.S. 1309 (1994)	10
<i>Planned Parenthood of Southeastern Pennsylvania v. Casey</i> , 505 U.S. 833 (1992)	passim
<i>Schneckloth v. Bustamonte</i> , 412 U.S. 218 (1973)	8
<i>United States v. Nixon</i> , 418 U.S. 683 (1974)	7
<i>Whole Woman’s Health v. Hellerstedt</i> , 136 S. Ct. 2292 (2016)	passim
<i>Whole Woman’s Health v. Paxton</i> , 978 F.3d 896 (5th Cir. 2020)	27
<i>Ex parte Young</i> , 209 U.S. 123 (1908)	29

State Statutes

Pa. Cons. Stat. § 3205(a)(1)	13
Pa. Cons. Stat. § 3205(a)(2)	12
Fla. Stat. Ann. § 390.0111(3)(a)(IV)	29
Ky. Rev. Stat. Ann. §§ 311.724, 311.725(1)	29
Tenn. Code Ann. § 39-15-202(i)	21
Tenn. Code Ann. § 39-15-202(b)	13
Tenn. Code Ann. § 39-15-202(d)(1)	13
Tenn. Code Ann. § 53-10-104(c)	21
Tenn. Code. Ann. § 56-26-134	21
Tenn. Code Ann. § 63-6-241	21
Tenn. Code Ann. § 39-15-202(a)-(h)	1
Tex. Health & Safety Code Ann. § 171.012(a)(4)	29
Utah Code Ann. § 76-7-305(2)	29
Utah Code Ann. §§ 76-7-305(6), 76-7-302(3)(b)(ii)	29
Wis. Stat. Ann. § 253.10(3)(3m)	29

Rules

Sup. Ct. R. 23.3	7, 9
------------------------	------

Other Authorities

John Paul Stevens, <i>Some Thoughts on Judicial Restraint</i> , 66 Judicature 177 (1982)	27
Michael C. Dorf, <i>The Supreme Court, 1997 Term—Foreword: The Limits of Socratic Deliberation</i> , 112 Harv. L. Rev. 4 (1998)	27
Stephen M. Shapiro, et al., <i>Supreme Court Practice</i> , § 4.4(F) (11th ed. 2019)	26

INTRODUCTION

To the Honorable Brett M. Kavanaugh, Circuit Justice for the United States Court of Appeals for the Sixth Circuit:

Tennessee requires all patients seeking an abortion to first make a separate, medically unnecessary trip to meet with the physician in person and hear a state-mandated script, and then to delay the procedure for at least 48 hours—regardless of the patient’s level of decisional certainty or the significant burdens faced by the patient due to this requirement. Tenn. Code Ann. § 39-15-202(a)-(h) (the “Delay Law”). While Defendants-Applicants (“Defendants” or the “State”) describe the Delay Law as a “modest” regulation, Defs.’ Appl. Stay Inj. (“Stay Appl.”) at 4, Tennessee imposes a mandatory timeout twice as long as the one upheld in *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992), requires that the state-mandated information be provided in person by a physician, and contains only a narrow exception for patients experiencing a medical emergency, Tenn. Code Ann. § 39-15-202(f), making it one of the most extreme waiting periods in the nation. After over five years of litigation, culminating in a four-day bench trial with numerous live witnesses, the district court issued a comprehensive 136-page opinion, finding that the Delay Law imposes severe burdens that far exceed those considered by this Court in *Casey*, and permanently enjoined its enforcement.

Defendants now take the extraordinary step of seeking a stay of the district court’s fact-bound decision from this Court while their request to the Sixth Circuit Court of Appeals for identical relief remains pending, and while briefing on

Defendants’ merits appeal is almost complete. But even putting aside the fact that Defendants’ request for relief is procedurally unsound, this Court should reject Defendants’ remarkable request, because they cannot show that the district court’s extensive factual findings are clearly erroneous and should be overturned.

Defendants claim that *Casey* preordains the outcome here. But *Casey* and its progeny emphasized that the undue burden analysis is fact-bound and record-dependent. *Casey*, 505 U.S. at 887 (plurality opinion). Here, the district court’s exhaustive findings regarding the financial burdens, logistical obstacles, and significant medical risks imposed by the Delay Law are markedly different in depth and substance from the record in *Casey*. Indeed, the district court concluded that “[t]he present case has what was lacking in *Casey*: a fully developed record that clearly shows the extent to which the mandatory waiting period places a substantial obstacle in the way of women who seek an abortion.” App. to Defs.’ Appl. Stay Inj. (“App.”) 130a.

Defendants further claim that this Court would grant certiorari because of an impending circuit split regarding the undue burden standard. Stay Appl. at 17. But as the district court made clear, it would have found the Delay Law unconstitutional under any articulation of the undue burden standard. Thus, even if such a split existed, this case would be a particularly poor vehicle for resolving it, given that there would be no impact on the outcome here.

Finally, Defendants fail to demonstrate that the State will suffer irreparable harm absent this extraordinary relief. Nothing in the record indicates that the State

would be harmed in the absence of a stay—particularly where the State waited three weeks to initially seek a stay from the district court. Defendants misleadingly assert that without a stay, some women will choose abortion “without making an ‘informed and deliberate’ decision.” Stay Appl. at 31 (citation omitted). But the Delay Law’s requirement that patients receive government-mandated information concerning abortion and pregnancy from a physician remains in effect; thus, the suggestion that Tennessee abortion patients may not be adequately informed absent a stay is demonstrably false.

Given the procedural posture of the case and the extensive and well-supported fact finding by the district court, this stay application should be denied.

PROCEDURAL BACKGROUND

After five-and-a-half years of litigation, the district court issued its Findings of Fact and Conclusions of Law and Final Judgment (together, the “Final Order”), invalidating the Delay Law. The district court reviewed an extensive record consisting of over 120 exhibits, including statistics on abortion collected by the Tennessee Department of Health, clinic policies and forms, and aggregated data regarding abortion patients from the Plaintiff clinics; designated deposition testimony from three witnesses; and live testimony from eleven witnesses, including providers at Plaintiffs’ health centers, an official from the Tennessee Department of Health, and experts in the fields of medicine, medical ethics, reproductive health, sociology and poverty, and psychology and decision-making. The district court carefully scrutinized the robust trial record and the credibility of the witnesses,

making detailed, well-founded findings of fact in its 136-page opinion. Contrary to Defendants’ assertions, the district court carefully analyzed the record evidence under this Court’s precedent in *Casey* and its progeny, and ultimately concluded that Tennessee’s Delay Law “places a substantial obstacle in the way of women who seek an abortion.” App. 130a. Applying *Casey*’s undue burden analysis, the district court enjoined the Delay Law, concluding it unconstitutionally burdened patients’ right to abortion care. App. 135a-36a.

Defendants waited three weeks after the district court issued its Final Order before filing a notice of appeal on November 4, 2020. Dist. Ct. Dkt. No. 279; COA Dkt. Nos. 18, 28.¹ On that same day, Defendants moved the district court for a stay of the injunction pending appeal, arguing, among other things, that the district court erred by balancing the benefits of the Delay Law against its burdens where it should have applied the substantial obstacle analysis from Chief Justice Roberts’s concurrence in *June Medical Services v. Russo*, 140 S. Ct. 2130 (2020). Dist. Ct. Dkt. No. 280. The district court denied Defendants’ motion and reiterated that based on the comprehensive trial record, the State’s appeal was unlikely to succeed, specifically rejecting the State’s argument that a different outcome would result under the analysis discussed in Chief Justice Roberts’s concurrence. App. 138a, 140a-41a.

¹ All references to the “Dist. Ct. Dkt.” are citations to Case No. 3:15-cv-00705 in the U.S. District Court for the Middle District of Tennessee. All references to the “COA Dkt.” are citations to Case No. 20-6267 in the U.S. Court of Appeals for the Sixth Circuit.

Defendants next moved the Court of Appeals for a stay of the injunction, rehashing their argument that the district court applied the wrong legal standard. A panel of the Court of Appeals denied that motion after considering the district court’s “specific and comprehensive findings” from the “substantial” trial record, App. 158a, concluding that the “unchallenged findings of fact” demonstrate that the Delay Law likely violates patients’ constitutional rights under either version of the undue burden test, App. 154a. The panel was careful to note that its decision was preliminary and it had not prejudged the merits determination. App. 146a n.3 (“[M]erits briefing is already underway and is scheduled to conclude in short order. An opinion resolving the merits will follow thereafter. With the benefit of complete briefing, we may rethink our reasoning and conclusions.”).

On February 23, 2021, in the midst of briefing on the merits of the State’s appeal, Defendants filed three additional motions in the Sixth Circuit: (1) a motion for immediate “administrative stay” of the district court’s injunction, COA Dkt. No. 42; (2) a motion for reconsideration of the panel’s order denying the stay, COA Dkt. No. 43; and (3) a petition seeking initial hearing of the appeal en banc or rehearing en banc of the panel’s order denying the stay, COA Dkt. No. 39. On March 9, 2021, the panel denied the motion for reconsideration upon “careful consideration” of the material facts and points of law. COA Dkt. No. 53-1.

On March 31, 2021—only two weeks after the motions to the en banc court were fully briefed—Defendants notified the Court of Appeals of their intent to apply for a stay in this Court. COA Dkt. No. 60. Three business days later, Defendants

filed their stay application before this Court. On April 9, the Court of Appeals granted Defendants’ request for initial en banc review of the merits;² it has not ruled on their stay request, which seeks the same relief being sought from this Court.

ARGUMENT

I. **Defendants’ Extraordinary Request for a Stay—While the Merits Are Nearly Briefed and a Stay Motion Is Pending Below—Should Be Denied.**

This Court has made clear that “stay[ing] an order of the District Court while an appeal from that order is pending in the Court of Appeals” is “highly unusual.” *Becker v. United States*, 451 U.S. 1306, 1312 (1981) (Rehnquist, J., in chambers); *see also, e.g., O’Rourke v. Levine*, 80 S. Ct. 623, (1960) (Harlan, J., in chambers) (describing general practice “not to disturb, except upon the weightiest considerations, interim determinations of the Court of Appeals in matters pending before it”). Justice O’Connor’s concurrence in *Fargo Women’s Health Organization v. Schafer*, 507 U.S. 1013 (1993)—a case involving a North Dakota abortion restriction—is instructive. There, Justice O’Connor concurred in the denial of a stay while the state’s appeal was still pending before the Eighth Circuit, even though she concluded that the approach taken by the lower courts was inconsistent with *Casey*. 507 U.S. 1013, 1013 (1993) (“When a matter is pending before a court of appeals, it long has been the practice of members of this Court to grant stay applications only ‘upon the weightiest considerations.’” (quoting *O’Rourke*, 80 S. Ct. at 624)).

² Merits briefing in the Sixth Circuit is almost complete, as Defendants have filed their opening brief and Plaintiffs have filed their response brief.

Indeed, this Court has repeatedly declined to grant stays so that the ordinary appellate process can proceed. *See, e.g., Packwood v. Senate Select Comm. on Ethics*, 510 U.S. 1319, 1320 (1994) (Rehnquist, C.J., in chambers) (“Because this matter is pending before the Court of Appeals, and because the Court of Appeals denied his motion for a stay, applicant has an especially heavy burden.”); *United States v. Nixon*, 418 U.S. 683, 690-91 (1974) (noting a “strong congressional policy against piecemeal reviews” in order to “promote[] judicial efficiency”). The Court should take the same approach here, especially when the Sixth Circuit has granted initial en banc review and briefing on the merits is nearly complete.

This application should be denied for another reason as well: Defendants have requested the very same relief in the Court of Appeals that they also seek here, and so necessarily have failed to satisfy Rule 23.3’s requirements that they (1) “set out with particularity why the relief sought is not available from any other court or judge,” and (2) demonstrate “extraordinary circumstances” that warrant this Court’s intervention before the Sixth Circuit rules on their stay motion. Sup. Ct. R. 23.3. Defendants briefly address this requirement in a single footnote, *see* Stay Appl. at 15 n.5, but their conclusory argument does not even attempt to show that the stay they seek is unavailable from the Sixth Circuit. To the contrary, Defendants have already filed *four* motions seeking the same relief from the Court of Appeals, have not withdrawn their pending stay motion, and still anticipate receiving this relief. *See* COA Dkt. No. 60, at 2 (explaining that if the en banc court “grants the State’s en banc petition and stays the district court’s judgment and injunction before the Supreme

Court acts on the stay application, the State intends to withdraw the stay application”). Defendants are currently asking this Court to duplicate the work of the Sixth Circuit by adjudicating requests for the same relief at the same time—a waste of judicial resources strongly disfavored by this Court. *See, e.g., Schneekloth v. Bustamonte*, 412 U.S. 218, 259-65 (1973) (Powell, J., concurring) (“[T]he resources of our system are finite: their overextension jeopardizes the care and quality essential to fair adjudication.”); *Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976) (praising “(w)ise judicial administration, giving regard to conservation of judicial resources and comprehensive disposition of litigation” (quoting *Kerotest Mfg. Co. v. C-O-Two Fire Equip. Co.*, 342 U.S. 180, 183 (1952))).

Nor are there “extraordinary circumstances” that warrant bypassing the lower courts here. Defendants say they cannot enforce the Delay Law, Stay Appl. at 4, but if that were enough, then every decision enjoining enforcement of a statute would merit this extraordinary relief. Defendants cite only one case in support of their argument, *Husted v. Ohio State Conference of NAACP*, 573 U.S. 988 (2014) (Mem.), but that case—in which this Court denied the requested stay *after* the Sixth Circuit panel ruled on the merits—concerned a petition to enjoin a voting statute that would affect early voting in the thirty-five days remaining between the date of the stay order and the upcoming general election. *See* Order of Sept. 26, 2014, *Husted v. Ohio State Conf. of NAACP*, 573 U.S. 988 (2014) (No. 14A336) (“In light of impending deadlines and uncertainty about when the Sixth Circuit will act on the emergency petition for rehearing en banc filed by the Ohio Attorney General and Secretary of State,

respondents should file a response to this application . . .”). There are no such pressing deadlines in this case; in fact, Defendants waited three weeks after the district court’s Final Order to initially request a stay, and never sought to expedite their appeal before the Sixth Circuit.

In sum, there is no reason to depart from the dictates of Rule 23.3 or to upend the Court’s long-standing preference for judicial economy. Defendants’ request for a stay from this Court should be denied on that basis alone.

II. This Court Is Not Likely to Grant Certiorari or Reverse Because This Case Involves a Fact-Bound Ruling That Faithfully Applies Existing Precedent.

As discussed *supra* at 7-8, Defendants have not satisfied Rule 23.3’s requirement of showing that adequate relief is unavailable from any other court. But even if they had, there is no basis to grant a stay because Defendants otherwise fail to meet the requirements for this extraordinary relief, namely: “(1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of a stay.” *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010).

The district court made extensive factual findings regarding the serious burdens imposed by the Delay Law and ultimately concluded, on the basis of the strong evidentiary record, that Tennessee’s Delay Law created a substantial obstacle to abortion access. Because the district court’s conclusions were well-supported by the record as a whole, and its legal conclusions are fundamentally sound, Defendants cannot demonstrate a reasonable probability that this Court will grant certiorari.

Nor can they show that, even if this Court were to grant review, a majority would reverse a decision from the Sixth Circuit affirming the Final Order.

A. *Casey* Did Not Announce a Blanket Rule on the Constitutionality of All Mandatory Delay Laws.

Defendants contend that the district court “directly contravene[d] *Casey*” by striking down Tennessee’s Delay Law. Stay Appl. at 2. Not so. Tennessee’s Delay Law—among the most extreme of any state—is different in both substance and effect from the law considered by this Court in *Casey*. Furthermore, nothing in *Casey* precluded the district court from finding, based on a *different* and more developed evidentiary record, that Tennessee’s 48-hour mandatory delay law imposes an undue burden on a woman’s right to pre-viability abortion.

Far from announcing any categorical rule regarding all state waiting period laws, this Court found that Pennsylvania’s mandatory delay and two-trip requirement presented a serious question as to whether, “in practice,” these restrictions imposed a substantial obstacle. *Casey*, 505 U.S. at 885 (plurality opinion). This Court carefully examined the “practical effect[s]” of Pennsylvania’s 24-hour delay law, including cost, travel distance, and amount of delay and found “troubling” the potential impact of the delay law on “those women who have the fewest financial resources, those who must travel long distances, and those who have difficulty explaining their whereabouts to husbands, employers, or others.” *Id.* at 885-86. Ultimately, however, the Court held “*on the record before [it]*,” *id.* at 887 (emphasis added), that Pennsylvania’s delay law did not impose an undue burden,

emphasizing that the district court never found that these “increased costs and potential delays amount[ed] to substantial obstacles,” *id.* at 886.

In fact, this Court “took pains” in *Casey* “to avoid a categorical ruling on the constitutionality of waiting period laws.” App. 159a.³ Since *Casey*, this Court has repeatedly confirmed that the undue burden standard is context-specific and record-dependent, including as recently as last term. *See June Med. Servs.*, 140 S. Ct. at 2132 (plurality opinion); *id.* at 2140 (Roberts, C.J., concurring); *see also Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292, 2312-13, 2318 (2016). Tennessee already conceded as much when it urged this Court as an amicus to uphold Louisiana’s admitting privileges law where it had previously struck down an identical Texas requirement. *See* Brief for the States of Arkansas, et al. as Amici Curiae in Support of Respondent Dr. Rebekah Gee at *22, *June Med. Servs.*, 140 S. Ct. 2103 (2020) (Nos. 18-1323, No. 18-1460) (arguing that *Whole Woman’s Health* reflected only that Texas’s law imposed an undue burden, but other similar laws must be judged by their own “regulatory impact”).

Defendants now assert that Chief Justice Roberts concurred in the judgment in *June Medical* solely on the basis that Louisiana’s admitting privileges requirement was identical to the Texas law invalidated in *Whole Woman’s Health*, and that under the same principle, a stay is warranted here in light of *Casey*. Stay Appl. at 16-17.

³ Shortly after *Casey* was decided, Justice Souter, who co-authored the *Casey* decision, acknowledged that other litigants were “free to challenge similar restrictions.” *Planned Parenthood of Se. Pa. v. Casey*, 510 U.S. 1309, 1313 (1994) (Souter, J., in chambers).

As an initial matter, the Tennessee and Pennsylvania laws are *not* identical. *See infra* at 12-13. Moreover, the Chief Justice made clear that Louisiana’s law was invalid because it imposed the same types and severity of *burdens* as the Texas law. *June Med. Servs.*, 140 S. Ct. at 2140 (Roberts, C.J., concurring) (analyzing the factual record and determining “[c]rucially, [that] the District Court findings indicate that Louisiana’s law would restrict access to abortion in just the same way as Texas’s law, to the same degree or worse”); *see also id.* at 2157 (Alito, J., dissenting) (explaining that the undue burden analysis is a “record-based empirical determination” that “depend[s] on numerous factors that may differ from State to State, including the demand for abortions, the number and location of abortion clinics and physicians, the geography of the State, [and] the distribution of the population” (citation omitted)). Here, as the Sixth Circuit panel explained, while Tennessee’s mandatory delay law may be “superficially similar” to Pennsylvania’s, “the burdens imposed [] are substantially more severe, even if generally the same in kind.” App. 159a.

B. Tennessee’s Delay Law and the Substantial Obstacle It Imposes Are Materially Different Than Those Considered in *Casey*.

Defendants blatantly mischaracterize the record below in arguing that Tennessee’s Delay Law, and the severe burdens it imposes, are “materially indistinguishable” from those in *Casey*. Stay Appl. at 20. That Tennessee’s Delay Law differs from Pennsylvania’s is clear on the face of the statutes themselves. *First*, Pennsylvania allowed certain information to be given by a “physician assistant, health care practitioner, technician or social worker,” Pa. Cons. Stat. § 3205(a)(2), whereas Tennessee requires that a physician provide the state-mandated

information, Tenn. Code Ann. § 39-15-202(b). *Second*, while Pennsylvania’s delay law did not explicitly require two separate, in-person visits, only that a physician “orally inform[]” the patient of certain information, Pa. Cons. Stat. § 3205(a)(1), Tennessee forces all patients to make an additional, unnecessary trip in order to receive the state-mandated information in person, Tenn. Code Ann. § 39-15-202(b). And *third*, Tennessee’s forced delay is twice as long as Pennsylvania’s. *Compare* Pa. Cons. Stat. § 3205(a)(1), *with* Tenn. Code Ann. § 39-15-202(d)(1).

With respect to the effects of the laws, the State’s arguments are equally unavailing. While the record of burdens in *Casey* has been described as “sparse,” App. 158a (quoting *Cincinnati Women’s Servs., Inc. v. Taft*, 468 F.3d 361, 372 (6th Cir. 2006)), “the record here is substantial—with specific and comprehensive findings as to the logistical, financial, and medical obstacles created by [the Delay Law] that substantially limit the accessibility of abortion in Tennessee—far more so than the record in *Casey*,” App. 158a. The district court faithfully followed *Casey*’s instruction and this Court’s precedents, conducting a thorough review of the evidentiary record, including the extensive testimony presented at trial, and setting forth detailed findings of fact and conclusions of law in a comprehensive 136-page decision, including over 100 pages of factual findings detailing the severe burdens imposed by the Delay Law. *See infra* at 14-22. These factual findings, subject to clear error review, are entitled to strong deference on appeal. *See June Med. Servs.*, 140 S. Ct. at 2141 (Roberts, C.J., concurring) (emphasizing the importance of trial court fact-finding, particularly in light of trial courts’ superior ability to “assess the credibility

of parties and witnesses” (citation omitted)). Defendants cannot claim that those findings are clearly erroneous or indistinguishable from *Casey*.

Patients prevented and delayed. The district court found that the Delay Law caused patients to experience delays of several days or weeks before their *first* appointment, and up to *four weeks* before their *second* appointment, despite extensive measures taken by each of the clinics to reduce wait times and to accommodate more patients. App. 15a, 22a-23a, 37a, 56a-57a, 110a, 122a-23a; *cf. Casey*, 505 U.S. at 885-86 (plurality opinion) (observing “practical effect” of waiting period would “often be a delay of much more than a day”). The court also found that the Delay Law led patients to have abortion procedures at later gestational ages, with state-specific data showing a significant increase in second trimester procedures and a decline in earlier procedures after the Delay Law’s enactment. App. 50a, 51a.

The district court further found that these protracted delays “can and do cause patients to miss the short cutoff date for a medication abortion . . . or even to miss the cutoff date in Tennessee for [procedural abortion].” App. 123a. As the district court explained, missing the short window for medication abortion creates financial and logistical difficulties for patients, App. 122a-26a, and being prevented from obtaining an abortion altogether can cause patients to “resort to illegal or unsafe abortions” or “face the risks attendant with pregnancy and childbirth (both of which are significantly riskier than abortion),” App. 123a, which include “increased risks of hemorrhage, increased risks of infections, and increased risks of preeclampsia or

eclampsia . . . described as ‘life-threatening,’” App. 52a (citation omitted). Evidence of this magnitude was not considered by this Court in *Casey*.⁴

Defendants erroneously argue that the inability to obtain medication abortion is not an undue burden, so long as surgical abortion remains available. *See* Stay Appl. at 22-23. Putting aside the callousness of Defendants’ position, the fact that this Court upheld a ban on performing a rarely used second trimester abortion procedure in *Gonzales v. Carhart*, 550 U.S. 124 (2007), does not support eliminating a “strongly preferred, safer, and far less invasive” method of early abortion, App. 155a, which is “the *medically preferred* option” for many, App. 15a (emphasis added); *cf.* App. 159a (discussing that the “severe financial and logistical burdens” imposed by Texas’s admitting privileges requirement “were enough to render the law invalid, despite the fact that women could still (though with great difficulty) receive an abortion with the law in place” (citing *Whole Woman’s Health*, 136 S. Ct. 2310-14)); *June Med. Servs.*, 140 S. Ct. at 2130, 2133 (plurality opinion) (striking down the Louisiana admitting privileges law in light of the severe and wide-ranging burdens it imposed).

⁴ Defendants malign the district court for relying on burdens affecting “unspecified” groups of women. Stay Appl. at 11, 23; *see also id.* at 30 (faulting the district court for failing to make findings about “how many women (if any) are at risk of domestic violence” and Plaintiffs for “fail[ing] to identify a single patient who suffered discernible psychological harm”). But this Court has never demanded that plaintiffs challenging an abortion restriction prove that a particular number of pregnant people have been burdened, and instead has relied on credible fact and expert testimony to determine the scope of harm to patients. *See, e.g., Whole Woman’s Health*, 136 S. Ct. at 2310 (“[T]he Court, when determining the constitutionality of laws regulating abortion procedures, has placed considerable weight upon evidence and argument presented in judicial proceedings.”).

Increased medical risks. As the district court found, patients forced to delay their procedures were subject to increased medical risks. App. 124a. After the Delay Law’s enactment, the number of medically riskier and more invasive second trimester abortions increased in Tennessee, while the number of early abortions decreased—evidence not considered by the Court in *Casey*. The State incorrectly claims that increased medical risks do not “qualify as a substantial obstacle.” Stay Appl. at 29. Yet the factual findings, based partly on evidence that the State itself introduced, are to the contrary. Although abortions at any gestational age are “very safe,” App. 16a, delays may “affect[] the effectiveness of a medication abortion,” App. 39a, pushing patients toward a surgical abortion for which “the risk . . . does go up as the pregnancy gestational age increases,” *id.* A surgical abortion is, by nature, “a more invasive procedure,” App. 123a, 52a, and later surgical abortions demand “an ‘inherently greater technical complexity’” because of “the anatomical and physiologic changes that occur as pregnancy advances,” Br. of American College of Obstetricians & Gynecologists et al. as Amici Curiae in Supp. of Pls.-Appellees, COA Dkt. 70, at 15-16. Tennessee patients who need surgical abortion care have limited options, as only five providers in the state offer that care, and only two do so after 15 weeks, meaning many patients who need a surgical abortion may be required to travel long distances in order to receive care. App. 123a.

The district court also made detailed findings regarding the risks imposed by the Delay Law on the considerable number of Plaintiffs’ patients with medical conditions exacerbated by pregnancy (such as hypertension or a prior uterine

surgery). For example, hypertension can worsen as pregnancy progresses, increasing a patient's risks of "stroke or heart attack," App. 21a, 35a, 40a, 55a (citations omitted), and patients with prior uterine surgery (including a cesarean section) are at increased risk at later gestational ages, whether they continue the pregnancy or ultimately obtain an abortion, App. 21a, 40a. Other patients suffer from pregnancy-related conditions like hyperemesis gravidarum (severe nausea and vomiting), which can require multiple hospitalizations or in severe cases a feeding tube, App. 55a-56a; the Delay Law forces patients to endure these conditions for days, and often weeks longer. Evidence of this nature was not considered by the Court in *Casey*.

Defendants brush aside these significant health risks, arguing that the Delay Law's medical emergency exception cures any problem for patients with heightened medical risks. *See* Stay Appl. at 29. But this argument ignores the district court's factual finding that the exception is "exceedingly narrow," and "the undisputed record evidence" that emergencies qualifying under the statutory definition are "extreme" and "very rarely occur." App. 124a.

Increased travel, costs, and logistical burdens. As noted above, there are very limited options for accessing abortion in Tennessee, and the district court found that because an "overwhelming majority" of Tennessee women seeking abortions are already mothers and are either poor or low-income, the transportation and related cost burdens imposed by the Delay Law were particularly severe. App. 125a. Defendants wrongly assert that burdens that fall short of outright preventing patients from exercising their right to abortion are not legally cognizable. *See, e.g.,*

Stay Appl. at 22. But such a narrow framing of the undue burden cannot be squared with this Court’s case law. *Casey* and its progeny have repeatedly held that a burden is undue—and thus cannot stand—if it has “the purpose or effect of presenting a *substantial* obstacle,” not an *insurmountable* one. *June Med. Servs.*, 140 S. Ct. at 2112, 2130 (plurality opinion) (emphasis added) (acknowledging burdens such as “longer waiting times,” “increased crowding,” “delays,” and “increased driving distances” (citations omitted)); *see also id.* at 2140 (Roberts, C.J., concurring) (considering “longer waiting times for appointments,” “increased crowding,” “difficulty affording or arranging for transportation and childcare on the days of their clinic visits,” and “[i]ncreased travel distance” (citations omitted)); *Whole Woman’s Health*, 136 S. Ct. at 2318 (examining “long distances,” “crammed-to-capacity superfacilities,” and “waiting rooms so full, patients had to sit on the floor or wait outside”). The Court has also recognized such harms as increased risks to patient physical, mental, and emotional health. *See June Med. Servs.*, 140 S. Ct. at 2140 (Roberts, C.J., concurring) (crediting the district court’s findings regarding “increased associated health risk” (citation omitted)).

The district court’s findings are fully in line with this precedent. The district court found that the added travel costs, lost wages, childcare, and other associated expenses caused by the Delay Law, on top of the cost of the abortion procedure itself, which is unlikely to be covered by insurance, *see* App. 46a, pushed abortion care even further out of reach for poor patients. The cost of an abortion at one clinic “almost doubled” due to the Delay Law. App. 37a. The court heard detailed testimony that

for many Tennessee patients, due to the logistical burdens imposed by the Delay Law, obtaining an abortion means putting their families at grave risk of being unable to meet their basic needs—i.e., not paying full rent, cutting back on basic utilities like heat, going without food, or foregoing other medical care in order to come up with the required funds. App. 69a. In addition, poor and low-income women often “borrow[] money from abusive partners” or accept predatory loans, jeopardizing their safety or putting them at risk of spiraling debt. App. 69a, 126a. Thus, the district court correctly found that for poor and low-income patients—who make up the large majority of abortion patients in Tennessee—the costs and logistical barriers created by the Delay Law are “either insurmountable or surmounted with great difficulty.” App. 131a. Even for patients not prevented altogether from receiving an abortion, the court found that being forced to remain pregnant and delay necessary care can cause anxiety, mental anguish, and psychological harm. App. 61a, 104a.

Survivors of rape or intimate partner violence, and patients who have received a fetal diagnosis. The district court found that “[v]ictims of rape or incest, as well as women who have a fetal anomaly, find it particularly traumatizing that, because of the mandatory waiting period, they must remain pregnant for days or weeks longer than they wish.” App. 124a. And for victims of intimate partner violence, the Delay Law’s requirement that patients make at least two separate trips to the health center increases the risk of their abuser learning they are seeking an abortion. App. 22a. Further, victims of intimate partner violence forced to carry a pregnancy to term because they were unable to access abortion face an elevated risk that physical abuse

will continue. App. 22a, 53a, 124a. Notably, this is similar to the evidence adduced in *Casey* that supported striking down the mandatory spousal notice law. *See Casey*, 505 U.S. at 893 (plurality opinion).

Faced with these detailed and well-supported burden findings, Defendants make two additional spurious legal arguments. *First*, Defendants criticize the district court for considering pre-existing barriers to accessing abortion, *see Stay Appl.* at 23-24, but this Court has consistently recognized the importance of assessing the burdens imposed by abortion restrictions in light of the real-world context, including the actual operations of abortion providers on the ground, *see supra* at 10-12; *see also June Med. Servs.*, 140 S. Ct. at 2129 (plurality opinion) (finding relevant to the undue burden analysis the fact that one plaintiff physician performed abortions only up to 18 weeks and not the legal limit of 20 weeks); *id.* at 2139-42 (Roberts, C.J., concurring) (assessing the Louisiana admitting privileges law in light of factual findings made by the district court that were particular to the practical impact of the law on patient access to abortions in Louisiana).

Here, while they had no obligation to do so, the record evidence shows that Plaintiffs took significant steps to alleviate the myriad burdens the Delay Law imposed on pregnant patients. “Seeing each patient twice requires additional clinic hours, clinic time, and staff time,” App. 22a, and every Plaintiff made staffing and/or scheduling changes to account for the doubling of patient appointments, such as hiring additional physicians, *see App.* 37a, 57a, 110a, and increasing the number of abortion procedure appointments, *see App.* 22a. Plaintiff Planned Parenthood went

so far as to increase its hours, open a new clinic site, and raise its gestational limit on surgical abortions from “17 weeks and 6 days LMP to 19 weeks and 6 days LMP.” *See* App. 22a-23a, 57a. Even so, it was unable to “significantly reduce” its patients’ delays. App. 22a.⁵

Second, Defendants criticize the district court for failing to adequately distinguish the record in *Casey*, Stay Appl. at 12-13, yet simultaneously fault the court for contrasting the number of abortion providers in Pennsylvania at the time *Casey* was decided with the number of current providers in Tennessee, *id.* at 27-29. But it was entirely appropriate for the district court to consider the “dramatic difference in two states of comparable size”—81 providers in Pennsylvania when *Casey* was decided versus 8 in Tennessee—and to conclude that such difference “dramatically affects” the availability of abortion services in the State. App. 47a n.24, 130a. “[A]s the district court aptly recognized, not all states are like Pennsylvania,” *Karlin v. Faust*, 188 F.3d 446, 485 (7th Cir. 1999), and the court’s consideration of such evidence was certainly not reversible error, *see id.* To the contrary, the voluminous record and detailed findings of burdens by the district court, which are unrebutted by Defendants, unmistakably distinguish the instant case from *Casey*.

⁵ Plaintiffs’ “business decisions” also cannot be divorced from the regulatory framework Tennessee has adopted to severely limit access to abortion in the state. Among other restrictions, the State prohibits coverage for abortion by Medicaid and the Affordable Care Act exchanges, Tenn. Code Ann. § 56-26-134; prohibits nurse practitioners and physician assistants from prescribing or dispensing medication abortion drugs, Tenn. Code Ann. § 53-10-104(c); prohibits the use of telemedicine in abortion care, Tenn. Code Ann. § 63-6-241; and requires signage while imposing liability on both clinics and physicians, Tenn. Code Ann. § 39-15-202(i).

C. The District Court Correctly Concluded, Based Upon the Extensive Factual Record, That Tennessee’s Interests Are Not Advanced and Are Actually Undermined by the Delay Law.

While the Delay Law is unconstitutional due to its effects, Defendants also take issue with the district court’s conclusion that the Delay Law serves no legitimate purpose, arguing that finding must be erroneous because this Court previously found that Pennsylvania’s waiting period, examined in *Casey*, served valid interests. Stay Appl. at 10, 20. However, *Casey* does not require the district court to blindly assume that Tennessee’s Delay Law serves legitimate purposes even when the evidence showed not only that it does not, but also that it actually *undermines* patients’ health and decision-making. *See June Med. Servs.*, 140 S. Ct. at 2135 (Roberts, C.J., concurring) (citation omitted) (abortion regulations must be reasonably related to a legitimate state interest).

The State wholly failed to make the required “showing” that the Delay Law is reasonably related to the state’s goal. *June Med. Servs.*, 140 S. Ct. at 2137 (Roberts, C.J., concurring); *see also EMW Women’s Surgical Ctr., P.S.C. v. Friedlander*, 978 F.3d 418, 438 (6th Cir. 2020) (explaining defendants must show an actual “problem ‘at hand for correction,’” and that the legislature “thought that the particular legislative measure was a rational way to correct it” (quoting *Williamson v. Lee Optical of Okla. Inc.*, 348 U.S. 483, 488 (1955))). As the district court found, prior to passage of the Delay Law, Plaintiffs were already following an “extensive and individualized informed consent process,” as required by existing law, that afforded

patients “as much time as they needed to make a decision.” App. 118a-19a.⁶ And without a stay, patients are continuing to receive the state-mandated information from a physician, as required by the Delay Law. App. 133a-34a (declining to enjoin these requirements). After consideration of extensive witness testimony and credibility, the district court found no evidence that making an extra trip to receive this information and then waiting a minimum of two days to have the abortion procedure actually furthers Tennessee’s interest in protecting fetal life. App. 114a-15a. And the purported decision-making and mental health benefits of the Delay Law were “flatly contradicted by the credible record evidence.” App. 118a.

Indeed, the district court dedicated almost twenty pages to its determinations that Defendants’ two expert witnesses who opined on the Delay Law’s alleged benefits were not credible. App. 70a-90a. For example, one of those witnesses repeatedly mischaracterized the literature she relied on in forming her opinions, App. 82a, and espoused opinions that were contradicted by the “general consensus within the scientific community,” including the conclusions of the American Psychological Association, the Academy of Medical Royal Colleges in the United Kingdom, and the National Academies of Sciences, Engineering, and Medicine, all leading organizations in science and medicine, App. 121a, 95a-96a. Defendants’ other expert conceded on

⁶ Plaintiffs introduced by designation the deposition testimony of two Rule 30(b)(6) witnesses for the State, who testified that the Department of Health has never identified any state interests served by the Delay Law and is not aware of any evidence that the law protects, promotes, or improves the health of Tennesseans or the ability of Tennessee patients to make competent decisions concerning abortion care. App. 226a-27a, 236a, 239a, 284a.

cross-examination that patients can give informed consent without a mandatory waiting period, and that forcing abortion patients to delay may increase the risks of the procedure. App. 86a-87a. Based on the evidence, the district court found that “the mandatory waiting period does nothing to increase the decisional certainty among women contemplating having an abortion,”⁷ App. 122a, and that it *undermines* the State’s interests because it negatively impacts the physician-patient relationship and denigrates patient autonomy, App. 57a.

All Defendants offer in response to the comprehensive and voluminous record documenting the lack of any benefits of the Delay Law is that *Casey* automatically disposes of this case. *See* Stay Appl. at 16, 20. But Defendants cannot excuse their failure to put forward *any* legitimate evidence showing that the Delay Law would further women’s health and decision-making, or protect potential life in a permissible way, by claiming that under *Casey* all waiting period laws are per se constitutional. The facts adduced at trial amply support the district court’s findings, thus this Court is not likely to grant review or to reverse.

III. The District Court’s Decision Does Not Implicate a Circuit Split That Merits This Court’s Review.

Defendants also posit that this Court is likely to grant certiorari because of an alleged circuit split regarding the controlling legal standard for evaluating the

⁷ The law’s lack of benefits is confirmed by amici SisterReach and other reproductive justice advocates showing that Tennessee has a maternal health crisis that it has failed to address, while instead passing laws like the Delay Law that exacerbate that crisis. Br. of SisterReach et al. as Amici Curiae in Supp. of Pls.-Appellees, COA Dkt. 67, at 22-27.

constitutionality of laws restricting abortion after this Court’s decision in *June Medical*. See Stay Appl. at 17. This Court previously held in *Whole Woman’s Health* that the undue burden standard “requires that courts consider the burdens a law imposes on abortion access together with the benefits those laws confer.” 136 S. Ct. at 2309 (citing *Casey*, 505 U.S. at 887-901 (plurality opinion)). The State claims that post-*June Medical*, courts differ on their application of the undue burden standard, with some circuits applying the balancing test and others adhering to Chief Justice Roberts’s concurrence in *June Medical*, such that “[l]aws that do not pose a substantial obstacle to abortion access are permissible, so long as they are ‘reasonably related’ to a legitimate state interest.” *June Med. Servs.*, 140 S. Ct. at 2135 (Roberts, C.J., concurring) (quoting *Casey*, 505 U.S. at 878 (plurality opinion)); see Stay Appl. at 17. The State’s circuit split argument misses the mark, as this case does not implicate any such split. But even if it did, this case would be a poor vehicle to resolve such a split, given that the issue would not affect the outcome of the case and has been minimally addressed by the parties, and only in post-trial briefing.

First, Defendants’ arguments regarding a purported circuit split are irrelevant and beside the point here, because the district court found the Delay Law unconstitutional under both the analysis in the *June Medical* plurality as well the analysis in Chief Justice Roberts’ concurrence. See App. 128a, 138a-41a. As to the latter, the district court found that the Delay Law “serv[es] no legitimate purpose” and “severely burdens the majority of women seeking an abortion.” App. 130a. The fact that the district court also weighed those substantial burdens against the Delay

Law’s nonexistent benefits does not alter the analysis, as the court itself held in its denial of the State’s stay motion. App. 140a-141a. A panel of the Sixth Circuit denied a stay under the same reasoning, finding it likely, based on the district court’s extensive, well-supported findings of fact, that the Delay Law “amounts to an undue burden under *Casey*, and is thus invalid, with or without balancing.” App. 154a. And the panel explicitly held that at this stage it “need not resolve” the question of “which understanding of *Casey*’s undue burden standard controls,” because the law fails to pass constitutional muster *under either iteration*. *Id.* In order to present a purported circuit split that is both relevant and worthy of this Court’s consideration, the State must establish that the outcome of this case would have been different under another circuit’s articulation of the undue burden standard. *See* Stephen M. Shapiro, et al., *Supreme Court Practice*, § 4.4(F) (11th ed. 2019) (“If the resolution of a clear conflict is irrelevant to the ultimate outcome of the case before the Court, certiorari may be denied.”); *cf., e.g., DeBacker v. Brainard*, 396 U.S. 28, 31 (1969) (per curiam) (holding that case was “not an appropriate vehicle for consideration of the standard of proof in juvenile proceedings” where counsel admitted that the evidence was sufficient “even under a” more stringent, “reasonable doubt standard”). The State has wholly failed to do so here.

Second, to the extent any circuit split exists regarding the proper articulation of the undue burden standard, it is shallow and not well-developed, and it would be premature for the Court to intervene. The Court issued its decision in *June Medical* less than a year ago, and several of the decisions the State has pointed to as evidence

of a circuit split have either not reached final resolution, *see Hopkins v. Jegley*, 968 F.3d 912, 916 (8th Cir. 2020) (per curiam) (remanding to the district court for application of the undue burden standard), or are no longer controlling and currently under review, *see Whole Woman’s Health v. Paxton*, 978 F.3d 896 (5th Cir. 2020), *reh’g en banc granted, opinion vacated*, 978 F.3d 974 (5th Cir. 2020). Further, while the State claims the lower courts have applied different interpretations of the undue burden standard, it has not pointed to any inconsistent *consequences* resulting from those opinions. Regardless of the reasoning employed, a true circuit split worthy of a grant of certiorari exists only when that split results in an actual difference in outcome between the circuits.

Finally, Justices of this Court have emphasized the importance of allowing issues to percolate among the lower courts before weighing in, noting that “experience with conflicting interpretations of federal rules may help to illuminate an issue before it is finally resolved and thus may play a constructive role in the lawmaking process.” John Paul Stevens, *Some Thoughts on Judicial Restraint*, 66 *Judicature* 177, 183 (1982); *see also Maslenjak v. United States*, 137 S. Ct. 1918, 1931 (2017) (Gorsuch, J. concurring) (observing that the “experience of our thoughtful colleagues on the district and circuit benches[] could yield insights (or reveal pitfalls) we cannot muster guided only by our own lights”); Michael C. Dorf, *The Supreme Court, 1997 Term—Foreword: The Limits of Socratic Deliberation*, 112 *Harv. L. Rev.* 4, 65 (1998) (discussing the justification for allowing circuit splits to “percolate” and noting that “[r]ather than decide such issues immediately, the Court hopes to address them with

the benefit of well-reasoned opinions by the federal courts of appeals and perhaps the state courts of last resort. To this justification should be added the possibility that the passage of time during which there is a circuit split creates a record of the consequences of different legal regimes.”). That has not occurred here, including in this very case, where the State raised this issue for the first time only after final judgment by the district court.

IV. Summary Reversal Is Not Warranted.

Defendants next argue that even if a decision affirming the district court would not warrant plenary review, it would at least merit summary reversal, citing the threat of “immediate consequences” for the two other states in the Sixth Circuit that it claims have similar waiting period laws. Stay Appl. at 17-18. But the State’s warning of imminent and dire consequences for other states in the Sixth Circuit, and the “[f]ourteen other states [with] similar laws,” Stay Appl. at 7, is a red herring. There is no other pending challenge to a waiting period law in the Sixth Circuit, and if waiting period laws in other states are challenged, courts will be required to engage in fact- and context-specific inquiries as to whether they impose an undue burden under *Casey*—just as the district court did here.

Tennessee is one of only a handful of state’s imposing *both* a mandatory delay greater than 24 hours *and* a two-trip requirement, and the State misrepresents the status and requirements of several other state laws it claims are “similar” to Tennessee’s. Stay Appl. at 3, 7. Kentucky and Utah, for instance, do not require patients to make two trips to the clinic, but rather permit the first counseling appointment to take place remotely, via telehealth or at another office location. *See*

Ky. Rev. Stat. Ann. §§ 311.724, 311.725(1); Utah Code Ann. § 76-7-305(2). This distinction is, of course, significant in terms of the magnitude of the travel, financial, and other logistical burdens imposed by each of these laws.⁸

In sum, there is no justification for summary reversal of the district court's decision for fear of immediate consequences to other state waiting period laws.

V. Denying the Stay Will Not Cause Any Irreparable Harms, But Granting It Will.

Finally, Defendants cannot meet their heavy burden of demonstrating that they will suffer irreparable harm without a stay. The State cannot be harmed by being prevented from enforcing a law that has already been held to be unconstitutional or likely unconstitutional by not one, but two, lower courts. *See* App. 135a-36a, 157a. Seeking to enforce a law that is unconstitutional is not a valid exercise of the State's power, *see Ex parte Young*, 209 U.S. 123, 159-60 (1908), and being prevented from enforcing such a law cannot injure the State. Indeed, this Court

⁸ The State also ignores the fact that several of the delay laws in other states contain broader exceptions than Tennessee's Delay Law, addressing some of the very burdens the district court here determined to be undue. *See, e.g.*, Tex. Health & Safety Code Ann. § 171.012(a)(4) (reducing waiting period from 24 to two hours for patients who live 100 or more miles from an abortion provider); Fla. Stat. Ann. § 390.0111(3)(a)(IV) (exception for documented victims of rape, incest, domestic violence, or human trafficking); Utah Code Ann. §§ 76-7-305(6), 76-7-302(3)(b)(ii) (exception for fetus with lethal anomaly or severe brain abnormality); Wis. Stat. Ann. § 253.10(3)(3m) (permitting victims of sexual assault or incest to waive the two-trip requirement and reducing the mandatory delay from 24 to two hours if certain reporting requirements are met). The State also fails to note that several of the waiting period laws it cites are currently enjoined either due to court order or joint stipulation of the parties. *See Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243, 1265 (Fla. 2017); *Planned Parenthood of the Heartland v. Reynolds ex rel. State*, No. EQCV081855 (Iowa Dist. Ct. June 30, 2020); *June Med. Servs. L.L.C. v. Russo*, Case No. 3:16-cv-00444 (M.D. La. July 15, 2016), ECF No. 14-1.

has never held that a state's interest in enforcement of its laws itself is sufficient to justify such extraordinary relief. *See, e.g., Certain Named & Unnamed Non-Citizen Child. & Their Parents v. Texas*, 448 U.S. 1327, 1334 (1980) (Powell, J., in chambers) (vacating Fifth Circuit's stay and reinstating district court's injunction of Texas statute); *cf. Maryland v. King*, 567 U.S. 1301, 1302-04 (2012) (Roberts, C.J., in chambers) (state showed concrete, ongoing harm beyond lack of enforcement of statute). If it were, then no plaintiff would ever be able to obtain an injunction against enforcement of a state statute. Additionally, there is not a sufficient basis for a stay due to irreparable injury here, where the constitutionality of the law at issue and whether the State can enforce it is concurrently being briefed and considered by the en banc Sixth Circuit Court.

Denying the stay will also not harm patients seeking abortion care. Not only are they continuing to receive the state-mandated information, but the record evidence reflects that Defendants' purported interests in requiring patients to make an additional trip and undergo a minimum 48-hour delay are *undermined* by the Delay Law. App. 29a.

On the other hand, granting a stay and having the Delay Law take effect will cause severe and irreparable harm. As the district court concluded, the Delay Law substantially burdens patients seeking abortion care in Tennessee, imposing "increased medical risks," "increased wait times," and "logistical and financial burdens," and in some cases, pushing abortion care out of reach altogether. App. 122a-24a. The State even acknowledges that patients will be prevented from

accessing abortions if the Delay Law is in place, but baselessly assumes this effect is due to women changing their minds and not their inability to surmount the Delay Law's obstacles, despite the district court's findings to the contrary. *Compare* Stay Appl. at 31 ("As long as the waiting period remains enjoined, some unborn children will be aborted who might otherwise be spared that fate."), *with* App. 116a (finding based on the evidence that "the most likely reason [patients] do not appear for a second appointment is that they cannot overcome the financial and logistical barriers the 48-hour waiting period imposes"). Such deprivation of constitutional rights, even for a short time period, constitutes profound and irreparable injury. *See, e.g., Elrod v. Burns*, 427 U.S. 347, 373 (1976).

It is of no import that Tennessee providers and patients had to suffer these burdens for five years in order to comply with the Delay Law. *See* Stay Appl. at 32. Granting the State's request for a stay—after Plaintiffs and their patients have already relied on the injunction for months—would only exacerbate the tremendous burdens patients previously endured, throw Plaintiffs' operations into disarray, and create "confusion and disruption" for patients seeking abortion care. *Graddick v. Newman*, 453 U.S. 928, 936 (1981) (Powell, J., in chambers). And denying the stay merely allows for continuation of the status quo as it existed for decades prior to enactment of the Delay Law.

Two lower courts have already denied Defendants' motion for a stay, confirming that a stay will not result in irreparable harm to the State and will instead cause Plaintiffs and their patients significant and lasting harm. A stay motion is still

pending before the en banc Sixth Circuit Court, which will soon consider the merits of Defendants' appeal. This Court should deny the stay and allow the litigation to proceed in due course.

CONCLUSION

For these reasons, Defendants' application to this Court for a stay should be denied.

April 15, 2021

Respectfully submitted,

Autumn Katz
Michelle Moriarty
Rabia Muqaddam
CENTER FOR REPRODUCTIVE RIGHTS
199 Water Street, 22nd Floor
New York, NY 10038
Tel: (917) 637-3600
Fax: (917) 637-3666
*Attorneys for Plaintiffs-Respondents Bristol
Regional Women's Center, P.C. and
Memphis Center for Reproductive Health*

Maithreyi Ratakonda
PLANNED PARENTHOOD FEDERATION
OF AMERICA
123 William St., 9th Floor
New York, NY 10038
Tel: (212) 261-4405
Fax: (212) 247-6811
*Attorney for Plaintiff-Respondent Planned
Parenthood of Tennessee and North
Mississippi*

Scott Tift
David W. Garrison
BARRETT JOHNSTON MARTIN &
GARRISON, LLC
Bank of America Plaza

414 Union Street, Suite 900
Nashville, TN 37219
Tel: (615) 244-2202
Fax: (615) 252-3798

Michael J. Dell
Jason M. Moff
KRAMER LEVIN NAFTALIS & FRANKEL
LLP
1177 Avenue of the Americas
New York, NY 10036
Tel: 212-715-9129
Tel: 212-715-9113

APPENDIX

APPENDIX CONTENTS

Deposition Designations of Valerie Nagoshiner, Part 1, filed July 26, 2019	177a
Deposition Designations of Valerie Nagoshiner, Part 2, filed July 26, 2019	228a
Deposition Designations of Ann Reed, filed July 26, 2019	278a

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 ADAMS & BOYLE, P.C. on behalf of itself
5 and its patients, et. al.

6 Plaintiffs, CIVIL ACTION

7 vs. Case No. 3:15-CV-00705

8 JUDGE FRIEDMAN

9 MAGISTRATE JUDGE FRENSLEY

10 HERBERT H. SLATERY III, Attorney General
11 of Tennessee, in his official
12 capacity, et. al.,

13 Defendants.

14
15 Deposition of:

16 MS. VALERIE NAGOSHINER
17 TDH 30(b)(6) Witness

18 Taken on behalf of the Plaintiffs
19 August 23, 2018

20
21
22 Elite Reporting Services
23 www.elitereportingservices.com
24 D. Rochelle Koenes, RPR, LCR, Associate Reporter
25 P.O. Box 292382
 Nashville, Tennessee 37229
 (615) 595-0073

A P P E A R A N C E S

For the Plaintiffs:

MR. TIMUR TUSIRAY
MR. JASON MOFF
Attorneys at Law
Kramer Levin Natfalis & Frankle LLP
1177 Avenue of the Americans
New York, NY 10036
(212) 715-9364
ttusiray@kramerlevin.com
jmoff@kramerlevin.com

For the Defendants:

MR. STEVEN A. HART
Special Counsel

MS. SUE A. SHELDON
Senior Counsel

MR. ALEXANDER S. RIEGER
Deputy Attorney General

MS. LINDSAY SISCO
Assistant Attorney General

Office of Tennessee Attorney General
P.O. Box 20207
(615) 741-3505
steve.hart@ag.tn.gov
sue.sheldon@ag.tn.gov
alex.rieger@ag.tn.gov
lindsay.sisco@ag.tn.gov

Also present:

MS. HAILEY K. FLYNN - LEGAL FELLOW

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Page

Examination By MR. TUSIRAY	7
Examination By Mr. Hart	145
Examination By Mr. Moff	147

E X H I B I T S

Page

Exhibit No. 1 Plaintiff's Notice of Deposition Under Federal Rules of Civil Procedure 30(b)(6)	11
Exhibit No. 2 {^P<L Exhibit Descriptions"Description}	26
Exhibit No. 3 Tennessee Code Annotated 39-15-202	55
Exhibit No. 4 E-mail from Valerie Nagoshiner dated November 7, 2014	59
Exhibit No. 5 Notes from ASTC assessment dated 1/27/15 with associated e-mails	75
Exhibit No. 6 E-mail from Ben Simpson to Bruce Behringer Re: Public Chapter 473	80

1		Page
2	Exhibit No. 7	103
3	Defendant's Response to Plaintiffs'	
	First Set of Interrogatories	
4	Exhibit No. 8	108
5	Department of Health Program Areas	
6	Exhibit No. 9	117
7	E-mail from Valerie Nagoshiner Subject:	
	Fun with Spreadsheets dated 5/7/2015	
8	Exhibit No. 10	125
9	E-mail from Valerie Nagoshiner dated	
	12/11/2014 - Subject: Draft FAQ and	
	attachments	
10	Exhibit No. 11	129
11	E-mail from Ms. Nagoshiner dated	
12	2/25/2015 - Subject Abortion Report	
	2/8/2015 with attachments	
13	Exhibit No. 12	132
14	E-mail from Valerie Nagoshiner dated	
	4/1/2015 - Subject HB977 by Rep. M. Hill	
15	Exhibit No. 13	135
16	SB1222-HB097/Bill Analysis prepared by M.	
	Kennedy	
17	Exhibit No. 14	139
18	E-mail from Lori Ferranti dated 4/7/2015	
	Subject: Abortion Counseling Waiting	
	Periods State Laws with attachments	
19	Exhibit No. 15	143
20	E-mail from Valerie Nagoshiner dated	
21	4/7/2015 Subject: Re: Matthew Hill ITOP	
	Bill	
22	Exhibit No. 16	145
23	Defendant Tennessee Department of Health	
24	Rule 30(b)(6) designees	
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

S T I P U L A T I O N S

The deposition of MS. VALERIE NAGOSHINER was taken by counsel for the Plaintiffs, by Notice 30(b)(6), at 315 Deaderick Street, Nashville, Tennessee, on August 23, 2018, for all purposes under the Federal Rules of Civil Procedure.

All formalities as to caption, notice, statement of appearance, et cetera, are waived. All objections, except as to the form of the question, are reserved to the hearing, and that said deposition may be read and used in evidence in said cause of action in any trial thereon or any proceeding herein.

It is agreed that D. ROCHELLE KOENES, Notary Public and Licensed Court Reporter, for the State of Tennessee, may swear the witness, and that the reading and signing of the completed deposition by the witness were not discussed.

1	testimony at this deposition?	08:09:21
2	A. No.	08:09:23
3	Q. So let's jump into it.	08:09:26
4	Are you prepared to speak today on the	08:09:28
5	topics for which you have been designated?	08:09:30
6	A. Yes.	08:09:33
7	Q. What documents did you review in preparing	08:09:33
8	for the deposition, if any?	08:09:37
9	A. I reviewed three packets of information, but	08:09:44
10	I'm not a lawyer; so I don't know the full exact	08:09:51
11	title of those documents.	08:09:53
12	Q. Sure. I will go through the topics.	08:09:55
13	A. Objections was one of them to the first	08:09:58
14	designations.	08:10:02
15	Q. Okay. Great.	08:10:05
16	A. That packet of information.	08:10:06
17	Q. Okay. So I'm going to hand you a document	08:10:08
18	which we will mark as Deposition Exhibit 1.	08:10:14
19	(WHEREUPON, the above-mentioned	
20	document was marked as Deposition Exhibit Number	
21	1.)	
22	BY MR. TUSIRAY:	
23	Q. Ms. Nagoshiner, do you see on the first page	08:10:55
24	where it states "Plaintiff's Notice of Deposition	08:10:56
25	Under Federal Rules of Civil Procedure 30(b)(6)"?	08:10:57

1	A.	Yes.	08:11:00
2	Q.	Directed to the Tennessee Department of	08:11:01
3		Health?	08:11:03
4	A.	Yes.	08:11:03
5	Q.	Have you seen this document before?	08:11:04
6	A.	Yes.	08:11:05
7	Q.	What is this document?	08:11:05
8	A.	This is the notice of deposition.	08:11:08
9	Q.	And if you turn to the fourth page, do you	08:11:12
10		understand that you have been designated to answer	08:11:18
11		for topic 2, the Department's involvement, if any,	08:11:19
12		in the development in the drafting and enactment of	08:11:23
13		HB0977 but not the enforcement?	08:11:27
14	A.	Yes.	08:11:31
15	Q.	Are you prepared to speak on this topic?	08:11:32
16	A.	Yes.	08:11:34
17	Q.	Have you reviewed any documents in response	08:11:34
18		to speaking on this topic?	08:11:37
19	A.	Yes.	08:11:41
20	Q.	Which documents?	08:11:41
21	A.	The number of e-mails that we submitted to	08:11:44
22		the plaintiffs and additional court documents that	08:11:53
23		would have to do with designations and objections	08:11:59
24		that the State -- that the defendants made.	08:12:02
25	Q.	And who did you speak with to prepare for	08:12:05

1	this topic?	08:12:07
2	A. Mr. Hart and Alex. I don't have his last	08:12:10
3	name in front of me.	08:12:17
4	Q. Okay.	08:12:20
5	A. And Ms. Sheldon.	08:12:20
6	MR. HART: If you don't mind, Alex	08:12:23
7	Rieger, who is one of the cocounsel.	08:12:24
8	BY MR. TUSIRAY:	
9	Q. If we stay on the same page and go down to	08:12:30
10	number 3, which states "The Department's	08:12:33
11	involvement, if any, in the development, drafting,	08:12:35
12	enactment and/or enforcement of SB1222."	08:12:36
13	Are you aware that you have been designated	08:12:40
14	for this topic?	08:12:42
15	A. Yes.	08:12:45
16	Q. Are you ready to speak on this topic?	08:12:46
17	A. Yes.	08:12:47
18	Q. Have you reviewed any documents?	08:12:47
19	A. The same documents related to HB0977.	08:12:49
20	Q. And who did you speak with to prepare for	08:12:53
21	those topics?	08:12:56
22	A. The same individuals.	08:12:57
23	Q. Going down the list, number 4. It states	08:12:58
24	"The Department's involvement, if any, in the	08:13:02
25	development, drafting, enactment and/or enforcement	08:13:03

1	of the delay requirement."	08:13:06
2	Are you aware that you have been designated	08:13:08
3	to answer for this topic?	08:13:10
4	A. Yes.	08:13:12
5	Q. And are you prepared to speak on this topic?	08:13:12
6	A. Yes.	08:13:13
7	Q. And which documents did you review in	08:13:13
8	response to this topic?	08:13:14
9	A. Same as designated under House Bill and	08:13:17
10	Senate Bill.	08:13:19
11	Q. And who did you speak with to prepare for	08:13:20
12	this topic?	08:13:22
13	A. The same individuals.	08:13:24
14	Q. Going down the list, topic 5, which states	08:13:25
15	"The Department's involvement, if any, in the	08:13:26
16	development, drafting, enactment, and/or enforcement	08:13:29
17	of any amendments made or proposed to the delay	08:13:30
18	requirement."	08:13:33
19	Are you aware that you have been designated	08:13:34
20	to answer for this topic?	08:13:34
21	A. Yes.	08:13:37
22	Q. Are you prepared to speak on this topic?	08:13:37
23	A. Yes.	08:13:40
24	Q. And which documents did you review?	08:13:40
25	A. The same.	08:13:42

1	MR. HART: I just want to interject.	08:13:43
2	And we understand there is this ongoing objection	08:13:44
3	about called it the delay requirement versus the	08:13:48
4	notice.	08:13:50
5	MR. TUSIRAY: Absolutely.	08:13:51
6	MR. HART: And we're just not waiving	08:13:51
7	anything. We are not going to say you can't use	08:13:53
8	delay requirement, but that's just a standard thing.	08:13:56
9	BY MR. TUSIRAY:	
10	Q. For the purposes of this deposition, if I	08:13:58
11	just call it the waiting period requirement, will	08:13:59
12	you understand that that's the requirement that we	08:14:00
13	are speaking about?	08:14:05
14	A. Yes.	08:14:06
15	Q. Just so there's no issue with the delayed	08:14:07
16	requirement term.	08:14:09
17	All right. Going down the list to topic 6,	08:14:15
18	which states "Any research, discussion, and/or	08:14:16
19	analysis engaged in or completed by the Department,	08:14:19
20	or otherwise relied on by the Department, related	08:14:22
21	to the development, drafting, enactment,	08:14:25
22	enforcement, subject matter, effects, or impact of	08:14:27
23	the waiting period requirement" -- substituting it	08:14:29
24	for the delay requirement -- "and/or any amendments	08:14:32
25	made or proposed to the waiting period requirement.	08:14:34

1	Are you aware that you have been designated	08:14:38
2	to answer this topic?	08:14:41
3	A. Yes.	08:14:42
4	Q. Are you prepared to speak on this topic?	08:14:42
5	A. Yes.	08:14:44
6	Q. Have you reviewed any additional documents in	08:14:44
7	preparation to respond?	08:14:47
8	A. The same as designated in the previous	08:14:48
9	questions.	08:14:51
10	Q. Great. And did you speak with anyone else to	08:14:51
11	prepare for this topic?	08:14:54
12	A. None other than already designated.	08:14:56
13	Q. Next, number 7, on the same page, going over	08:14:59
14	to the next page, which states "The State interests	08:15:03
15	served by the delay waiting period requirement and	08:15:08
16	any research, discussion, and/or analysis engaged in	08:15:10
17	or relied on by the Department relevant to these	08:15:14
18	State interests."	08:15:16
19	Are you aware that you have been designated	08:15:17
20	to speak for this topic?	08:15:18
21	A. Yes.	08:15:20
22	Q. Are you are prepared to speak on this topic?	08:15:20
23	A. Yes.	08:15:22
24	Q. And did you review any additional documents	08:15:23
25	to respond to this topic?	08:15:25

1	A.	None other than previously stated.	08:15:27
2	Q.	And did you speak with anyone additionally to	08:15:29
3		prepare for this topic?	08:15:31
4	A.	No.	08:15:33
5	Q.	Going down the list to number 8, which	08:15:35
6		states, "Any non-privileged communications with	08:15:36
7		internal/external parties, including other	08:15:40
8		defendants, regarding delay period requirement	08:15:41
9		and/or subject matter."	08:15:41
10		Are you aware that you have been designated	08:15:47
11		to speak on this topic?	08:15:49
12	A.	Yes.	08:15:50
13	Q.	Are you prepared to speak on this topic?	08:15:51
14	A.	Yes.	08:15:53
15	Q.	Have reviewed any additional documents to	08:15:54
16		respond to this document?	08:15:57
17	A.	None other than previously stated.	08:15:58
18	Q.	And did you speak with anyone additionally to	08:16:00
19		prepare to respond to this topic?	08:16:02
20	A.	No on other than stated previously.	08:16:04
21	Q.	All right. Almost done. Two more topics.	08:16:07
22		Going down now to topic 11, on the fifth page, which	08:16:09
23		states "Communications between the Department and	08:16:13
24		legislators or their aides or offices concerning any	08:16:15
25		of the topics listed above." Will you aware that	08:16:17

1	you have been designated to answer for to this	08:16:20
2	topic?	08:16:23
3	A. Yes.	08:16:23
4	Q. Are you prepared to speak on this topic?	08:16:24
5	A. Yes.	08:16:25
6	Q. Have you reviewed any additional documents to	08:16:26
7	respond to this topic?	08:16:28
8	A. None other than previously stated.	08:16:29
9	Q. And did you speak with anyone additional to	08:16:30
10	respond to this document?	08:16:33
11	A. None other than previously stated.	08:16:33
12	Q. The last one, number 12, which states	08:16:35
13	"Communications between the Department and any	08:16:37
14	non-profit or lobbying organizations concerning any	08:16:41
15	of the topics listed above."	08:16:44
16	Are you aware that you have been designated	08:16:45
17	to answer for this topic?	08:16:47
18	A. Yes.	08:16:49
19	Q. Are you prepared to speak on this topic?	08:16:49
20	A. Yes.	08:16:53
21	Q. Have you reviewed any additional documents?	08:16:54
22	A. None other than previously stated.	08:16:55
23	Q. And have you spoken to anyone additionally to	08:16:57
24	prepare to respond to this topic?	08:16:58
25	A. No additional.	08:17:00

1 Q. Great. You've also been identified for the 08:17:01
2 last number 13 topic "The identification of all 08:17:04
3 documents reviewed in preparation Rule 30(b)(6) 08:17:07
4 testimony on any of the topics listed above." 08:17:09
5 You've helped identify some of those 08:17:13
6 documents. But if we could ask counsel for a list 08:17:15
7 of the documents that she reviewed, we can handle 08:17:18
8 that after the deposition. If possible. 08:17:22
9 All right. Ms. Nagoshiner, what is your 08:17:33
10 role at the Department of Health? 08:17:34
11 A. Today, I'm the chief of staff for the 08:17:36
12 Department of Health. 08:17:38
13 Q. And what are your duties under that role? 08:17:40
14 A. I am a member of the senior leadership team, 08:17:42
15 and I work directly with Dr. John Dreyzehner, the 08:17:48
16 commissioner, to ensure the mission and vision are 08:17:53
17 met. I lead the executive leadership team, and -- 08:17:58
18 Q. Who -- sorry. Go ahead. 08:18:07
19 A. And I have three offices that directly report 08:18:10
20 to me. 08:18:12
21 Q. Which offices are those? 08:18:12
22 A. The offices of -- the Office of Legislative 08:18:14
23 Affairs, the patient -- the Office of Patient Care 08:18:16
24 Advocacy and the Office of Health Planning. 08:18:22
25 Q. And when you say you work directly with the 08:18:33

1	commissioner, what exactly is that power structure	08:18:36
2	between the two? Are you reporting directly to him?	08:18:39
3	A. I report directly to Dr. Dreyzehner.	08:18:41
4	Q. Is there anyone else that you report to?	08:18:44
5	A. No, sir.	08:18:47
6	Q. And how many people report to you?	08:18:48
7	A. Four directly report to me.	08:18:57
8	Q. Okay. And how long have you been in this	08:19:01
9	role?	08:19:03
10	A. I've been in this role since early 2016.	08:19:04
11	Q. And were you appointed to this position?	08:19:20
12	A. By the commissioner, yes.	08:19:29
13	Q. Okay. And did you hold any other position at	08:19:32
14	the Department of Health prior to becoming chief of	08:19:39
15	staff?	08:19:41
16	A. Yes.	08:19:41
17	Q. And what was that position?	08:19:42
18	A. I was the assistant commissioner for	08:19:43
19	legislative affairs.	08:19:44
20	Q. And what time period were you the assistant	08:19:46
21	commissioner for legislative affairs?	08:19:49
22	A. November 2011 until December 2015.	08:19:53
23	Q. And were you in that position when Senate	08:20:01
24	Bill 122 and House Bill 0977 were introduced?	08:20:04
25	A. Yes.	08:20:08

1	Q.	And were you in that position when they were	08:20:09
2		passed?	08:20:11
3	A.	Yes.	08:20:12
4	Q.	And were you in that position when they were	08:20:13
5		enacted?	08:20:15
6	A.	Yes.	08:20:15
7	Q.	Or became effective -- excuse me.	08:20:18
8	A.	Yes.	08:20:20
9	Q.	And what were your duties in that role?	08:20:21
10	A.	I was the leader of a small office of three	08:20:27
11		to present the Department's position before the	08:20:37
12		general assembly legislative committees. Prepare	08:20:46
13		subject matters' experts before testifying before	08:20:55
14		those legislative committees.	08:20:59
15	Q.	Anything else?	08:21:05
16	A.	No.	08:21:08
17	Q.	Do you know when this position was created	08:21:17
18		within the Department?	08:21:18
19	A.	I do not recall.	08:21:22
20	Q.	Do you know why this position was created?	08:21:24
21	A.	I don't recall.	08:21:31
22	Q.	And was this a nonpartisan position?	08:21:34
23	A.	I don't recall.	08:21:45
24	Q.	Did you work equally with both Democratic and	08:21:46
25		Republican politicians in this position?	08:21:50

1	A.	Yes.	08:21:54
2	Q.	And did you work for the government before	08:21:54
3		this position?	08:21:55
4	A.	Yes.	08:21:56
5	Q.	And what was that?	08:21:57
6	A.	I was the legislative director for the	08:22:01
7		Department of Economic and Community Development. I	08:22:07
8		have served in the senate clerk's office, and I	08:22:17
9		served as an intern in former Senator Bobby Carter's	08:22:20
10		office.	08:22:32
11	Q.	Ms. Nagoshiner, if I refer to the Tennessee	08:22:36
12		Department of Health as the Department, will you	08:22:38
13		understand that I am referring to the Tennessee	08:22:39
14		Department of Health?	08:22:42
15	A.	Yes.	08:22:43
16	Q.	So just generally, what is the purpose of the	08:22:47
17		Department? What are its missions? What is its	08:22:50
18		mission?	08:22:56
19	A.	To promote, protect, and improve the health	08:22:57
20		of all Tennesseans. We have a number of regulatory	08:23:00
21		responsibilities that are administratively attached	08:23:05
22		to the Department.	08:23:09
23	Q.	Okay. And what areas -- for these regulatory	08:23:14
24		responsibilities, what areas does that cover?	08:23:20
25	A.	We license health care providers and	08:23:23

1	practitioners, and we license a number of health	08:23:29
2	care facilities.	08:23:35
3	Q. Anything else?	08:23:38
4	A. No.	08:23:40
5	Q. Other than licensing, does the Department do	08:23:41
6	any other types of activity, education, outreach?	08:23:45
7	A. Yes. We have a number of divisions and	08:23:50
8	offices divided into specific areas of interest,	08:23:55
9	including but not excluding maternal and child	08:24:02
10	health, communicable diseases, emergency	08:24:10
11	preparedness, health policy. We operate 89 local	08:24:15
12	health departments. We work closely with six health	08:24:26
13	departments.	08:24:30
14	Q. So why do you work specifically with those	08:24:34
15	six health departments closely instead of the full	08:24:37
16	89?	08:24:41
17	A. The law is written that the six most	08:24:42
18	populated areas, such as Nashville, Knoxville --	08:24:52
19	those counties of those cities -- are appointed by	08:24:58
20	the mayor of those counties and we work with them in	08:25:06
21	more of an administrative role, not as a direct	08:25:12
22	report.	08:25:16
23	Q. And then for the other -- what 83?	08:25:16
24	A. Eighty-nine.	08:25:21
25	Q. So 89 total, six of those you work closely	08:25:21

1	with. Sorry. I misunderstood.	08:25:25
2	A. There are 95 counties in Tennessee. Six of	08:25:26
3	those we consider Metros. They are appointed by	08:25:29
4	their county mayor. Eighty-nine directly report to	08:25:32
5	the Department of Health.	08:25:36
6	Q. Great. And as you stated, the six that you	08:25:36
7	work closely with is more of an administrative role	08:25:39
8	while the 89 report direct?	08:25:41
9	A. Correct.	08:25:45
10	Q. Could you explain what that means to report	08:25:45
11	directly? Or let me restate that. When you say an	08:25:48
12	oversight -- or report directly -- does the	08:25:51
13	Department mandate activities at these other 89	08:25:54
14	local health departments?	08:25:59
15	A. Yes.	08:26:02
16	Q. So it controls activities. Does it control	08:26:03
17	their activities?	08:26:07
18	A. Yes.	08:26:10
19	Q. Does the Department have any rulemaking	08:26:13
20	authority?	08:26:16
21	A. Restate that question.	08:26:17
22	Q. Does the Department have any authority to	08:26:19
23	make rules?	08:26:21
24	A. Yes.	08:26:23
25	Q. And for what areas?	08:26:24

1	follow?	08:27:51
2	A. Possibly.	08:27:54
3	Q. And does the Department pass rules applicable	08:27:56
4	to license health professionals?	08:27:59
5	A. No.	08:28:11
6	Q. So I'm going to hand you our tab four. A	08:28:20
7	document that we will designate as Deposition	08:28:24
8	Exhibit 2.	08:28:28
9	(WHEREUPON, the above-mentioned	
10	document was marked as Deposition Exhibit Number	
11	2.)	
12	BY MR. TUSIRAY:	
13	Q. Do you see on the cover of this where it says	08:29:07
14	"Our vision for Tennessee Annual Report 2017,	08:29:09
15	Department of Health"?	08:29:12
16	A. Yes.	08:29:13
17	Q. Have you seen this document before?	08:29:14
18	A. Yes.	08:29:16
19	Q. What is this document?	08:29:17
20	A. This document is a -- comes from a pamphlet	08:29:31
21	that the Department created to provide a snapshot of	08:29:37
22	items the Department is involved in.	08:29:42
23	Q. And if you could turn to page 10 of this	08:29:45
24	document. Do you see on the left-hand side where it	08:29:49
25	says "Tennessee Department of Health divisions,	08:29:56

1 what I'm referring to if I call it ITOP? 08:40:15

2 A. Yes. 08:40:18

3 Q. If an application for an ITOP is sent in now, 08:40:18

4 would that go to the vital records division or to 08:40:22

5 the Policy Assessment and Planning Division? 08:40:26

6 A. There's no longer an office called policy 08:40:37

7 planning and assessment. 08:40:41

8 Q. Which division would those applications go 08:40:42

9 to, currently? 08:40:45

10 A. Either vital records or vital statistics. 08:40:47

11 Q. Okay. And is there a reason why it would go 08:40:51

12 to one or the other? 08:40:53

13 A. I just don't recall where. 08:40:56

14 Q. Speaking about statistics, has the Department 08:41:01

15 done any tracking analysis related to abortion? Let 08:41:05

16 me withdraw that question. 08:41:10

17 Has the Department done any tracking 08:41:12

18 statistics related to abortion? 08:41:14

19 A. Yes. We produce publicly and de-identify 08:41:22

20 induced termination of pregnancy data. 08:41:29

21 Q. Okay. And which division produces that data? 08:41:35

22 A. I think it is vital statistics. 08:41:56

23 Q. Vital statistics. And that is its own 08:41:59

24 stand-alone division; is that correct? 08:42:03

25 A. Correct. 08:42:05

1	A.	Not that I recall.	08:44:37
2	Q.	So it's just for the de-identified public	08:44:38
3		information for these reports?	08:44:41
4	A.	Yes.	08:44:44
5	Q.	And how -- what sort of information is	08:44:45
6		collected?	08:44:47
7	A.	For the report or on the individual --	08:44:56
8	Q.	So just for abortion statistics in general,	08:44:59
9		what information does the Department collect?	08:45:02
10	A.	County, age. I don't recall additional	08:45:08
11		information on that.	08:45:19
12	Q.	Does the Department collect the total number	08:45:20
13		of abortions that occur annually?	08:45:23
14	A.	Yes.	08:45:27
15	Q.	Does it collect statistics of populations of	08:45:27
16		women who seek abortions annually?	08:45:30
17	A.	I don't recall.	08:45:34
18	Q.	Does it collect statistics about methods of	08:45:34
19		abortions that are conducted annually?	08:45:37
20	A.	Yes.	08:45:40
21	Q.	Does that include medication abortions?	08:45:40
22	A.	I don't recall.	08:45:44
23	Q.	Is there anything else that the Department	08:45:44
24		collects information regarding statistics --	08:45:46
25		abortion statistics?	08:45:51

1	A.	Not that I recall.	08:45:53
2	Q.	Okay. Has the Department tracked or analyzed	08:45:54
3		data related abortions and the relationship to their	08:45:58
4		mental health?	08:46:00
5	A.	Not that I recall.	08:46:03
6	Q.	If you could turn to page 23 of that same	08:46:07
7		document, Deposition Exhibit 2. You will see at the	08:46:10
8		very top it states that "The data collected by the	08:46:23
9		Tennessee Department of Health inform planning and	08:46:27
10		allocation of resources, helping identify and	08:46:30
11		address disparities arising from age, race, gender,	08:46:30
12		and other 'social determinants of health' such as	08:46:32
13		unemployment, household income, education	08:46:37
14		attainment, neighborhood crime rates, et cetera. By	08:46:39
15		examining the data to understand the differences in	08:46:42
16		health outcomes, including infant mortality, teen	08:46:44
17		pregnancy, death and disability due to chronic	08:46:48
18		diseases, and drug overdoses for diverse	08:46:50
19		populations, health professionals are better able to	08:46:53
20		prevent death, disease, or injury for the most	08:46:56
21		vulnerable people. The Tennessee Department of	08:47:00
22		Health has worked to reduce some of the great	08:47:01
23		disparities that currently exist in Tennessee." Do	08:47:03
24		you see that?	08:47:07
25	A.	Yes.	08:47:08

1	Q.	So what populations are considered the most	08:47:09
2		vulnerable according to the Department?	08:47:12
3	A.	I'm not qualified to answer that question.	08:47:16
4	Q.	Does the Department's identification of	08:47:19
5		disparities and social determinants described in	08:47:22
6		this quote determined the Department's allocation of	08:47:24
7		resources"?	08:47:26
8	A.	Ask that question again.	08:47:30
9	Q.	Sure. So the question identifies certain	08:47:31
10		disparities and social determinants of health, you	08:47:33
11		know, such as employment or household income. Do	08:47:37
12		they use those social determinants of health to	08:47:40
13		determine where they allocate resources?	08:47:45
14	A.	I don't recall.	08:47:50
15	Q.	So do you have an understanding of the phrase	08:47:55
16		"social determinants of health"?	08:48:10
17	A.	Yes.	08:48:16
18	Q.	So, for example, as stated in this quote,	08:48:17
19		"Unemployment would be a social determinant of	08:48:19
20		health"; is that correct?	08:48:23
21	A.	Correct.	08:48:24
22	Q.	For household income; is that correct?	08:48:24
23	A.	Correct.	08:48:26
24	Q.	And in that vein, according to this document,	08:48:29
25		the Department has concluded that low income could	08:48:31

1	be a social determinant that negatively affects	08:48:35
2	one's health; is that correct?	08:48:37
3	A. Correct.	08:48:39
4	Q. Could being lower income influence one's	08:48:40
5	ability to access health care? Is that what it's	08:48:43
6	saying?	08:48:48
7	A. Possibly.	08:48:49
8	Q. What do you mean? I mean, what would be the	08:48:53
9	factors that would go into that?	08:48:55
10	A. Such as transportation?	08:49:21
11	Q. Oh, sure. So you would look holistically at	08:49:23
12	all the various social determinants of health?	08:49:26
13	A. Correct.	08:49:30
14	Q. But just looking at being lower income, would	08:49:30
15	that influence one's ability to access health care?	08:49:33
16	A. I am not sure I am qualified to answer that	08:49:38
17	question.	08:49:40
18	Q. If you don't have enough money to pay for a	08:49:41
19	doctor, would that influence your access to health	08:49:43
20	care?	08:49:46
21	A. I'm not qualified to answer that question.	08:49:48
22	Q. Okay. What else would be a social	08:49:50
23	determinant of health that could negatively affect	08:49:53
24	one's access to health care outside of what's listed	08:49:56
25	on this list?	08:49:59

1	A.	I would include transportation.	08:50:14
2	Q.	Anything else?	08:50:19
3	A.	No.	08:50:20
4	Q.	Would not having stable housing be a social	08:50:22
5		determinant that negatively affects one's health?	08:50:24
6	A.	Possibly.	08:50:37
7	Q.	Would having to travel long distances --	08:50:42
8		sorry.	08:50:44
9		So you said transportation. Would having to	08:50:44
10		travel long distances to access health care be a	08:50:47
11		social determinant that negatively affected one's	08:50:49
12		health?	08:50:54
13	A.	Possibly.	08:50:56
14	Q.	And just in that same vein, you had said that	08:50:57
15		transportation was a social determinant of health.	08:51:00
16		How would transportation affect -- either access or	08:51:05
17		lack of access to transportation -- at one's access	08:51:08
18		to help?	08:51:14
19	A.	It would be the ability to have reliable	08:51:19
20		transportation.	08:51:27
21	Q.	So if one did not have reliable	08:51:28
22		transportation, would that negatively affect their	08:51:30
23		access to health care?	08:51:33
24	A.	Possibly.	08:51:38
25	Q.	Has the Department done any research into	08:51:39

1	transportation's effects on people's access to	08:51:42
2	health care?	08:51:46
3	A. Not that I recall.	08:51:48
4	Q. Would not having health insurance coverage be	08:51:51
5	a social determinant that negatively affects one's	08:51:54
6	health?	08:51:57
7	A. I'm not qualified to answer that question.	08:51:59
8	Q. What about social stigma? Would that be a	08:52:01
9	social determinant of health that would negatively	08:52:03
10	affect someone's access to health care?	08:52:06
11	A. I'm not qualified to answer.	08:52:09
12	Q. Is there anything else that you can think of	08:52:15
13	that would be a social determinant that we haven't	08:52:17
14	addressed today?	08:52:19
15	A. No.	08:52:20
16	Q. All right. We are done with that page.	08:52:23
17	Shifting gears a little bit. What does the	08:52:26
18	legislative affairs unit do within the Department of	08:52:29
19	Health. We addressed it a little bit, but just more	08:52:31
20	holistically?	08:52:38
21	A. We coordinate messaging, present how	08:52:41
22	legislative [sic] will impact the Department	08:52:54
23	positively and negatively before the general	08:52:57
24	assembly members. We handle constituent requests	08:53:00
25	sent from legislative offices.	08:53:11

1	Q. Anything else?	08:53:23
2	A. No.	08:53:24
3	Q. Just going down this list. So first you said	08:53:25
4	you coordinate messaging. What does that mean?	08:53:27
5	A. We will -- the office reviews legislation as	08:53:33
6	it's introduced, and we will facilitate getting it	08:53:39
7	to the appropriate subject matter experts. We will	08:53:49
8	facilitate meeting internal departmental meetings so	08:53:56
9	that the legislative affairs office understands how	08:54:03
10	that particular proposed bill might impact a service	08:54:08
11	that the Department handles today or how it would	08:54:13
12	handle a new service. We then communicate that to	08:54:19
13	the legislative -- to the legislators of the	08:54:24
14	legislative office.	08:54:28
15	Q. Okay. So --	08:54:29
16	A. We communicate that also to the governor's	08:54:32
17	office.	08:54:35
18	Q. And as part of this coordinating and	08:54:48
19	messaging, does the Department -- does the	08:54:49
20	legislative affairs unit release press releases to	08:54:53
21	the public in general, regarding legislation?	08:54:57
22	A. No.	08:55:00
23	Q. Does it ever take a position on legislation	08:55:01
24	publicly?	08:55:04
25	A. The Department makes recommendations to the	08:55:06

1	governor's office.	08:55:10
2	Q. Okay.	08:55:11
3	A. The governor's office takes positions.	08:55:12
4	Q. So will the Department -- when you say "the	08:55:15
5	Department takes a position, does it take a position	08:55:22
6	on a bill that's been introduced?	08:55:24
7	A. We make a recommendation to the governor.	08:55:27
8	Q. Excuse me. Sorry. Right.	08:55:30
9	So will you recommend to the governor --	08:55:31
10	will you give a recommendation to the governor	08:55:35
11	regarding bills that have been introduced?	08:55:39
12	A. Yes. On some of those bills.	08:55:43
13	Q. And have you ever given recommendations to	08:55:45
14	the governor about bills that should be introduced?	08:55:47
15	A. Yes.	08:55:53
16	Q. Have you ever given any recommendations on	08:55:55
17	bills that should be introduced regarding a type of	08:55:58
18	abortion regulation?	08:56:01
19	A. No, not that I recall.	08:56:05
20	Q. And on bills that have been introduced, have	08:56:09
21	you given recommendations to the governor? On bills	08:56:11
22	that have been introduced related to abortion	08:56:16
23	regulations, have you given any recommendations to	08:56:18
24	the governor?	08:56:21
25	A. Yes.	08:56:23

1	Q.	Which bills?	08:56:24
2	A.	House Bill 0977 and Senate Bill 1222.	08:56:26
3	Q.	Any other bills?	08:56:36
4	A.	I don't recall.	08:56:49
5	Q.	And what do those recommendations -- in what	08:56:56
6		form do those recommendations come?	08:56:59
7	A.	We use a computer application called	08:57:02
8		TennTracks to analyze a bill and submit it to the	08:57:07
9		governor's legislative team.	08:57:15
10	Q.	And are the recommendations -- what are the	08:57:18
11		criteria that the Department looks at to formulate	08:57:26
12		that recommendation?	08:57:29
13	A.	Can you restate that question?	08:57:31
14	Q.	For example, will the Department not	08:57:33
15		recommend a bill if it does not uphold its mission	08:57:37
16		to promote the health and wellness of Tennesseans?	08:57:40
17	A.	I don't understand your question.	08:57:47
18	Q.	Let me come back to that. Okay.	08:57:59
19		So that's coordinating and messaging. The	08:58:01
20		next role that you said that the legislative	08:58:05
21		affairs does is highlight how it impacts the	08:58:07
22		Department; is that correct?	08:58:11
23	A.	Yes.	08:58:16
24	Q.	And can you describe how the Department --	08:58:16
25		how the division does that?	08:58:18

1	A.	When a bill is introduced, we track it	08:58:21
2		through the TennTracks system and then we forward it	08:58:31
3		to the subject matter experts and/or the divisions	08:58:34
4		that it impacts and we give them a number of days to	08:58:40
5		review and submit their recommendations. Thursday	08:58:45
6		afternoon, the legislative team reviews the	08:58:51
7		recommended positions, and we discuss the	08:58:59
8		implications, and then we finalize our	08:59:02
9		recommendation and submit that to the governor's	08:59:11
10		legislative team.	08:59:16
11	Q.	Okay. So the recommendations come from the	08:59:18
12		positions of each division within the Department	08:59:21
13		that the legislation impacts; is that correct?	08:59:23
14	A.	They may make a recommendation but the	08:59:27
15		ultimate recommendation comes from Dr. Dreyzehner,	08:59:30
16		the commissioner.	08:59:34
17	Q.	And what criteria does he look at to make	08:59:35
18		that recommendation?	08:59:38
19	A.	I don't know how to answer that question.	08:59:50
20		Can you be more specific?	08:59:55
21	Q.	Sure. Why would he not recommend a bill?	08:59:56
22	A.	The Department recommends a position. If a	09:00:12
23		bill does not impact the Department, we will	09:00:19
24		recommend a defer to the will of the general	09:00:23
25		assembly position. And in our world, that is a	09:00:29

1	neutral position.	09:00:36
2	Q. Okay. So when you defer on a bill, that	09:00:40
3	means that no division is impacted; is that correct?	09:01:12
4	A. That means there is little to no impact or	09:01:25
5	little to no fiscal impact.	09:01:29
6	Q. So -- okay. So there's two different types	09:01:31
7	of impact. Sorry. Are there two different types of	09:01:33
8	impact? So when determining on whether a division	09:01:38
9	is impacted, you look at the fiscal impact; is that	09:01:41
10	correct?	09:01:43
11	A. Correct.	09:01:44
12	Q. And what other impact will you look at?	09:01:44
13	A. How it might directly impact services.	09:01:47
14	Q. So if it negatively impacts a service, would	09:01:53
15	that be sufficient to have a position on the bill?	09:01:58
16	A. Defer is a position.	09:02:05
17	Q. Sorry. So I understood that if the	09:02:06
18	Department defers on a bill it's because it's taken	09:02:08
19	a position that none of its divisions have been	09:02:11
20	significantly impacted; is that correct?	09:02:13
21	A. Correct.	09:02:16
22	Q. So what would be the criteria for a	09:02:16
23	significant impact on a division?	09:02:19
24	A. If a piece of legislation were introduced to	09:02:27
25	no longer require food safety inspections, the	09:02:36

1	Department would be opposed to that because of	09:02:44
2	safety to Tennesseans.	09:02:48
3	Q. Okay. And if it required the Department to	09:02:52
4	do an inspection, that would negatively affect the	09:02:57
5	safety of Tennesseans? Would that be a significant	09:03:01
6	impact?	09:03:05
7	A. Ask that question again.	09:03:06
8	Q. So if the bill required a division [sic] that	09:03:07
9	would negatively affect the safety of Tennesseans	09:03:11
10	would that be a significant impact?	09:03:14
11	A. Possibly.	09:03:23
12	Q. What -- I mean, how negatively would the	09:03:28
13	safety of Tennesseans have to be impacted for it to	09:03:31
14	be significant?	09:03:36
15	A. It depends on how the -- the Department may	09:03:53
16	view a bill differently than stakeholders and	09:04:01
17	legislators. And so we may just have a different	09:04:09
18	perspective.	09:04:14
19	Q. Okay. We'll come back to that. How are	09:04:15
20	subject matter experts -- well, what are subject	09:04:18
21	matter experts?	09:04:21
22	A. That particular term is not necessarily a	09:04:26
23	defined term --	09:04:28
24	Q. Sure.	09:04:30
25	A. -- or a title. It just means someone who	09:04:30

1 BY MR. TUSIRAY:

2 Q. Did the Department every consult with
3 legislators on House Bill 0977?

09:26:46

09:26:49

4 A. Not that I recall.

09:26:53

5 Q. Did the Department ever consult with
6 legislators on Senate Bill 1222?

09:26:54

09:26:56

7 A. Not that I recall.

09:27:02

8 Q. Did they ever -- I'm going to hand out --

09:27:06

9 it's tab 5 -- we will hand out a document that we

09:27:14

10 will mark as Deposition Exhibit 3.

09:27:31

11 (WHEREUPON, the above-mentioned

12 document was marked as Deposition Exhibit Number

13 3.)

14 BY MR. TUSIRAY:

15 Q. Ms. Nagoshiner, do you recognize this

09:28:02

16 document?

09:28:03

17 A. Yes.

09:28:04

18 Q. And what is this document?

09:28:04

19 A. This is a copy of Tennessee Code Annotated

09:28:12

20 that was -- this is a copy of law.

09:28:22

21 Q. And do you recognize this document as a final
22 version of the bill codifying the informed consent
23 and waiting period requirement?

09:28:25

09:28:27

09:28:30

24 A. Can you ask that question again?

09:28:41

25 Q. So if you look at section 202(d)(1) that

09:28:42

1	begins with "Except in a medical emergency that	09:28:46
2	prevents compliance with this subdivision, no	09:28:53
3	abortion shall be performed until a waiting period	09:28:53
4	of 48 hours has elapsed." That's on the second	09:28:58
5	page, three paragraphs down.	09:29:03
6	A. I see that section.	09:29:09
7	Q. Okay. And is this a section that codifies	09:29:10
8	the 48-hour waiting period requirement?	09:29:12
9	A. Yes.	09:29:15
10	Q. So if I refer to the waiting period, will you	09:29:16
11	understand that I'm referring to this 48-hour	09:29:17
12	waiting period codified in this law that you are	09:29:23
13	looking at?	09:29:26
14	A. Yes.	09:29:27
15	Q. So did the Department ever consult	09:29:27
16	specifically on the development of the waiting	09:29:29
17	period requirement?	09:29:32
18	A. No.	09:29:32
19	Q. Did they consult with any legislators	09:29:33
20	regarding the waiting period requirement?	09:29:35
21	A. No.	09:29:37
22	Q. Did anyone from the Department ever give	09:29:43
23	feedback on draft versions of the waiting period	09:29:45
24	requirement to any government officials?	09:29:47
25	A. Yes.	09:29:50

1	Q.	To which ones?	09:29:51
2	A.	I know we asked for rulemaking authority in	09:29:59
3		case that health care facilities needed it based on	09:30:06
4		the original bill that was introduced.	09:30:13
5	Q.	When you say "we," which division?	09:30:15
6	A.	The Office of Legislative Affairs would have	09:30:18
7		asked that.	09:30:21
8	Q.	And who would they have asked?	09:30:22
9	A.	The Office of Legislative Affairs would have	09:30:23
10		asked a number of divisions in the Department to	09:30:32
11		review the legislation. The division asked that	09:30:34
12		they would like to see rulemaking authority	09:30:41
13		specifically stated in the bill, and we communicated	09:30:43
14		that to the sponsor of the bill.	09:30:48
15	Q.	And who was the sponsor of this bill?	09:30:52
16	A.	I don't recall specifically which legislator	09:31:00
17		sponsored which bill.	09:31:03
18	Q.	Do you recall who the Department made the	09:31:05
19		recommendation to?	09:31:07
20	A.	It was either Representative Hill, Senator	09:31:15
21		Beavers, Representative Womack. I don't recall	09:31:20
22		though.	09:31:23
23	Q.	And prior to sending out this request for	09:31:24
24		rulemaking authority, had the Department ever spoken	09:31:32
25		with Senator Bill [sic] regarding this -- regarding	09:31:34

1	A.	Not that I recall.	09:32:37
2	Q.	So prior to asking for rulemaking authority,	09:32:38
3		no individual within the Department spoke with any	09:32:40
4		senator or representative regarding the rule --	09:32:44
5		period waiting requirement; is that correct?	09:32:47
6	A.	Not that I recall.	09:32:49
7	BY MR. TUSIRAY:		
8	Q.	So we are going to hand you an e-mail that we	09:32:59
9		will mark as Deposition Exhibit 4.	09:33:01
10		(WHEREUPON, the above-mentioned	
11		document was marked as Deposition Exhibit Number	
12		4.)	
13	BY MR. TUSIRAY:		
14	Q.	Ms. Nagoshiner, do you see that this is an	09:33:46
15		e-mail that you sent on Friday, November 7, 2014, to	09:33:48
16		various individuals, including Michelle Long. It	09:33:52
17		looks like R. Benton, R. McDonough, Vincent Davis	09:33:56
18		and so forth?	09:34:00
19	A.	Yes.	09:34:01
20	Q.	And do you recognize this document?	09:34:03
21	A.	Yes.	09:34:06
22	Q.	Can you tell me about it? What is this	09:34:07
23		document?	09:34:09
24	A.	This is a document I created and sent to	09:34:12
25		those To: and the CC: line following election and	09:34:20

1	beginning to gather information around legislative	09:34:38
2	proposal ideas that we had seen in the news.	09:34:41
3	Q. All right. So if you look at the first	09:34:53
4	paragraph where it starts "Now the advocates are	09:34:55
5	working on potential legislative initiatives. It's	09:34:59
6	imperative that Ben, Jeremy, and I have a strong	09:35:02
7	understanding of several aspects that can be	09:35:04
8	discussed next session. This is where you come in."	09:35:05
9	Do you see that?	09:35:07
10	A. Yes.	09:35:08
11	Q. Just starting at the very top. Who are the	09:35:09
12	advocates that you are referencing in this e-mail?	09:35:11
13	A. I don't recall.	09:35:16
14	Q. Would they be legislators?	09:35:18
15	A. I don't recall.	09:35:25
16	Q. Could they be outside lobbyists?	09:35:27
17	A. Yes.	09:35:35
18	Q. But not legislators? Or you don't know if	09:35:39
19	they are legislators.	09:35:42
20	A. I don't recall.	09:35:44
21	Q. But you recall that they could be -- that	09:35:45
22	they are lobbyists or included lobbyists?	09:35:48
23	A. I would like to rephrase and just say I don't	09:35:56
24	recall.	09:35:59
25	Q. You don't recall who the advocates are; is	09:36:00

1	e-mail; is that correct?	09:45:24
2	A. Yes.	09:45:26
3	Q. So if we have no e-mail in our possession,	09:45:28
4	then that would indicate that there's no	09:45:30
5	communication or no written communication at all	09:45:32
6	with the Office of the Governor?	09:45:35
7	A. Correct.	09:45:38
8	Q. Would you ever share these items with the	09:45:38
9	governor verbally -- Office of the Governor	09:45:43
10	verbally?	09:45:48
11	A. Not that I recall.	09:45:51
12	Q. Would the Department ever share these items	09:45:52
13	with the Office of the Governor verbally?	09:45:57
14	A. Not that I would be aware.	09:46:00
15	Q. Okay. But has the Department ever discussed	09:46:03
16	legislation with the Office of the Governor	09:46:06
17	verbally?	09:46:08
18	A. Yes.	09:46:14
19	Q. Why was there an interest in prohibiting	09:46:19
20	out-of-state individuals from seeking abortion in	09:46:21
21	Tennessee? Going back to that item, "Prohibit	09:46:25
22	out-of-state residents to seek procedure in	09:46:26
23	Tennessee" that's listed on that e-mail?	09:46:29
24	A. Ask that question --	09:46:34
25	Q. Sure. Sorry. Going back to under "All	09:46:35

1	Items" the item "Prohibit out-of-state residents to	09:46:37
2	seek procedure in Tennessee." Why was there an	09:46:40
3	interest in -- why was there an interest in	09:46:42
4	prohibiting out-of-state individuals from seeking	09:46:45
5	abortion in Tennessee?	09:46:48
6	A. I'm not qualified to answer that question.	09:46:50
7	Q. Did you see anything in the news discussing	09:46:52
8	that issue?	09:46:54
9	A. I don't recall.	09:46:59
10	Q. Do you recall that you got this issue from	09:47:00
11	the news?	09:47:03
12	A. I don't recall.	09:47:04
13	Q. Do you recall whether you got this issue from	09:47:05
14	past legislative ideas?	09:47:07
15	A. I don't recall.	09:47:10
16	Q. Could you have gotten it from anywhere else?	09:47:14
17	A. I don't recall.	09:47:22
18	Q. Did the Department ever do any research into	09:47:22
19	the effects of out-of-state residents seeking	09:47:24
20	abortion procedures in Tennessee?	09:47:28
21	A. Not that I'm aware of.	09:47:30
22	Q. Have you seen -- has the Department seen any	09:47:33
23	evidence of out-of-state residents seeking	09:47:35
24	procedures in Tennessee?	09:47:37
25	A. Not that I'm aware of.	09:47:39

1	Q.	And at this point, did the Department do any	09:47:45
2		analysis on the impact that these regulations would	09:47:45
3		have on women in Tennessee?	09:47:49
4	A.	Not that I recall.	09:47:52
5	Q.	Outside of -- at this point, did the	09:47:53
6		Department do any analysis on the impact these	09:47:55
7		regulations would have on the women outside of	09:47:57
8		Tennessee?	09:47:59
9	A.	Not that I recall.	09:48:00
10	Q.	Did the Department engage any outside parties	09:48:01
11		to conduct any studies or analysis regarding these	09:48:03
12		proposed regulations?	09:48:06
13	A.	Not that I recall.	09:48:08
14	Q.	So going back to the Department's involvement	09:48:17
15		in the waiting period requirement, was the	09:48:19
16		Department -- was the Department ever involved in	09:48:23
17		any way of the enactment of the waiting period	09:48:27
18		requirement?	09:48:30
19	A.	Can you define "involved"?	09:48:37
20	Q.	Did the Department do any activities that	09:48:39
21		would further the enactment of the waiting period	09:48:41
22		requirement?	09:48:43
23	A.	We only -- the Department only requested the	09:48:54
24		addition of the rulemaking within the law, within	09:49:01
25		the bill that was introduced.	09:49:03

1	A.	Not that I recall.	10:06:10
2	Q.	Would the Department ever offer analysis	10:06:11
3		concerning a particular bill at these types of	10:06:14
4		meetings?	10:06:17
5	A.	Yes.	10:06:18
6	Q.	Would they -- would the Department ever offer	10:06:19
7		advice concerning a particular bill at these	10:06:23
8		meetings?	10:06:26
9	A.	Yes.	10:06:33
10	Q.	Did they at this meeting?	10:06:33
11	A.	Not that I recall.	10:06:35
12	Q.	All right. Shifting gears a little bit.	10:06:42
13		Ms. Nagoshiner, what research, if any, has	10:06:47
14		the Department done on the potential impacts of the	10:06:50
15		waiting period requirement?	10:06:53
16	A.	None that I recall.	10:06:53
17	Q.	Has -- what analysis, if any, has the	10:06:55
18		Department done on the potential impacts of the	10:06:59
19		waiting period requirement?	10:07:01
20	A.	None that I recall.	10:07:03
21	Q.	Has the Department identified any way that	10:07:08
22		the waiting period requirement has protected the	10:07:10
23		health of Tennesseans?	10:07:13
24	A.	None that I recall.	10:07:17
25	Q.	Has the Department identified any way that	10:07:18

1	the waiting period requirement has protected the	10:07:19
2	posterity of Tennesseans?	10:07:23
3	A. None that I recall.	10:07:26
4	Q. So does that mean that you are not aware of	10:07:28
5	any analysis that the Department has done regarding	10:07:30
6	how the waiting period provision protects the health	10:07:32
7	of Tennesseans.	10:07:36
8	A. I'm not aware of any analysis.	10:07:38
9	Q. Has the Department identified any evidence	10:07:42
10	that the waiting period requirement protects the	10:07:45
11	health of Tennesseans?	10:07:47
12	A. Not that I recall.	10:07:49
13	Q. But are you aware of any evidence that the	10:07:50
14	Department has identified?	10:07:52
15	A. No.	10:07:53
16	Q. Has the Department identified in any way that	10:07:57
17	the passage of this -- of the waiting period	10:07:59
18	provision promoted the health of Tennesseans?	10:08:00
19	A. No.	10:08:04
20	Q. Has the Department identified any way that	10:08:05
21	the passage of this provision has promoted the	10:08:08
22	prosperity of Tennesseans?	10:08:11
23	A. No.	10:08:14
24	Q. Has the Department identified any way that	10:08:14
25	the passage of this -- of the waiting period	10:08:15

1	provision has improved the health of Tennesseans?	10:08:19
2	A. No.	10:08:23
3	Q. Has the Department identified any way that	10:08:23
4	the passage of this provision has improved the	10:08:23
5	prosperity of Tennesseans?	10:08:24
6	A. No.	10:08:27
7	Q. Has the Department researched the impact of	10:08:28
8	the waiting period requirement on access to safe	10:08:31
9	abortions in Tennessee?	10:08:33
10	A. Ask that question again.	10:08:35
11	Q. Sure. Has the Department researched the	10:08:36
12	impact of the waiting period provision on access to	10:08:38
13	safe abortions in Tennessee?	10:08:44
14	A. Not that I recall.	10:08:46
15	Q. Has the Department conducted any formal	10:08:47
16	analysis to demonstrate that the waiting period	10:08:50
17	requirement has positively impacted women's access	10:08:52
18	to safe abortion in Tennessee?	10:08:54
19	A. Not that I recall.	10:08:57
20	Q. Has the Department conducted any formal	10:08:58
21	analysis to demonstrate that the waiting period	10:09:00
22	requirement has negatively impacted women's access	10:09:02
23	to a safe abortion in Tennessee?	10:09:04
24	A. Not that I recall.	10:09:07
25	Q. Has the Department identified any evidence	10:09:08

1	that the required waiting period has positively	10:09:09
2	impacted women's access to safe abortions in	10:09:14
3	Tennessee?	10:09:16
4	A. Not that I recall.	10:09:17
5	Q. So that means that you are not aware that the	10:09:18
6	Department has -- you are not aware of the fact that	10:09:19
7	the Department has identified any evidence that the	10:09:22
8	required waiting period has positively impacted	10:09:25
9	women's access to safe abortions in Tennessee?	10:09:27
10	A. I am not aware.	10:09:30
11	Q. Has the Department researched the impact of	10:09:34
12	the waiting period requirement on access to	10:09:36
13	medication abortion in Tennessee?	10:09:38
14	A. Not that I'm aware.	10:09:41
15	Q. Has the Department conducted any formal	10:09:42
16	analysis to demonstrate that the waiting period	10:09:44
17	requirement has positively impacted women's access	10:09:46
18	to medication abortion in Tennessee?	10:09:50
19	A. Not that I'm aware.	10:09:52
20	Q. Has it conducted any formal analysis to	10:09:53
21	demonstrate that the waiting period requirement has	10:09:56
22	negatively impacted women's access to a medication	10:09:57
23	abortion in Tennessee?	10:10:01
24	A. Not that I'm aware.	10:10:02
25	Q. Has the Department identified any evidence	10:10:04

1	that the required waiting period has positively	10:10:05
2	impacted women's access to medication abortion in	10:10:07
3	Tennessee?	10:10:12
4	A. Not that I'm aware.	10:10:12
5	Q. Has the Department researched the impact of	10:10:13
6	the waiting period requirement on the health of	10:10:13
7	women in Tennessee?	10:10:15
8	A. Not that I'm aware.	10:10:17
9	Q. Has the Department conducted any formal	10:10:18
10	analysis to determine that the waiting period	10:10:21
11	requirement has positively impacted the health of	10:10:23
12	women in Tennessee?	10:10:26
13	A. Not that I'm aware.	10:10:28
14	Q. Has the Department conducted any formal	10:10:29
15	analysis to demonstrate that the waiting period	10:10:32
16	requirement has negatively impacted the health of	10:10:33
17	women in Tennessee?	10:10:36
18	A. Not that I'm aware.	10:10:38
19	Q. Has the Department identified any evidence	10:10:39
20	that the required waiting period has positively	10:10:41
21	impacted the health of women in Tennessee?	10:10:45
22	A. Not that I'm aware.	10:10:47
23	Q. Has the Department researched the impact of	10:10:49
24	the waiting period requirement on minority	10:10:51
25	populations in Tennessee?	10:10:53

1	A.	Not that I'm aware.	10:10:54
2	Q.	Has the Department conducted any formal	10:10:56
3		analysis that the waiting period requirement has	10:10:58
4		positively impacted minority populations in	10:10:59
5		Tennessee?	10:11:05
6	A.	Not that I'm aware.	10:11:06
7	Q.	Has the Department conducted any formal	10:11:07
8		analysis that the waiting period requirement has	10:11:09
9		negatively impacted minority populations?	10:11:10
10	A.	Not that I'm aware.	10:11:14
11	Q.	Has the Department identified any evidence	10:11:15
12		that the required waiting period has positively	10:11:17
13		impacted the minority populations in Tennessee?	10:11:19
14	A.	Not that I'm aware.	10:11:24
15	Q.	Has the Department researched whether there	10:11:25
16		has been a change in the number of women having to	10:11:27
17		be admitted into a hospital for abortion services	10:11:29
18		due to the waiting period requirement?	10:11:32
19	A.	Not that I'm aware.	10:11:34
20	Q.	Has the Department analyzed any increase of	10:11:35
21		cost to women when having to be admitted into a	10:11:36
22		hospital for an abortion?	10:11:38
23	A.	Not that I'm aware.	10:11:41
24	Q.	Has the Department identified any evidence	10:11:43
25		that the required waiting period has decreased the	10:11:44

1	costs of abortions in Tennessee?	10:11:46
2	A. Not that I'm aware.	10:11:49
3	Q. Has the Department identified any evidence	10:11:50
4	that the required waiting period has increased the	10:11:52
5	cost of abortions?	10:11:55
6	A. Not that I'm aware.	10:11:57
7	Q. Has the Department engaged in research	10:11:58
8	regarding the change and risk of death -- sorry. I	10:12:00
9	withdraw that.	10:12:03
10	Has the Department engaged in research	10:12:04
11	regarding the change in the risk of death or major	10:12:06
12	complications that women experience when bringing	10:12:09
13	an unwanted pregnancy to term?	10:12:13
14	A. Not that I'm aware.	10:12:16
15	Q. Has the Department conducted any formal	10:12:17
16	analysis that the waiting period requirement has	10:12:17
17	decreased the risk of death or major complications	10:12:19
18	associated with bringing an unwanted pregnancy to	10:12:22
19	term?	10:12:25
20	A. Not that I'm aware.	10:12:26
21	Q. Has the Department conducted any formal	10:12:27
22	analysis that the waiting period requirement has	10:12:29
23	increased the risk of death or major complications	10:12:31
24	associated with bringing an unwanted pregnancy to	10:12:34
25	term?	10:12:36

1	A.	Not that I'm aware.	10:12:37
2	Q.	Has the Department identified any evidence	10:12:38
3		that the required waiting period has decreased the	10:12:40
4		risk of death or major complications associated with	10:12:44
5		bringing an unwanted pregnancy to term?	10:12:44
6	A.	Not that I'm aware.	10:12:48
7	Q.	Has the Department engaged in any research	10:12:49
8		regarding a change in the risk of financial	10:12:51
9		instability for women who are forced to carry an	10:12:53
10		unwanted pregnancy to term?	10:12:56
11	A.	Not that I'm aware.	10:12:58
12	Q.	Has the Department conducted any formal	10:12:59
13		analysis that the waiting period requirement has	10:13:02
14		decreased the risk of financial instability for	10:13:03
15		women associated with bringing unwanted pregnancy to	10:13:06
16		term?	10:13:11
17	A.	Not that I'm aware.	10:13:11
18	Q.	Has the Department conducted any formal	10:13:12
19		analysis that the waiting period requirement has	10:13:14
20		increased the risk of financial instability for	10:13:16
21		women associated with bringing an unwanted pregnancy	10:13:19
22		to term?	10:13:22
23	A.	Not that I'm aware.	10:13:22
24	Q.	Has the Department identified any evidence	10:13:24
25		that the required waiting period has decreased the	10:13:25

1	risk of financial instability for women associated	10:13:28
2	with bringing an unwanted pregnancy to term?	10:13:31
3	A. Not that I'm aware of.	10:13:34
4	Q. Has the Department conducted any formal	10:13:39
5	analysis demonstrating that the waiting period	10:13:41
6	requirement keeps women from feeling regret after	10:13:43
7	having an abortion?	10:13:47
8	A. Not that I'm aware.	10:13:49
9	Q. Has the Department identified any evidence	10:13:50
10	that the waiting period requirement keeps women from	10:13:52
11	feeling regret after having an abortion?	10:13:55
12	A. Not that I'm aware.	10:13:58
13	Q. Has the Department conducted any formal	10:13:59
14	analysis demonstrating that women have not reached a	10:14:01
15	final decision concerning whether to get an abortion	10:14:03
16	prior to the start of the 48-hour waiting period?	10:14:06
17	A. Not that I'm aware.	10:14:10
18	Q. Has the Department identified any evidence	10:14:11
19	that the waiting period requirement keeps women -- I	10:14:12
20	withdraw that.	10:14:24
21	Has the Department identified any evidence	10:14:25
22	that the waiting period requirement -- scratch	10:14:26
23	that.	10:14:28
24	Has the department conducted any formal --	10:14:45
25	sorry. I withdraw that last question.	10:14:48

1	Has the Department conducted any formal	10:14:51
2	analysis demonstrating that women do not make fully	10:14:52
3	informed, competent decisions about what they are	10:14:55
4	to obtain in an abortion without the waiting period	10:14:58
5	requirement?	10:15:01
6	A. Not that I'm aware.	10:15:02
7	Q. Has the Department identified any evidence	10:15:03
8	that without the waiting period requirement women do	10:15:04
9	not make fully informed competent decisions about	10:15:06
10	whether to obtain an abortion?	10:15:09
11	A. Not that I'm aware of.	10:15:11
12	Q. Has the Department conducted any formal	10:15:12
13	analysis demonstrating that women suffer mental	10:15:14
14	health problems as a result of having obtained an	10:15:17
15	abortion?	10:15:19
16	A. Not that I'm aware.	10:15:20
17	Q. Has the Department identified any evidence	10:15:21
18	demonstrating that women suffer mental health	10:15:24
19	problems as a result of having obtained an abortion?	10:15:26
20	A. Not that I'm aware.	10:15:30
21	Q. Has Deposition Department conducted any	10:15:31
22	formal analysis demonstrating women who Benton	10:15:32
23	survivors of intimate partner violence will benefit	10:15:35
24	from the waiting period requirement?	10:15:39
25	A. Not that I'm aware.	10:15:41

1	Q.	Has the Department conducted any formal	10:15:42
2		analysis demonstrating that women who are survivors	10:15:42
3		of intimate partner violence will not benefit from	10:15:45
4		the waiting period requirement?	10:15:48
5	A.	Not that I'm aware.	10:15:50
6	Q.	Has the Department identified any evidence	10:15:52
7		that the waiting period requirement will benefit	10:15:54
8		survivors of intimate partner violence?	10:15:56
9	A.	Not that I'm aware.	10:15:59
10	Q.	Okay. In front of you you should have a	10:16:08
11		statute that codifies the waiting period	10:16:10
12		requirement?	10:16:13
13		MR. MOFF: I believe it's Exhibit 3.	10:16:16
14		MR. TUSIRAY: Exhibit 3.	10:16:19
15		BY MR. TUSIRAY:	
16	Q.	Do you have it in front of you?	10:16:27
17	A.	Yes.	10:16:30
18	Q.	If you turn to the second page, section	10:16:51
19		202(f)(1), which is just about in the middle of the	10:16:53
20		page. It starts with "For purposes of section (a),	10:17:03
21		(b), (c), (d), and (E), a medical emergency is a	10:17:05
22		condition that, on the basis of a physician's good	10:17:09
23		faith medical judgment, so complicates a medical	10:17:11
24		condition of a pregnant woman as to necessitate an	10:17:14
25		immediate abortion of a pregnancy to avert her death	10:17:17

1	or for which a delay will create serious risk of	10:17:19
2	substantial and irreversible impairment of major	10:17:22
3	bodily function." Do you see that?	10:17:24
4	A. Yes.	10:17:28
5	Q. Has the Department engaged in any research	10:17:29
6	concerning the risk of death or major complications	10:17:29
7	for women who need to terminate a pregnancy for	10:17:32
8	health reasons, but do not fit into this statutory	10:17:35
9	exception for medical emergencies?	10:17:38
10	A. Not that I'm aware.	10:17:41
11	Q. Has the Department conducted any formal	10:17:42
12	analysis that the waiting period requirements	10:17:44
13	medical emergency exception has decreased the risk	10:17:45
14	of death or major complications for women seeking	10:17:50
15	abortions due to a medical emergency?	10:17:53
16	A. Not that I'm aware of.	10:17:57
17	Q. Has the Department conducted any formal	10:17:58
18	analysis that the waiting period requirements,	10:17:59
19	medical emergency exception has increased the risk	10:17:59
20	of death or major complications for women seeking	10:18:03
21	abortion due to a medical emergency?	10:18:06
22	A. Not that I'm aware.	10:18:09
23	Q. Has the Department identified any evidence	10:18:11
24	that this medical emergency exception has positively	10:18:14
25	impacted women's health in Tennessee?	10:18:18

1	A.	Not that I'm aware.	10:18:20
2	Q.	Has the Department identified any evidence	10:18:22
3		that this medical emergency exception has negatively	10:18:23
4		impacted women's health in Tennessee?	10:18:27
5	A.	Not that I'm aware.	10:18:29
6	Q.	Going back to statute. If you look at	10:18:32
7		section B, which is on the first page, second	10:18:35
8		paragraph. Halfway through that it states "No	10:18:40
9		abortion shall be performed or induced upon a	10:18:45
10		pregnant woman unless she has first been informed	10:18:48
11		orally and in person by the attending physician who	10:18:51
12		is to perform the abortion or by the referring	10:18:53
13		physician of the following facts"... and it goes on.	10:18:55
14		Do you see that?	10:18:59
15	A.	Yes.	10:19:00
16	Q.	Has the Department engaged in any research	10:19:01
17		concerning the impact of this requirement that a	10:19:04
18		woman seeking abortion has to communicate in person	10:19:06
19		with the attending physician?	10:19:10
20	A.	Not that I'm aware.	10:19:11
21	Q.	Has the Department conducted any formal	10:19:12
22		analysis that this requirement has improved a	10:19:14
23		women's ability to decide on whether to have an	10:19:16
24		abortion?	10:19:19
25	A.	Not that I'm aware.	10:19:19

1	Q.	Has the Department conducted any formal	10:19:21
2		analysis that this requirement has made it worse for	10:19:22
3		a women's ability to decide whether to have an	10:19:25
4		abortion?	10:19:29
5	A.	Not that I'm aware.	10:19:30
6	Q.	Has the Department conducted any formal	10:19:32
7		analysis that this requirement to meet in person	10:19:34
8		with the attending physician is more effective than	10:19:36
9		doing so remotely such as with teleconferencing?	10:19:39
10	A.	Not that I'm aware.	10:19:42
11	Q.	Has the Department identified any evidence	10:19:44
12		that this requirement has positively impacted	10:19:46
13		women's decision making ability?	10:19:49
14	A.	Not that I'm aware.	10:19:51
15	Q.	Has the Department identified any evidence	10:19:52
16		that this requirement has negatively impacted	10:19:52
17		women's decision making ability?	10:19:52
18	A.	Not that I'm aware.	10:19:56
19	Q.	Has the Department ever recommended the use	10:19:58
20		of technology, such as telecommunications and	10:20:00
21		internet to provide medical consultations?	10:20:03
22	A.	Not that I'm aware.	10:20:14
23	Q.	Going back to the statute that's in front of	10:20:21
24		you. If you will, go to section 202(D)(2), and	10:20:23
25		that's going to be on the second page -- one, two,	10:20:30

1	three -- four paragraphs down, which states "If any	10:20:34
2	court temporarily, preliminarily, or permanently	10:20:44
3	enjoins enforcement of subdivision (d)(1) or	10:20:44
4	declares it unconstitutional, then the waiting	10:20:48
5	period imposed by subdivision (d)(1) shall be 24	10:20:51
6	hours, subject to the same medical emergency	10:20:55
7	exception. If the injunction and declaration were	10:20:57
8	subsequently vacated or reversed, the waiting period	10:20:58
9	shall revert to 48 hours." Do you see that?	10:21:02
10	A. Yes.	10:21:05
11	Q. What is your understanding of this section?	10:21:06
12	A. I understand that if a -- if a plaintiff	10:21:19
13	brings something to the court related to the waiting	10:21:24
14	period stated in (d)(1), that the -- as that case is	10:21:31
15	going through the process, the waiting period could	10:21:43
16	be reduced to 24 hours instead of 48 hours until	10:21:53
17	that procedure has been determined and then shall	10:21:56
18	return to 48.	10:22:02
19	Q. Has the Department done any analysis	10:22:03
20	regarding the effects of the 24 hour waiting period?	10:22:05
21	A. Not that I'm aware.	10:22:10
22	Q. Has the Department compared the effect of the	10:22:13
23	24 hour waiting period against the effect of a the	10:22:16
24	48 waiting period?	10:22:19
25	A. Not that I'm aware.	10:22:22

1	Q.	Has the Department seen any evidence	10:22:24
2		indicating that a 48-hour waiting period is better	10:22:29
3		than a 24-hour waiting period for the health of	10:22:32
4		women in Tennessee?	10:22:34
5	A.	Not that I'm aware.	10:22:36
6	Q.	I just want to go back. Early in the	10:22:39
7		deposition you had mentioned that transportation	10:22:42
8		would be -- could be a social determinant of health.	10:22:46
9		Specifically, the ability to have reliable	10:22:51
10		transportation is a social determinant of health.	10:22:53
11		I was wondering, would access to a car be	10:22:56
12		included as a social determinant of health?	10:23:00
13	A.	I don't know.	10:23:09
14	Q.	But you do agree that you stated that	10:23:12
15		transportation is a social determinant of health	10:23:14
16		that would affect an individual's access to health	10:23:17
17		care; is that correct?	10:23:20
18	A.	Yes.	10:23:21
19	Q.	So would that also include access to a car	10:23:22
20		for a long period of time? Would that be included	10:23:25
21		under transportation as a social determinant of	10:23:29
22		health?	10:23:32
23	A.	Possibly.	10:23:33
24	Q.	Would the number of times it takes to travel	10:23:35
25		to a facility be included under transportation as a	10:23:38

1 those, which is certainly within the scope of that. 10:24:55

2 BY MR. TUSIRAY:

3 Q. So earlier you had testified that 10:25:41

4 transportation would count as a social determinant 10:25:43

5 of health that would affect an individual's access 10:25:47

6 to health care. I'm just trying to flush that out 10:25:50

7 and see which examples would fall under that social 10:25:52

8 determinant under transportation. 10:25:55

9 So would not having access to a car be an 10:25:58

10 example of a social determinant of health? 10:26:02

11 A. I am not an expert in social determinants of 10:26:06

12 health. 10:26:11

13 Q. But you have mentioned that it was a social 10:26:11

14 determinant of health before, so you have personal 10:26:13

15 knowledge that transportation is a social 10:26:17

16 determinant of health; is that correct? 10:26:19

17 A. It can be considered, but beyond giving you 10:26:21

18 examples, you are getting into an area where I have 10:26:26

19 very little depth to be able to communicate social 10:26:34

20 determinants of health. 10:26:39

21 Q. Sure. Can you give me examples of various 10:26:47

22 transportation issues that would be social 10:26:51

23 determinants of health? 10:26:54

24 A. It could be a -- lack of reliable 10:26:59

25 transportation could be a social determinant of 10:27:05

1	health.	10:27:09
2	Q. Would that include not having the money to	10:27:09
3	cover transportation costs?	10:27:13
4	A. Possibly.	10:27:17
5	Q. Would that include having to take public	10:27:18
6	transportation because one does not have their own	10:27:20
7	private car?	10:27:23
8	A. Yes.	10:27:24
9	Q. Would that include not having the money to	10:27:25
10	afford public transportation?	10:27:28
11	A. Possibly.	10:27:31
12	Q. Would that include one's need to work as	10:27:37
13	effect -- withdraw that.	10:27:45
14	Would that include having to travel long	10:27:55
15	distances?	10:27:57
16	A. I'm not qualified.	10:28:02
17	MR. HART: Can you define "long	10:28:04
18	distances"? What you consider in that.	10:28:06
19	BY MR. TUSIRAY:	
20	Q. Sure. Would that include having to travel an	10:28:10
21	hour or more?	10:28:12
22	A. I'm not qualified to answer that question.	10:28:16
23	Q. Would that include having to leave one's own	10:28:18
24	city to go to another city to receive health care?	10:28:20
25	A. I'm not qualified to answer that question.	10:28:24

1 MR. TUSIRAY: If it's okay with you 10:28:29
2 guys, let's take a ten-minute break. 10:28:30
3 (Short break.)
4 MR. TUSIRAY: We are back on the record. 10:43:46
5 BY MR. TUSIRAY:
6 Q. Ms. Nagoshiner, we are back from break. Has 10:43:49
7 anything occurred over the break that will prevent 10:43:51
8 you from giving full and complete answers? 10:43:54
9 A. No. 10:43:57
10 Q. Has the Department identified any State 10:43:58
11 interests served by the passage of the informed 10:44:00
12 consent and the waiting period provision? 10:44:02
13 A. Not that I'm aware of. 10:44:05
14 Q. Did the Department hold any meetings 10:44:09
15 internally to identify State interest served by this 10:44:11
16 provision? 10:44:14
17 A. Not that I'm aware. 10:44:16
18 Q. Was the Department asked by any government 10:44:18
19 official to identify any State interest regarding 10:44:21
20 the provision? 10:44:24
21 A. Not that I'm aware. 10:44:27
22 Q. Did any employee of the Department have 10:44:31
23 conversations with legislators regarding the State 10:44:33
24 interests served by this provision? 10:44:35
25 A. Can you restate that question? 10:44:37

1	Q.	Sure. Did any employee of the Department	10:44:38
2		have any conversations with state legislators	10:44:40
3		concerning State interests served by this provision?	10:44:46
4	A.	Not that I'm aware.	10:44:49
5	Q.	Did any employee of the Department have	10:44:50
6		conversations with any government officials	10:44:52
7		regarding State interests served by this provision?	10:44:55
8	A.	Not that I'm aware.	10:44:59
9	Q.	Did the Department advise any legislator	10:45:04
10		regarding State interests served by the provision?	10:45:06
11	A.	Not that I'm aware.	10:45:09
12	Q.	Did the Department advise any State officials	10:45:10
13		regarding State served interests by the provision?	10:45:12
14	A.	Not that I'm aware.	10:45:16
15	Q.	Has the Department to date had any	10:45:16
16		conversations with State officials regarding any	10:45:19
17		State interest served by the provision of this	10:45:21
18		passage?	10:45:23
19	A.	Not that I'm aware.	10:45:24
20	Q.	Has the Department done any research	10:45:27
21		regarding the State interests served by the informed	10:45:30
22		consent provision?	10:45:33
23	A.	Not that I'm aware.	10:45:35
24	Q.	Has the Department done any research	10:45:35
25		regarding any State interests served by the waiting	10:45:38

1	period provision?	10:45:41
2	A. Not that I'm aware.	10:45:44
3	Q. I'm going to hand you a document that we will	10:45:48
4	mark as Deposition Exhibit 7.	10:45:51
5	(WHEREUPON, the above-mentioned	
6	document was marked as Deposition Exhibit Number	
7	7.)	
8	BY MR. TUSIRAY:	
9	Q. Ms. Nagoshiner, have you seen this document	10:46:32
10	before?	10:46:33
11	A. Yes.	10:46:33
12	Q. And what is this document?	10:46:35
13	A. This is Defendants' Response to Plaintiffs'	10:46:39
14	First set of Interrogatories.	10:46:41
15	Q. If you will please turn to page 9 of the	10:46:48
16	document. Near the bottom of that page, you will	10:46:51
17	see interrogatory number 6. Do you see that?	10:46:54
18	A. Yes.	10:46:56
19	Q. And right underneath it, it states "Identify	10:46:57
20	each and every State interest served by the delay	10:47:00
21	requirement and describe in detail how those State	10:47:03
22	interests are served by the delay requirement? Do	10:47:07
23	you see that?	10:47:10
24	A. Yes.	10:47:12
25	Q. And under "response" it states "Tennessee's	10:47:13

1	Notice and waiting period requirements," like the	10:47:14
2	similar requirements in Pennsylvania law which were	10:47:16
3	upheld in Casey, serve the State's important and	10:47:19
4	legitimate interests in preserving and protecting	10:47:20
5	the health of the pregnant woman and in protecting	10:47:24
6	the potentiality of human life." Do you see that?	10:47:27
7	A. Yes.	10:47:31
8	Q. Has the Department done any research on the	10:47:32
9	effect on the health of a pregnant woman caused by	10:47:34
10	the passage of the informed consent and waiting	10:47:38
11	period provision?	10:47:39
12	A. Not that I'm aware.	10:47:42
13	Q. Is the Department aware of any such research?	10:47:42
14	A. Not that I recall.	10:47:52
15	Q. Has the Department done any analysis on the	10:47:54
16	effect on the health of pregnant women caused by the	10:47:57
17	passage of the informed consent and waiting period	10:48:01
18	requirement provision?	10:48:03
19	A. Not that I recall.	10:48:05
20	Q. Is the Department aware of any such analysis?	10:48:06
21	A. Not that I recall.	10:48:12
22	Q. So it's true that the Department is not aware	10:48:13
23	of any analysis on the effects on the health of	10:48:16
24	pregnant women passed by the passage of the informed	10:48:19
25	consent and waiting period provision; is that	10:48:23

1	correct?	10:48:25
2	A. I'm not aware.	10:48:26
3	Q. Is the Department aware?	10:48:27
4	A. I can't recall.	10:48:31
5	Q. Has the Department done any research on	10:48:36
6	whether the required waiting period would have	10:48:38
7	better satisfied the state interests in women's	10:48:41
8	health if women with fetal anomalies were excluded?	10:48:45
9	A. Not that I'm aware.	10:48:51
10	Q. Has the Department done any research on the	10:49:08
11	effects of the informed consent and waiting period	10:49:10
12	provision on the protection of the potentiality of	10:49:12
13	human life?	10:49:16
14	A. Not that I'm aware.	10:49:18
15	Q. Is the Department aware of any research done	10:49:18
16	on the effects of the informed consent and waiting	10:49:20
17	period provision on the protection of the	10:49:22
18	potentiality of human life?	10:49:24
19	A. Not that I'm aware of.	10:49:27
20	Q. Has the Department done any analysis on the	10:49:29
21	effects of the informed consent and waiting period	10:49:31
22	provision on the protection of the potentiality of	10:49:33
23	human life?	10:49:36
24	A. Not that I'm aware.	10:49:38
25	Q. Is the Department aware of any analysis done	10:49:39

1	on the effects of informed consent and waiting	10:49:42
2	period provision on the protection of the	10:49:44
3	potentiality of human life?	10:49:47
4	A. Not that I'm aware.	10:49:50
5	Q. Has the Department conducted any research	10:49:50
6	demonstrating that women seeking abortion believe	10:49:52
7	that they are better informed by the waiting period	10:49:55
8	requirement than they would have been without the	10:49:57
9	waiting period requirement?	10:49:59
10	A. Not that I'm aware.	10:50:00
11	Q. Has the Department conducted any research	10:50:01
12	demonstrating that women seeking abortion decided	10:50:04
13	not to get an abortion due to the waiting period	10:50:06
14	requirement?	10:50:08
15	A. Not that I'm aware.	10:50:09
16	Q. Is the Department aware of any research	10:50:10
17	demonstrating that women seeking abortion decided	10:50:12
18	not to get an abortion due to the waiting period	10:50:15
19	requirement?	10:50:17
20	A. Not that I'm aware.	10:50:18
21	Q. Is the Department aware of any research	10:50:19
22	demonstrating that women seeking abortion believe	10:50:21
23	that they are better informed with the waiting	10:50:23
24	period requirement than they would have been without	10:50:26
25	the delay?	10:50:28

1	A.	Not that I'm aware.	10:50:29
2	Q.	So if you will turn to page 11 of the same	10:50:30
3		deposition exhibit. The last paragraph on page 11	10:50:36
4		states "Furthermore, Tennessee has a legitimate	10:50:43
5		interest in regulating the conduct of licensed	10:50:46
6		professionals, including physicians." Do you see	10:50:48
7		that?	10:50:50
8	A.	Yes.	10:50:51
9	Q.	Has the Department analyzed what the state	10:50:52
10		interest is?	10:50:57
11	A.	Ask that question again.	10:50:59
12	Q.	What is the State interest?	10:51:01
13	A.	I'm not sure I understand your question.	10:51:10
14	Q.	Does the Department have any interest in	10:51:16
15		regulating the conduct of licensed professionals,	10:51:19
16		including physicians?	10:51:20
17	A.	Yes.	10:51:30
18	Q.	And after the passage of this waiting period	10:51:33
19		requirement, has the Department analyzed how that	10:51:35
20		interest has been affected?	10:51:39
21	A.	Not that I'm aware.	10:51:41
22	Q.	Has the Department done any research?	10:51:43
23	A.	Not that I'm aware.	10:51:46
24	Q.	Is the Department aware of any analysis on	10:51:46
25		how this interest has been affected by the passage	10:51:50

1	of the waiting period requirement?	10:51:54
2	A. Not that I'm aware.	10:51:56
3	Q. Does the Department have a plan to use the	10:51:58
4	waiting period requirement to further the State	10:52:00
5	interest?	10:52:05
6	A. Not that I'm aware.	10:52:06
7	Q. So earlier we touched upon this, but can you	10:52:13
8	tell me a little bit about the Department of	10:52:15
9	Health's program areas? Let me give --	10:52:17
10	A. Can you be more specific?	10:52:25
11	Q. Sure. I'm going to give you a document, tab	10:52:27
12	eight, which we will mark as Deposition Exhibit 8.	10:52:29
13	(WHEREUPON, the above-mentioned	
14	document was marked as Deposition Exhibit Number	
15	8.)	
16	BY MR. TUSIRAY:	
17	Q. Do you see at the top of this document where	10:53:04
18	it says "Department of Health Program Areas"?	10:53:06
19	A. Yes.	10:53:09
20	Q. And do you see at the very bottom, the e-mail	10:53:09
21	address that states	10:53:12
22	www.tn.gov/health/health-program-areas.html?	10:53:13
23	A. Yes.	10:53:21
24	Q. Do you know what this document is?	10:53:22
25	A. No. I'm guessing it's --	10:53:27

1	Q.	If I represented to you that it's a printout	10:53:36
2		from the Tennessee Department of Health's website,	10:53:39
3		would you agree with that representation?	10:53:42
4	A.	Yes.	10:53:50
5	Q.	So listed underneath the heading "Department	10:53:54
6		of Health Program Areas" are various program areas	10:53:57
7		that the Tennessee Department of Health has; is that	10:54:01
8		correct?	10:54:04
9	A.	Yes.	10:54:05
10	Q.	If you look at the first line, "Office of	10:54:09
11		Minority Health and Disparities Elimination." Do	10:54:12
12		you see that?	10:54:16
13	A.	Yes.	10:54:16
14	Q.	Can you describe that program?	10:54:17
15	A.	This office is an office within the	10:54:38
16		Department of Health. Let me restate. I am not	10:54:43
17		fully qualified to answer the direct focus of that	10:54:58
18		office.	10:55:05
19	Q.	Did this program -- did the program of	10:55:05
20		Minority Health and Disparities Elimination do any	10:55:07
21		research into how House Bill 0977 might impact	10:55:10
22		minority populations?	10:55:15
23	A.	Not that I'm aware of.	10:55:17
24	Q.	Did this same program do any research into	10:55:18
25		how Senate Bill 1222 might impact minority	10:55:22

1	populations?	10:55:27
2	A. Not that I'm aware.	10:55:27
3	Q. Did the Department do any research -- did	10:55:28
4	this program do any research into what effect House	10:55:31
5	Bill 0977 might have on health disparities in	10:55:36
6	Tennessee?	10:55:41
7	A. Ask that question one more time.	10:55:43
8	Q. Sure. So the program Minority Health	10:55:45
9	Disparities Elimination -- did the Department do any	10:55:49
10	research into what effect House Bill 0977 might have	10:55:52
11	in eliminating health disparities?	10:55:55
12	A. Not that I'm aware.	10:55:59
13	Q. Did the Department do any research into what	10:56:00
14	effect Senate Bill 1222 would have on eliminating	10:56:03
15	health disparities?	10:56:04
16	A. Not that I'm aware.	10:56:09
17	Q. Did this program do any analysis into what	10:56:11
18	effect House Bill 0977 might have on the health of	10:56:16
19	Tennesseans living in rural communities?	10:56:21
20	A. Not that I'm aware of.	10:56:25
21	Q. Did the Department -- did any division within	10:56:26
22	the Department do any analysis on what effect House	10:56:30
23	Bill 0977 might have on the health of Tennesseans	10:56:33
24	living in rural communities?	10:56:36
25	A. Not that I'm aware.	10:56:41

1	Q. Did this program -- did this program, the	10:56:44
2	Minority Health and Disparities Elimination, do any	10:56:48
3	research into what Senate Bill 1222 would have on	10:56:54
4	the health of Tennesseans living in rural	10:56:57
5	communities?	10:56:59
6	A. Not that I'm aware.	10:57:00
7	Q. Did any division within the Department do	10:57:00
8	that same research?	10:57:03
9	A. Not that I'm aware of.	10:57:05
10	Q. Has this program identified any additional	10:57:06
11	benefits to the health of pregnant women after the	10:57:08
12	passage of this provision?	10:57:11
13	A. Not that I'm aware.	10:57:13
14	Q. Has it identified any additional benefits to	10:57:14
15	the health of pregnant women, specifically, minority	10:57:18
16	women?	10:57:23
17	A. Not that I'm aware.	10:57:24
18	Q. Okay. Going back down the list on page 2,	10:57:27
19	third line down, it states "Family Health and	10:57:30
20	Wellness"; is that correct?	10:57:35
21	A. Correct.	10:57:37
22	Q. And is Family Health and Wellness another	10:57:38
23	program area within the Department?	10:57:42
24	A. Yes.	10:57:44
25	Q. What does this program area do?	10:57:48

1	A.	I'm not qualified to give a full scope of	10:57:55
2		Family Health and Wellness.	10:57:58
3	Q.	Sure. Just as much as you can.	10:58:00
4	A.	I know that they -- this division handles	10:58:03
5		topics that impact maternal and child health.	10:58:10
6	Q.	Okay. And did --	10:58:15
7	A.	Including WIC and family planning.	10:58:21
8	Q.	I'm sorry. What was that?	10:58:24
9	A.	Including WIC and family planning.	10:58:29
10	Q.	Okay. And did this program do any research	10:58:29
11		into what effect House Bill 0977 might have on	10:58:31
12		family health and wellness?	10:58:34
13	A.	Not that I'm aware of.	10:58:36
14	Q.	Did this program do any research on what	10:58:37
15		effect Senate Bill 1222 would have?	10:58:40
16	A.	Not that I'm aware.	10:58:43
17	Q.	Has any division within the Department done	10:58:47
18		any research into what effect Senate Bill 1222 might	10:58:53
19		have on family health and wellness?	10:58:58
20	A.	Not that I'm aware.	10:59:00
21	Q.	Also, House Bill 0977, has any Department --	10:59:04
22		excuse me -- has any division within the Department	10:59:07
23		done any research into what effect House Bill 0977	10:59:10
24		might have on family health and wellness?	10:59:17
25	A.	Not that I'm aware of.	10:59:20

1	Q.	Is the Department aware of any analysis on	10:59:23
2		the effects of the waiting period requirement? Any	10:59:27
3		effects that the waiting period requirement might	10:59:33
4		have on family health and wellness?	10:59:35
5	A.	Not that I'm aware of.	10:59:39
6	Q.	Has the program for family health and	10:59:41
7		wellness -- has the Family Health and Wellness	10:59:44
8		program identified any additional benefits to the	10:59:44
9		health of pregnant women after the passage of this	10:59:46
10		provision?	10:59:48
11	A.	Not that I'm aware.	10:59:49
12	Q.	If you go to the next page, page 3, right in	10:59:50
13		the middle, do you see "Maternal and Child Health"?	10:59:53
14	A.	Yes.	10:59:56
15	Q.	Is this a program area of the Department?	10:59:57
16	A.	Yes.	10:59:59
17	Q.	And can you describe what the program does?	11:00:02
18	A.	They focus on topic areas related to maternal	11:00:09
19		and child health and the block grant that comes from	11:00:12
20		the federal government.	11:00:20
21	Q.	And does this program area do any research	11:00:21
22		into what effect House Bill 0977 might have on	11:00:21
23		maternal health?	11:00:25
24	A.	Not that I'm aware.	11:00:27
25	Q.	Did this program do any research into what	11:00:27

1	effect SB1222 might have on maternal health?	11:00:30
2	A. Not that I'm aware.	11:00:35
3	Q. Does this program do any analysis regarding	11:00:36
4	the effect of the delay requirement on women who	11:00:39
5	experience risks or complications from abortions?	11:00:41
6	A. Not that I'm aware.	11:00:44
7	Q. Excuse me. Did this program area do any	11:00:49
8	analysis about women who have had medical	11:00:51
9	complications that may threaten their health but do	11:00:53
10	not pose immediate threat of death or serious bodily	11:00:57
11	impairment?	11:01:01
12	A. Not that I'm aware.	11:01:02
13	Q. Did this program area do any research into	11:01:02
14	the potential effect of the delay requirement on	11:01:05
15	women who are seeking to terminate a pregnancy	11:01:06
16	because of a fetal anomaly?	11:01:09
17	A. Not that I'm aware.	11:01:13
18	Q. Is this program aware of any research done on	11:01:13
19	the effects of the delay requirement on maternal	11:01:17
20	health?	11:01:23
21	A. Not that I'm aware.	11:01:23
22	Q. Does this program have -- is this program	11:01:24
23	aware of any analysis on the effects of the required	11:01:28
24	waiting provision on the effects of maternal health?	11:01:37
25	A. Not that I'm aware.	11:01:41

1	Q.	Does any division within the Department --	11:01:44
2		did any division within the Department do any	11:01:47
3		research on the effects of the waiting period	11:01:49
4		provision on maternal health?	11:01:51
5	A.	Not that I'm aware.	11:01:55
6	Q.	And if you will turn to the last page, page	11:01:59
7		5, at very top do you see, "Women, Infants and	11:02:02
8		Children?	11:02:06
9	A.	Yes.	11:02:06
10	Q.	And is that a program area of the Department?	11:02:07
11	A.	Yes.	11:02:09
12	Q.	Can you describe what this program area does?	11:02:11
13	A.	This particular office facilitates the Women	11:02:16
14		and Infants and Children program providing access to	11:02:25
15		the commodities program via the federal government.	11:02:37
16	Q.	And did this program do any research into	11:02:43
17		what effect House Bill 0977 might have on women's	11:02:45
18		health?	11:02:49
19	A.	Not that I'm aware.	11:02:49
20	Q.	Did this program area do any research into	11:02:50
21		what effect Senate Bill 1222 might have on women's	11:02:52
22		health?	11:02:55
23	A.	Not that I'm aware.	11:02:56
24	Q.	Did this program area do any research into	11:02:57
25		the potential effect of the delay requirement on	11:03:00

1	women who are seeking to terminate a pregnancy	11:03:02
2	because of a fetal anomaly?	11:03:05
3	A. Not that I'm aware.	11:03:07
4	Q. Did this program area do any research into	11:03:07
5	the potential effect of the delay requirement on	11:03:08
6	women health in general?	11:03:10
7	A. Not that I'm aware.	11:03:12
8	Q. Has this program identified any additional	11:03:13
9	benefits to the health of pregnant women after the	11:03:15
10	passage of this provision?	11:03:18
11	A. Not that I'm aware.	11:03:20
12	Q. Does the Department have a program on	11:03:24
13	intimate partner violence or domestic violence?	11:03:26
14	A. I'm sorry?	11:03:30
15	Q. Does the Department have a program that	11:03:30
16	addresses intimate partner violence?	11:03:33
17	A. Not that I'm aware.	11:03:39
18	Q. Does it have a program that addresses	11:03:40
19	domestic violence?	11:03:43
20	A. Not that I'm aware.	11:03:45
21	May I go back and just clarify?	11:03:49
22	Q. Sure.	11:03:53
23	A. Women, Infants and Children, it's WIC	11:03:53
24	vouchers for that program. I just wanted to include	11:03:57
25	the term vouchers.	11:04:00

1	Q.	Other than the impact on the Department, were	11:33:12
2		there any other considerations made by the	11:33:14
3		Department in deciding to defer?	11:33:17
4	A.	Not that I'm aware.	11:33:19
5		MR. TUSIRAY: All right. I'm going to	11:33:29
6		hand you another document, which we will mark as	11:33:31
7		Deposition Exhibit 13.	11:33:34
8		(WHEREUPON, the above-mentioned	
9		document was marked Deposition Exhibit Number 13.)	
10	BY MR. TUSIRAY:		
11	Q.	So Ms. Nagoshiner, do you see at the top of	11:34:21
12		this document where it states "SB1222-HB0977/Bill	11:34:23
13		Analysis"?	11:34:32
14	A.	Yes.	11:34:32
15	Q.	And is this an example of what would be	11:34:33
16		submitted to show the position of the Department on	11:34:35
17		a certain bill?	11:34:42
18	A.	Ask that question one more time.	11:34:45
19	Q.	Sure. Is this the document that the	11:34:47
20		Department could submit to show its position on a	11:34:50
21		certain bill?	11:34:53
22	A.	Yes.	11:34:57
23	Q.	And just going to the second page, at the	11:34:58
24		very bottom, it states "Prepared by M. Kennedy," do	11:35:01
25		you see that?	11:35:06

1	A. Yes.	11:35:06
2	Q. Does this mean that -- do you know if M.	11:35:07
3	Kennedy is referring to Mary Kennedy?	11:35:10
4	A. Yes, it is.	11:35:12
5	Q. So does this mean that this document was	11:35:13
6	prepared by Mary Kennedy?	11:35:15
7	A. What that means to me is that Mary Kennedy	11:35:21
8	began this bill analysis. She may or may not have	11:35:26
9	been the only one who contributed to this analysis.	11:35:32
10	Q. So this analysis would likely have the	11:35:36
11	contribution of the various divisions within the	11:35:39
12	Department; is that correct?	11:35:41
13	A. Correct.	11:35:42
14	Q. Going back to the top of the first page, do	11:35:43
15	you see where it says "Recommended position WWS."	11:35:46
16	A. Hm-hmm.	11:35:50
17	Q. What does WWS stand for?	11:35:50
18	A. Working with sponsor.	11:35:53
19	Q. And what does that mean?	11:35:58
20	A. It means that there is -- that the Department	11:36:04
21	needs to -- has an interest in speaking with the	11:36:11
22	sponsors about that particular piece of legislation.	11:36:17
23	Q. Do you know what that interest was in the	11:36:24
24	context of this specific bill analysis?	11:36:26
25	A. We would have put a "working with sponsor" on	11:36:46

1	that bill so that we could -- we would be	11:36:49
2	acknowledging that we need the rulemaking authority	11:36:53
3	in the bill and that that would need to be done in	11:36:56
4	the form of an amendment because it wasn't included	11:37:01
5	in the original introduction of the bill.	11:37:04
6	Q. And you are referring to the second page	11:37:10
7	where it states "Recommended amendatory language"?	11:37:11
8	A. Correct.	11:37:14
9	Q. And underneath that it says, "We need some	11:37:15
10	rulemaking authority"; is that correct?	11:37:16
11	A. Correct.	11:37:18
12	Q. Why did the Department feel that it needed to	11:37:23
13	recommend that it needed rulemaking authority?	11:37:26
14	A. It was believed that health care facilities	11:38:02
15	may need to make a change in their rules. And so	11:38:09
16	they wanted the option. They wanted that authority	11:38:16
17	as an option if they needed it.	11:38:20
18	Q. And these health care providers, would they	11:38:23
19	be considered stakeholders of the Department?	11:38:26
20	A. I said health care facilities.	11:38:32
21	Q. Oh, I'm sorry.	11:38:35
22	A. And so I refer to the Board of the Health	11:38:36
23	Care Facilities.	11:38:39
24	Q. Okay. Thank you.	11:38:40
25	And, finally, just underneath the	11:38:41

1	recommended amendatory language, it states "Group	11:38:44
2	For/Against." The second sentence states "TMA may	11:38:47
3	object to those provisions which criminalize	11:38:50
4	certain acts or omissions, including misdiagnosis	11:38:53
5	of a potentially dangerous pregnancy." Do you see	11:38:55
6	that?	11:38:59
7	A. Yes.	11:38:59
8	Q. What is TMA?	11:39:00
9	A. Tennessee Medical Association.	11:39:03
10	Q. And were they opposed to this bill?	11:39:05
11	A. I don't recall.	11:39:07
12	Q. Has the Department done any research into the	11:39:07
13	amount of misdiagnoses of potentially dangerous	11:39:10
14	pregnancies annually?	11:39:12
15	A. Not that I recall.	11:39:16
16	Q. Has the Department analyzed what effect	11:39:17
17	criminalizing such diagnoses would have on doctors	11:39:17
18	in this field?	11:39:20
19	A. Not that I'm aware.	11:39:22
20	Q. Would it have a chilling effect?	11:39:22
21	A. I'm not qualified to answer that question.	11:39:25
22	Q. And what changes to rules would the health	11:39:30
23	care facilities need to make in connection with this	11:39:32
24	bill?	11:39:35
25	A. I don't recall.	11:39:44

REPORTER'S CERTIFICATE

STATE OF TENNESSEE

COUNTY OF MONTGOMERY

I, D. ROCHELLE KOENES, Licensed Court Reporter, with offices in Nashville, Tennessee, hereby certify that I reported the foregoing deposition of MS. VALERIE NAGOSHINER by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me.

I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

I further certify that in order for this document to be considered a true and correct copy, it must bear my original signature, and that any unauthorized reproduction in whole or in part and/or transfer of this document is not authorized, will not be considered authentic, and will be in violation of Tennessee Code Annotated 39-14-104, Theft of Services.

D. ROCHELLE KOENES, RPR, LCR
Elite Reporting Services
Associate Reporter - and
Notary Public State of Tennessee

My Notary Public Commission Expires: 03/11/2019
LCR # 689 - Expires: 6/30/2019



<div>Exhibits</div> <div>DE-1 - Adams & Boyle, et al. vs. Slatery, et al. 3:13 10:18,20,21</div> <div>DE-2 - Adams & Boyle, et al. vs. Slatery, et al. 3:15 25:8,10,11 37:7</div> <div>DE-3 - Adams & Boyle, et al. vs. Slatery, et al. 3:16 54:10,12,13 91:13,14</div> <div>DE-4 - Adams & Boyle, et al. vs. Slatery, et al. 3:18 58:9,11,12</div> <div>DE-5 - Adams & Boyle, et al. vs. Slatery, et al. 3:20 74:7,9,10</div> <div>DE-6 - Adams & Boyle, et al. vs. Slatery, et al. 3:22 79:17,19,20</div> <div>DE-7 - Adams & Boyle, et al. vs. Slatery, et al. 4:2 102:4,6,7</div> <div>DE-8 - Adams & Boyle, et al. vs. Slatery, et al. 4:4 107:12,14,15</div> <div>DE-9 - Adams & Boyle, et al. vs. Slatery, et al. 4:5 116:14,15,17, 18</div> <div>DE-10 - Adams & Boyle, et al. vs. Slatery, et al. 4:7 124:7,9,10</div> <div>DE-11 - Adams & Boyle, et al. vs. Slatery, et al.</div>	<div>4:10 128:14,16,17</div> <div>DE-12 - Adams & Boyle, et al. vs. Slatery, et al. 4:12 131:25 132:2,3</div> <div>DE-13 - Adams & Boyle, et al. vs. Slatery, et al. 4:14 135:7,9</div> <div>DE-14 - Adams & Boyle, et al. vs. Slatery, et al. 4:16 139:3,5</div> <div>DE-15 - Adams & Boyle, et al. vs. Slatery, et al. 4:19 143:7,9</div> <div>DE-16 - Adams & Boyle, et al. vs. Slatery, et al. 4:21 145:1,6</div> <div>(</div> <div>(a) 91:20</div> <div>(b) 91:21</div> <div>(c) 91:21</div> <div>(d) 91:21</div> <div>(d)(1) 95:3,5,14</div> <div>(E) 91:21</div> <div>0</div> <div>0977 19:24 44:2 53:21 54:3 108:21 109:5,10,18,23 111:11,21,23 112:22 114:17 127:17,21 146:18</div> <div>1</div> <div>1 10:18,21 132:6 139:13</div> <div>1/16/14 62:23</div>	<div>10 25:23 34:2 124:7,10</div> <div>11 16:22 106:2,3 124:13 128:14,17</div> <div>12 17:12 131:25 132:3</div> <div>122 19:24</div> <div>1222 44:2 54:6 72:20,23 73:1 108:25 109:14 110:3 111:15,18 114:21 120:5 126:18 127:14 132:23 146:19</div> <div>13 18:2 135:7,9</div> <div>14 139:3,5</div> <div>15 143:7,9</div> <div>16 144:24 145:1,6</div> <div>18 128:25</div> <div>2</div> <div>2 11:11 25:8,11 37:7 110:18</div> <div>20 74:15</div> <div>2011 19:22</div> <div>2014 58:15 124:13 125:5</div> <div>2015 19:22 74:16 76:24 116:22 128:21,25 132:6 139:9,13 143:13</div> <div>2016 19:10</div> <div>2017 25:14</div> <div>2018 80:2</div> <div>202(d)(1) 54:25</div> <div>202(D)(2) 94:24</div> <div>202(f)(1) 91:19</div> <div>20th 77:24</div> <div>23 37:6</div> <div>24 64:22 95:5,16, 20,23 141:20</div> <div>24-hour 96:3</div>	<div>25th 128:20</div> <div>27 76:24</div> <div>29 141:16</div> <div>3</div> <div>3 12:10 54:10,13 91:13,14 112:12</div> <div>30(b)(6) 10:25 18:3 145:9 146:14 147:8</div> <div>4</div> <div>4 12:23 58:9,12</div> <div>48 55:4 64:22 95:9,16,18,24</div> <div>48-hour 55:8,11 89:16 96:2 132:11</div> <div>5</div> <div>5 13:14 54:9 74:7, 10 114:7 116:8</div> <div>53 24:10,16</div> <div>6</div> <div>6 14:17 79:17,20 102:17</div> <div>63 24:9,14</div> <div>68 24:9,11,12</div> <div>7</div> <div>7 15:13 58:15 102:4,7 116:22 139:9 143:13</div> <div>8</div> <div>8 16:5 80:2 107:12, 15</div> <div>83 22:23</div> <div>89 22:11,16,25 23:8,13 24:25</div>
--	---	---	---

<hr/> <p style="text-align: center;">9</p> <hr/> <p>9 102:15 116:15,18 144:3</p> <p>95 23:2</p> <p>9777 132:23</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>ability 39:5,15 40:19 93:23 94:3, 13,17 96:9</p> <p>abortion 29:12,16 31:11 33:15,18 34:23 36:8,25 43:18,22 52:24 53:3 55:3 67:20 68:5,20 75:2 78:17 83:18,23 84:13,18,23 85:2 86:17,22 89:7,11, 15 90:4,10,15,19 91:25 92:21 93:9, 12,18,24 94:4 105:6,12,13,17, 18,22 120:20,21 129:3 130:3,16 141:9,13,25</p> <p>abortions 36:13, 16,19,21 37:3 74:24 83:9,13 84:2,9 87:1,5 92:15 113:5 125:4 144:17</p> <p>above- mentioned 10:19 25:9 54:11 58:10 74:8 79:18 102:5 107:13 116:16 124:8 128:15 132:1 135:8 139:4 143:8 144:25</p> <p>absence 97:16</p> <p>Absolutely 14:5</p> <p>abstinence 52:21</p> <p>Abstract 118:3</p> <p>Abstracts 118:14,18</p>	<p>acceptable 9:22</p> <p>access 35:17 39:5,15,19,24 40:10,16,17,23 41:1,10 83:8,12, 17,22 84:2,9,12, 17,22 85:2 96:11, 16,19 98:5,9 114:14 131:5,10 144:17</p> <p>accuracy 9:4</p> <p>accurate 7:8,16 9:25 53:14</p> <p>acknowledge 134:19</p> <p>acknowledging 134:18 137:2</p> <p>action 120:17</p> <p>activities 23:13, 16,17 69:20 71:6</p> <p>activity 22:6</p> <p>acts 138:4</p> <p>Adams 6:10</p> <p>addition 69:24</p> <p>additional 8:24 11:22 15:6,24 16:15 17:6,9,21, 25 36:10 110:10, 14 112:8 115:8</p> <p>additionally 16:2, 18 17:23</p> <p>address 37:11 72:2 107:21</p> <p>addressed 41:14, 19</p> <p>addresses 115:16,18</p> <p>addressing 6:13 72:5</p> <p>Administration 146:4</p> <p>administrative 22:21 23:7</p> <p>administratively 21:21 117:24 121:19</p>	<p>admitted 86:17, 21</p> <p>advice 81:7</p> <p>advise 101:9,12</p> <p>advising 142:9</p> <p>Advocacy 18:24 28:18</p> <p>advocate 60:8</p> <p>advocates 59:4, 12,25 60:3,5</p> <p>affairs 18:23 19:19,21 41:18 42:9,20 44:21 50:15,18,23 51:18 52:1 56:6,9 60:19, 24 70:16,24 121:5 126:19,24 127:11, 20 133:21</p> <p>affect 39:23 40:16,22 41:10 47:4,9 96:16 98:5 121:24</p> <p>affected 40:11 106:20,25 120:14 123:25</p> <p>affects 39:1 40:5 41:5</p> <p>affirmatively 132:19</p> <p>afford 99:10</p> <p>afternoon 45:6</p> <p>AG 61:4</p> <p>age 36:10 37:11</p> <p>Agency 31:8</p> <p>agree 96:14 108:3</p> <p>ahead 9:8 18:18</p> <p>aides 16:24 70:9</p> <p>Alabama 141:21</p> <p>alert 120:23</p> <p>Alex 12:2,6</p> <p>allocate 38:13</p> <p>allocation 37:10 38:6</p>	<p>Ambulatory 75:22</p> <p>amendatory 137:7 138:1</p> <p>amendment 78:18 132:10,13, 16,22 133:1,7,10, 13,19,22 137:4 143:17</p> <p>amendments 13:17 14:24</p> <p>amount 138:13</p> <p>analysis 14:19 15:16 33:15 65:20,23 69:2,6, 11 81:2,17 82:5,8 83:16,21 84:16,20 85:10,15 86:3,8 87:16,22 88:13,19 89:5,14 90:2,13, 22 91:2 92:12,18 93:22 94:2,7 95:19 97:17 103:15,20,23 104:20,25 106:24 109:17,22 112:1 113:3,8,23 121:4 129:8 130:23,25 131:1,8,15,16,21 133:18 134:10,13 135:13 136:8,9, 10,24</p> <p>analyst 129:21</p> <p>Analytics 28:11</p> <p>analyze 44:8</p> <p>analyzed 37:2 73:16 86:20 97:22,25 106:9,19 138:16</p> <p>and/or 12:12,25 13:16 14:18,24 15:16 16:9 45:3 133:22</p> <p>Ann 77:8 124:16</p> <p>Annotated 24:12, 14,16 54:19</p> <p>Annual 25:14</p> <p>annually 36:13, 16,19 138:14</p>
---	---	---	---

anomalies 104:8
anomaly 113:16
 115:2
answers 7:8 8:10
 100:8 147:9
anymore 130:18
apologize 127:8
appears 27:14
 28:2,9 77:7
applicable 24:19,
 21 25:3
application 30:24
 31:1,2,3,7 32:25
 33:3 44:7
applications
 31:8,10 33:8
appointed 19:11
 22:19 23:3
appoints 27:1
approach 49:14
April 132:6 139:9,
 13 143:13
area 24:3 30:12
 31:5 32:6 48:1
 97:9,11 98:18
 110:23,25 112:15,
 21 113:7,13
 114:10,12,20,24
 115:4 120:21
areas 21:23,24
 22:8,18 23:25
 24:6,8 97:5 107:9,
 18 108:6 112:18
 145:18
arise 9:9
arising 37:11
articles 63:4 65:5
asks 134:14
aspects 59:7
assembly 20:12
 24:1,2,6 30:5,6,
 11,13 31:16,19
 41:24 45:25 48:7
 49:7 50:2,6 51:20,
 22 52:15,18 53:2
 125:22 146:18,23

assessment
 32:10,15 33:5,7
 34:5 61:22 62:10
 139:25
assign 71:5
assistant 19:18,
 20 50:22 61:21
 139:24 140:1
Associates 75:9,
 10 76:6 78:1,2
association
 75:20,21 77:15
 138:9
ASTCS 74:25
 75:20,21 77:16
asterisk 119:25
 120:3
attached 21:21
 117:1,10,24
 121:19 125:1,11
 129:6 130:15,17
 132:21,22 133:8,9
 140:23 141:9
attachment
 118:13 130:11
attainment 37:14
attend 80:6
attendees 77:12
attending 93:11,
 19 94:8
attorneys 74:11
augment 72:4
authority 23:20,
 22 56:2,12,24
 57:14,21,25 58:2
 127:23 128:7
 137:2,10,13,16
 144:5,11,15
avert 91:25
aware 12:13 13:2,
 19 15:1,19 16:10,
 25 17:16 31:10
 50:23 61:9 62:20
 65:23 67:14
 68:21,25 71:9,11
 76:15 82:4,8,13
 84:5,6,10,14,19,

24 85:4,8,13,18,
 22 86:1,6,10,14,
 19,23 87:2,6,14,
 20 88:1,6,11,17,
 23 89:3,8,12,17
 90:6,11,16,20,25
 91:5,9 92:10,16,
 22 93:1,5,20,25
 94:5,10,14,18,22
 95:21,25 96:5
 100:13,17,21
 101:4,8,11,14,19,
 23 102:2 103:12,
 13,20,22 104:2,3,
 9,14,15,19,24,25
 105:4,10,15,16,
 20,21 106:1,21,
 23,24 107:2,6
 108:23 109:2,12,
 16,20,25 110:6,9,
 13,17 111:13,16,
 20,25 112:1,5,11,
 24 113:2,6,12,17,
 18,21,23,25
 114:5,19,23
 115:3,7,11,17,20
 122:8,11,12,14,
 18,22,23 123:1,5,
 8,9,12,15,19,20,
 23 134:22,25
 135:4 138:19
awareness 70:22
 120:16

B

bachelor's 146:2
back 31:13 44:18
 47:19 53:9 67:21,
 25 69:14 93:6
 94:23 96:6 100:4,
 6 110:18 115:21
 119:2,7,12 126:14
 136:14 139:22
 142:25
based 56:3 76:8
basis 91:22
Bates 74:18
 130:15
Beavers 56:21
 57:17,18,19 80:5
 143:16
began 136:8
begin 72:1
beginning 59:1
begins 55:1
behalf 6:19 97:4
 145:19
Behringer 79:25
 80:1,2,10,11
belabor 50:21
believed 137:14
Belmont 146:4
Ben 59:6 60:13,
 14,15,17,18 80:2
 116:22 117:10
 124:19 125:20
benefit 90:23
 91:3,7
benefits 110:11,
 14 112:8 115:9
Benton 58:17
 61:23,24,25 62:1,
 2,12 74:15 90:22
 124:15
bill 13:9,10 19:24
 30:7 31:21 32:2
 42:10 43:6 44:2,8,
 15 45:1,21,23
 46:2,15,18 47:8,
 16 53:21 54:3,6,
 22 56:4,13,14,15,
 17,25 57:6 69:25
 70:4,19,21,22
 72:11,20,23 73:1,
 15,18,21 74:24
 75:19,25 81:3,7
 108:21,25 109:5,
 10,14,18,23 110:3
 111:11,15,18,21,
 23 112:22 114:17,
 21 118:3,14,17
 120:3,5,14,20
 121:25 122:10,13,
 24,25 124:1
 126:7,18 127:14,
 17,21,24 129:8
 130:23,24 131:1,
 8,16,21 132:10,
 17,23 133:8,10,22
 134:4,8,12
 135:17,21 136:8,

<p>24 137:1,3,5 138:10,24 140:21 146:18,19</p> <p>bills 43:11,12,14, 17,20,21 44:1,3 72:10 117:14 127:5 129:4,24 130:3,16,18 131:13 146:20</p> <p>Bishop 34:20</p> <p>bit 41:17,19 81:12 107:8</p> <p>Bivens 75:8,10 76:5 77:13 78:1,2</p> <p>block 61:1 62:22 64:20 112:19</p> <p>BME 120:8 121:11,12</p> <p>board 71:19 118:15 120:8,12, 13,17,20,23,24,25 121:12,13,18,24, 25 122:2,4,8,12, 15,17,18,23 123:3,4,5,9,15,20 137:22</p> <p>boards 71:14 117:15,18,19,20 118:4,18,20,22 121:4,9 123:25</p> <p>Bobby 21:9</p> <p>bodily 92:3 113:10</p> <p>BOE 120:8 122:15</p> <p>BON 120:8 123:3</p> <p>boss 26:15,24</p> <p>bottom 28:15 74:19 102:16 107:20 125:9 130:14,16 135:24</p> <p>box 27:8 134:18</p> <p>Boyle 6:10</p> <p>breadth 51:9</p> <p>break 9:11,12,15, 21 53:6,8,10,13 100:2,3,6,7 143:2</p>	<p>breaks 9:18</p> <p>briefly 28:16</p> <p>bring 50:8 51:7 72:13</p> <p>bringing 87:12, 18,24 88:5,15,21 89:2</p> <p>brings 95:13</p> <p>Bruce 79:24 80:5, 7,10,11</p> <p>Business 146:4</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>call 14:11 33:1 34:4 49:12 129:11</p> <p>called 6:3 14:3 33:6 44:7</p> <p>capacity 52:18</p> <p>caption 74:24</p> <p>car 96:11,19 98:9 99:7</p> <p>care 9:21 18:23 21:25 22:2 28:18 39:5,15,20,24 40:10,23 41:2,10 56:3 70:20 71:13, 19 96:17 98:6 99:24 117:21,22 121:1 123:14 137:14,18,20,23 138:23</p> <p>Carolyn 124:17</p> <p>carry 88:9</p> <p>Carter's 21:9</p> <p>case 6:9 32:18 56:3 61:4 95:14</p> <p>Casey 103:3</p> <p>catch 80:7</p> <p>caused 103:9,16</p> <p>CCED 64:13</p> <p>CCING 124:19 143:12</p> <p>centers 75:22</p>	<p>Certificate 30:24, 25 31:2</p> <p>cetera 37:14</p> <p>chain 79:24 128:23</p> <p>chance 8:19 9:19, 20</p> <p>change 86:16 87:8,11 88:8 122:4 137:15</p> <p>charge 34:11,15, 18</p> <p>chart 27:6,14 34:1,2 123:24 141:9,20</p> <p>chief 18:11 19:14 27:15,16,21,22 28:12,20 147:13, 17</p> <p>child 22:9 111:5 112:13,19 116:10</p> <p>children 114:8,14 115:23 116:8</p> <p>chilling 138:20</p> <p>choosing 49:1,25</p> <p>Christin 128:24 129:20</p> <p>chronic 37:17</p> <p>circumstances 147:13</p> <p>cities 22:19</p> <p>city 99:24</p> <p>Civil 10:25</p> <p>clarification 74:19 146:5</p> <p>clarify 66:4 78:22 115:21</p> <p>clear 7:13,22 8:13</p> <p>clerk's 21:8</p> <p>clients 76:8</p> <p>clinic 65:2 142:4</p> <p>clinics 75:2</p> <p>closely 22:12,15,</p>	<p>25 23:7 48:1</p> <p>cocounsel 12:7</p> <p>code 24:12,14,16 54:19 75:2</p> <p>codified 55:12</p> <p>codifies 55:7 91:11</p> <p>codifying 54:22</p> <p>colleague 60:18, 24</p> <p>colleagues 6:11</p> <p>collect 36:9,12, 15,18</p> <p>collected 36:6 37:8</p> <p>collects 36:24</p> <p>college 72:12</p> <p>column 118:20 119:20,21,22 120:6 122:1</p> <p>columns 119:2</p> <p>comfortable 6:13 143:16</p> <p>commissioner 18:16 19:1,12,18, 21 26:19,24,25 27:2,3,9,15,21,23, 24 28:1,7 29:3 34:8 45:16 50:3,7, 8,22 61:21 80:12 139:24 140:1</p> <p>commissioner's 27:18</p> <p>commissioners 27:17</p> <p>committees 20:12,14</p> <p>commodities 114:15</p> <p>communicable 22:10</p> <p>communicate 42:12,16 48:6 93:18 98:19</p>
--	--	--	--

communicated 56:13 63:18 64:17	105:5,11	conversations 100:23 101:2,6,16 125:21 134:20 144:2,9,14	20 23:2
communication 67:5 117:9	conference 74:11		county 23:4 36:10
communications 16:6,23 17:13	confirm 132:19	convey 144:15	couple 7:19 32:20 34:6 49:12 52:13 124:4 142:25 144:24
communities 109:19,24 110:5	connected 117:2	conveyed 147:9	court 11:22 95:2, 13
Community 21:7 28:11	connection 138:23	coordinate 41:21 42:4 70:5,9 71:6	cover 21:24 25:13 99:3
companion 120:4	consent 54:22 63:1 64:25 100:12 101:22 103:10,17, 25 104:11,16,21 105:1 121:21,23 122:6,20,24 123:10,17,21 125:6 132:11,18 141:13	coordinating 42:18 44:19	coverage 41:4
compared 95:22 141:2,4	considerations 135:2	copy 54:19,20	create 78:16 92:1 120:18 131:15
Competency 28:19,23	considered 38:1 98:17 137:19	correct 23:9 26:3, 7,11,20 27:4,12, 13,18,20 28:13,16 31:17,22 32:2 33:24,25 34:4 35:21 38:20,21, 22,23 39:2,3,13 44:22 45:13 46:3, 10,11,20,21 50:1, 12 51:9,12 57:6,7, 17 58:5 60:1,6,7, 10,11 67:1,7 76:24,25 77:9,10, 13,14 96:17 98:16 104:1 108:8 110:20,21 118:19, 25 120:22 124:17, 18,20 125:7,8 127:2 128:3,8 129:22 131:10,11 132:8 133:16,17 134:5,6 136:12,13 137:8,10,11 139:14,15 141:19 145:15 147:10	created 20:17,20 25:21 32:11 58:24 61:9 117:20
competent 90:3,9	constituent 41:24		creates 70:16
complete 7:7 9:1, 25 53:14 100:8 129:9 134:17	constituents 122:19 123:6,16		creating 75:1
completed 14:19 32:13 131:3	consult 53:21,22 54:2,5 55:15,19 129:24 130:2,5,8 140:7		creation 24:13
completes 134:12	consultations 94:21 134:23		crime 37:14
completing 130:23	consulted 134:20 140:10		criminalize 138:3
compliance 55:2	contact 30:16 49:7		criminalizing 138:17
complicates 91:23	context 133:5 136:24 144:13	corrections 9:8	criteria 44:11 45:17 46:22 48:12,15 50:24 51:2,8 76:13 120:12,15 133:12
complications 87:12,17,23 88:4 92:6,14,20 113:5, 9	contributed 136:9	correctly 145:19	<hr/> D <hr/>
computer 44:7	contribution 136:11	correspond 120:1	daily 50:9
concluded 38:25	control 23:16	cost 86:21 87:5	Dakota 141:21
condition 91:22, 24	controls 23:16 26:23	costs 87:1 99:3	Dale 74:15 75:7,8 77:12
conduct 69:11 106:5,15	convenience 75:3 76:3	counsel 18:6 27:11 133:23	dangerous 138:5,13
conducted 36:19 83:15,20 84:15,20 85:9,14 86:2,7 87:15,21 88:12,18 89:4,13,24 90:1, 12,21 91:1 92:11, 17 93:21 94:1,6		counseling 63:1 64:25 141:10	dash 78:16
		count 98:4	data 33:20,21 35:22,24 37:3,8, 15 61:16
		counties 22:19,	date 101:15 130:23
			Davis 58:17 60:21,23 77:8

116:22 117:11 124:16,17,19 125:20 128:21,25 139:10 143:12 days 45:4 77:1 DCO1871 143:13 de-identified 35:9 36:2 de-identify 33:19 deal 75:2 death 37:17,20 87:8,11,17,23 88:4 91:25 92:6, 14,20 113:10 December 19:22 124:13 decide 93:23 94:3 decided 34:4 105:12,17 deciding 135:3 142:1 decision 89:15 94:13,17 decisions 90:3,9 declaration 95:7 declares 95:4 decreased 86:25 87:17 88:3,14,25 92:13 defendants 11:24 16:8 Defendants' 102:13 defer 45:24 46:2, 16 132:13,25 133:2,6,15 135:3 deferment 133:12,19 134:10 deferred 133:7,9 146:17 deferring 134:1 defers 46:18 define 69:19 72:21 99:17	defined 47:23 degree 146:2 degrees 146:1 delay 13:1,17 14:3,8,24 15:15 16:8 92:1 102:20, 22 105:25 113:4, 14,19 114:25 115:5 141:4 delayed 14:15 delays 141:5,20 Democratic 20:24 demonstrate 83:16,21 84:16,21 85:15 demonstrating 89:5,14 90:2,13, 18,22 91:2 105:6, 12,17,22 department 6:17, 22 7:2 11:2 14:19, 20 15:17 16:23 17:13 18:10,12 19:14 20:18 21:7, 12,14,17,22 22:5 23:5,13,19,22 24:3,13,15,18,24 25:3,15,21,22,25 26:7 27:4,7,10,11 29:11 30:11,19,22 32:1,5 33:14,17 34:23 35:1,13,20, 22 36:9,12,23 37:2,9,21 38:2,25 40:25 41:18,22 42:11,19,25 43:4, 5 44:11,14,22,24 45:12,22,23 46:18 47:1,3,15 48:24 49:21,24 50:10, 18,22 51:16 53:20 54:2,5 55:15,22 56:10,18,24 57:11,16,23 58:3 62:3 63:19,25 64:3,9,13,17 65:12,20,24 66:2, 19,20,22 67:12,15 68:18,22 69:1,6, 10,16,20,23 70:2, 12 71:2,5,6,10,23	72:1,7,16,22,25 73:4,6,9,14,16,20 76:7,9,10,14 77:25 78:3,7,10 79:6,11 80:13,14, 20,22 81:2,6,14, 18,21,25 82:5,9, 14,16,20,24 83:3, 7,11,15,20,25 84:6,7,11,15,25 85:5,9,14,19,23 86:2,7,11,15,20, 24 87:3,7,10,15, 21 88:2,7,12,18, 24 89:4,9,13,18, 21,24 90:1,7,12, 17,21 91:1,6 92:5, 11,17,23 93:2,16, 21 94:1,6,11,15, 19 95:19,22 96:1 97:4,18,22 100:10,14,18,22 101:1,5,9,12,15, 20,24 103:8,13, 15,20,22 104:3,5, 10,15,20,25 105:5,11,16,21 106:9,14,19,22,24 107:3,8,18 108:2, 5,7,16 109:3,9,13, 21,22 110:7,23 111:17,21,22 112:1,15 114:1,2, 10 115:12,15 117:25 120:12 121:3,8,17,20 123:24 125:2 126:2,6,9,12,17, 20,23,24 127:12, 13,16,19,25 128:4,5 129:24 130:2,5,8 131:12, 15,19 133:7,14, 15,20,24 134:2,3, 7,12,17 135:1,3, 16,20 136:12,20 137:12,19 138:12, 16 140:7,8,10,19 141:1,3,24 142:3, 7,13,16,19 143:24 144:2,8,16 145:8, 19 146:17,22 147:14,18 department's 11:11 12:10,24 13:15 20:11 38:4,	6 69:14 76:5 131:6 144:13 departmental 42:8 departments 22:12,13,15 23:14 24:25 27:12 Depending 9:17 depends 47:15 142:12 DEPONENT 147:22 deposition 8:23 9:17 10:1,8,18,20, 24 11:8 14:10 18:8 25:7,10 37:7 53:15 54:10,12 58:9,11 74:6,9 79:16,19 90:21 96:7 97:7 102:4,6 106:3 107:12,14 116:14,17 117:2 124:7,9 128:13,16 131:25 132:2 135:7,9 139:2,5 143:6,9 depositions 9:5 depth 98:19 deputy 27:15,16, 20,22 28:1,7 29:2 34:8 80:11,12 describe 44:24 102:21 108:14 112:17 114:12 designate 25:7 52:2 74:6 79:16 designated 6:17 7:6 10:5 11:10 12:13 13:2,9,19 15:1,8,12,19 16:10 17:1,16 24:1,7 97:15 designation 134:11 145:9 designations 10:14 11:23 146:14 designee 7:1
---	--	--	--

designees 145:9

detail 102:21

detailed 141:13

determinant

38:19 39:1,23

40:5,11,15 41:5,9,

13 96:8,10,12,15,

21 97:1 98:4,8,10,

14,16,25

determinants

37:12 38:5,10,12,

16 39:12 98:11,

20,23 145:24

determination

146:9,23

determinations

121:9

determine 29:24

38:13 85:10

120:13 134:7

143:21

determined 38:6

95:17 134:2

determining 46:8

142:20 146:19

developed 53:17

development

11:12 12:11,25

13:16 14:21 21:7

31:7 55:16

diagnoses

138:17

differences

37:15

differently 47:16

direct 22:21 23:8

27:10 108:17

120:16

Directed 11:2

direction 78:4

directly 18:15,19,

25 19:2,3,7 23:4,

11,12 27:17,23

29:10 46:13 48:6

52:14 121:25

director 21:6

62:13

disability 37:17

discuss 45:7

49:13 79:10,11

80:23 126:3,7,10,

13,18 127:24

discussed 28:16

59:8 67:15 77:2

118:22 121:7

discussing 68:7

discussion 14:18

15:16 65:13 97:17

131:12

discussions 65:9

125:15 128:5,6

disease 37:20

diseases 22:10

37:18

disparities 37:11,

23 38:5,10

108:11,20 109:5,

9,11,15 110:2

distances 40:7,

10 99:15,18

diverse 37:18

divided 22:8

division 28:2,5,17

29:7 31:15 32:14,

16,19 33:4,5,8,21,

24 34:8,11,16,19

44:25 45:12 46:3,

8,23 47:8 48:11

49:18 50:14 52:22

56:5,11 62:10

70:23 71:8,10,14

109:21 110:7

111:4,17,22

114:1,2 127:11,

13,20 133:14,24

134:3

divisions 22:7

25:25 28:10 29:4,

14,15 32:20 34:6

45:3 46:19 51:15,

19,23 52:2,7,10,

14,17 53:1 56:10

71:1,22 134:22

136:11

doctor 39:19

doctors 121:16

138:17

document 10:17,

20 11:5,7 16:16

17:10 25:7,10,17,

19,20,24 37:7

38:24 54:9,12,16,

18,21 58:11,20,

23,24 70:16 74:9

79:19 102:3,6,9,

12,16 107:11,14,

17,24 116:14,17

117:5 118:2,16

120:2 121:6

124:6,9,25 125:1,

12 128:13,16

129:14 130:12

131:24 132:2

135:6,9,12,19

136:5 139:2,5,8,

14,18,20,21

140:19,23,24

143:3,6,9 144:1,7

145:1,8,13,22

documents 10:7,

11 11:17,20,22

12:18,19 13:7,24

15:6,24 16:15

17:6,21 18:3,6,7

118:11 124:4

domestic 115:13,

19

draft 55:23

drafting 11:12

12:11,25 13:16

14:21

draw 29:24 78:17

drawing 29:19,25

drawn 147:13,17

Dreyzehner

18:15 19:3 45:15

driven 51:3

drug 37:18

due 37:17 86:18

92:15,21 105:13,

18

duly 6:3

duties 18:13 20:9

E

e-mail 58:8,15

59:12 61:15 62:8

64:5,8,13,17 66:1,

9,15,17,23 67:1,3,

23 74:14 76:2,17

77:1,5,23 79:16,

22,23 80:5,15,18

107:20 116:21

117:6 124:13,22,

24,25 125:1,5,9

128:19,23,24

129:2,18 130:18,

22 131:13 132:5,

21 133:6 139:8,12

140:2,11,13,17,25

142:18 143:11,15

e-mails 11:21

79:24

earlier 66:9 98:3

107:7 120:7 121:7

126:22 133:11

early 19:10 96:6

133:5

Economic 21:7

education 22:6

37:13 48:18 51:11

64:22 146:7

educationally

51:3

effect 95:22,23

99:13 103:9,16

109:4,10,14,18,22

111:11,15,18,23

112:22 113:1,4,14

114:17,21,25

115:5 138:16,20

effective 20:7

94:8

effects 14:22 41:1

68:19 73:17,22

95:20 103:23

104:11,16,21

105:1 112:2,3

113:19,23,24

114:3

Eighty-nine

22:24 23:4	73:14	135:7,9 139:3,5 143:7,9 145:1,6, 18	fast 7:18
elapsed 55:4	establishment 50:6	exist 37:23	fault 127:6
elect 26:17	et al 6:10	existing 72:4	February 128:20, 25
election 58:25	Eugene 132:7	exists 62:20,21	federal 10:25 29:19,20 112:20 114:15
eliminating 109:11,14	eventually 132:17	experience 51:9 87:12 113:5 147:13,17	feedback 55:23
Elimination 108:11,20 109:9 110:2	evidence 68:23 82:9,13 83:25 84:7,25 85:19 86:11,24 87:3 88:2,24 89:9,18, 21 90:7,17 91:6 92:23 93:2 94:11, 15 96:1	expert 48:9,10,22, 25 49:22 50:11,16 98:11 146:9	feel 129:10 137:12
emergencies 92:9	exact 10:10	experts 20:13 42:7 45:3 47:20, 21 48:13,16,19 49:25 50:19,25	feeling 89:6,11
emergency 22:10 55:1 91:21 92:13, 15,19,21,24 93:3 95:6	EXAMINATION 6:6 145:3 147:4	explain 23:10 116:2,5	Ferranti 61:18 124:15 139:8,23 140:13
employee 75:8 80:14 100:22 101:1,5	Examiners 120:24,25 121:13 122:3,4,17	explicit 29:15	fetal 104:8 113:16 115:2
employment 38:11	examining 37:15	expressed 32:5	field 138:18
enacted 20:5	examples 24:7 52:13 98:7,18,21	externally 53:23 128:1	filed 129:4
enactment 11:12 12:12,25 13:16 14:21 69:17,21 70:13 71:2	exceed 141:20	<hr/> F <hr/>	final 54:21 89:15
end 70:15 124:5	Excel 118:11	facilitate 42:6,8	finalize 45:8
endeavor 9:18	exception 92:9, 13,19,24 93:3 95:7	facilitates 114:13	finally 9:24 64:20 137:25
enforcement 11:13 12:12,25 13:16 14:22 95:3	exchange 7:22	facilities 22:2 56:3 64:23 70:20 71:13,19 117:22 123:14 137:14,20, 23 138:23	financial 88:8,14, 20 89:1
engage 69:10 125:21	excluded 104:8	facility 31:4 96:25	fine 51:13 79:14
engaged 14:19 15:16 87:7,10 88:7 92:5 93:16 97:17	excluding 22:9	fact 84:6 120:13 140:24	fingers 9:19
English 7:19	excuse 6:12 20:7 24:11 43:8 111:22 113:7 129:16 134:2 140:8 144:3	factors 39:9	finish 8:14
enjoins 95:3	executive 18:17	facts 93:13	firm 75:11
ensure 18:16	exhibit 10:18,20 25:8,10 37:7 54:10,12 58:9,11 74:6,7,9 79:17,19 91:13,14 102:4,6 106:3 107:12,14 116:14,17 117:3 124:7,9 128:14,16 131:25 132:2	faith 91:23	fiscal 46:5,9
entities 24:22 26:3		fall 28:6,12,19 97:5 98:7	fit 92:8
equally 20:24		family 28:3,5 29:17,20,22 52:19,22 110:19, 22 111:2,7,9,12, 19,24 112:4,6,7	flush 98:6
essentially 62:13			Flynn 6:12
established			focus 108:17 112:18
			follow 25:1 77:23 130:24
			follow-up 49:17, 18 75:3 76:3 142:25 147:2
			food 46:25 50:6,9
			foods 116:10
			For/against 138:2

forced 88:9

form 32:13 44:6
137:4

formal 48:12
51:21 83:15,20
84:15,20 85:9,14
86:2,7 87:15,21
88:12,18 89:4,13,
24 90:1,12,22
91:1 92:11,17
93:21 94:1,6
146:7

formulate 44:11

forward 8:10 45:2
78:19,21

fourth 11:9 119:2

free 129:10

frequently
142:11

Friday 58:15

front 12:3 91:10,
16 94:23 119:7

full 7:7 8:19 9:25
10:10 22:15 53:14
100:8 111:1

fully 90:2,9 108:17

Fun 116:24

function 92:3

funds 29:19,20,24

G

gather 59:1

gears 41:17 81:12

gender 37:11

general 20:12
24:1,2,6,19 26:23
27:11 30:4,6,10,
13 31:16,19 35:7,
8 36:8 41:23
42:21 45:24 48:7
49:7 50:2,5 51:20,
22 52:15,18 53:2
115:6 125:22
131:21 133:23
146:18,23

generally 21:16
48:11,15 49:6
50:2

generated 62:18

give 8:7,19 9:18,
20,25 26:14 43:10
45:4 49:10 52:13
53:14 55:22 61:3
73:15 98:21
107:9,11 111:1
128:12 129:7,11
145:15 146:8

giving 98:17
100:8 130:18
146:14

good 6:8 91:22

government 21:2
49:4,20 52:7
55:24 63:24 75:11
100:18 101:6
112:20 114:15

governor 26:10,
15,17,18,23 27:1
43:7,9,10,14,21,
24 63:21 67:6,9,
13,16 129:21,23
130:1 131:2,5,9,
17,20 133:4

governor's 26:14
42:16 43:1,3 44:9
45:9 52:11 66:23

grant 112:19

graphic 26:5,16,
19

Gray 34:20

great 6:16 7:4,11,
25 8:5 9:4,11
10:15 15:10 18:1
23:6 37:22 52:22
62:5 75:7 77:18
116:12 117:5
119:24 120:11
133:5

greatest 51:6

Green 74:25
78:16,18,20,21,23
79:2,8,12

Group 138:1

groups 134:15

guess 125:10

guessing 107:25

guidance 73:17,
24 74:2

Gutmacher
139:14,17 140:4

guys 100:2 129:4

H

Hailey 6:12

Haley 74:14 75:7,
8 77:12

Halfway 93:8

hand 10:17 25:6
54:8,9 58:8 74:5
79:15 102:3 124:6
131:23 135:6
143:5

handing 116:13
139:1

handle 18:7 41:24
42:12

handles 24:14
42:11 111:4

handwritten
76:20,21 77:11
78:15

hard 119:24

Hart 12:2,6 14:1,6
53:5,22 57:3 66:4,
11 78:22 97:11,
13,24 99:17
116:2,5 118:7
144:23 145:4
146:6 147:1,6

hate 50:21

HB 144:3

HB0977 11:13
12:19 72:17 73:25
119:3,12,22 120:1
126:13 128:6
130:9,17 144:4,
10,17

HCF 120:8 123:13

head 8:5,7 62:11

heading 108:5
141:17

headings 118:3,
14

health 6:17 7:2
11:3 18:10,12,24
19:14 21:12,14,
19,25 22:1,10,11,
12,15 23:5,14
24:13,25 25:4,15,
25 26:19,24,25
27:1,3,4,10,15,21
28:2,3,5,7,10,11,
17,19,23 29:17,22
30:2,11,23 31:7,9,
14 34:9 37:4,9,12,
16,19,22 38:10,
12,16,20 39:2,5,
12,15,19,23,24
40:5,10,12,15,23
41:2,4,6,9,10,19
44:16 51:16
52:19,22 56:3
70:20 71:13,14,19
80:13 81:23 82:6,
11,18 83:1 85:6,
11,16,21 90:14,18
92:8,25 93:4 96:3,
8,10,12,15,16,22
97:1 98:5,6,10,12,
14,16,20,23 99:1,
24 103:5,9,16,23
104:8 107:18
108:6,7,11,16,20
109:5,8,11,15,18,
23 110:2,4,11,15,
19,22 111:2,5,12,
19,24 112:4,6,7,9,
13,19,23 113:1,9,
20,24 114:4,18,22
115:6,9 117:15,
18,19,21,22,25
118:21 120:7
121:1,20 123:14
126:25 133:24
134:4 137:14,18,
20,22 138:22
145:24 146:10,17
147:14,18

Health's 107:9
108:2 145:9

healthy 116:9,10

hearing 72:23
127:23

hearings 72:8,17
73:7,10

helped 18:5

helping 37:10

high 146:1

highlight 44:21

Hill 56:20 57:4,9,
12

Hillary 6:11

historical 51:6

Hm-hmm 30:3
70:1 125:16
130:13 136:16

hold 19:13 100:14

holistically 39:11
41:20

hope 118:25

hoped 144:16

hospital 65:1
86:17,22

hour 95:20,23
99:21

hours 55:4 64:22
95:6,9,16 141:20

House 13:9 19:24
44:2 53:21 54:3
108:21 109:4,10,
18,22 111:11,21,
23 112:22 114:17
120:4 127:17,21
132:23 146:18

housed 32:12

household 37:13
38:11,22

housing 40:4

human 103:6
104:13,18,23
105:3

I

idea 26:23 27:7
75:1 129:8

ideas 59:2 63:3,5,
9,13,16,18,22
64:1,4,10,18 65:5
68:14

identification
18:2 38:4

identified 18:1
81:21,25 82:9,14,
16,20,24 83:3,25
84:7,25 85:19
86:11,24 87:3
88:2,24 89:9,18,
21 90:7,17 91:6
92:23 93:2 94:11,
15 97:13,15
100:10 110:10,14
112:8 115:8 120:7

identifies 38:9
145:23

identify 18:5
37:10 71:11
100:15,19 102:19
121:4 123:25

identifying 71:8

impact 14:22
30:22 41:22 42:10
45:23 46:4,5,7,8,
9,12,13,23 47:6,
10 69:2,6 83:7,12
84:11 85:5,23
93:17 108:21,25
111:5 120:17,18
121:25 133:14,25
134:19 135:1

impacted 46:3,9,
20 47:13 83:17,22
84:2,8,17,22 85:2,
11,16,21 86:4,9,
13 92:25 93:4
94:12,16 118:4,
15,18,21 120:20
121:4 134:4,8

impacts 44:21
45:4,13 46:14
81:14,18

impairment 92:2
113:11

impede 29:25

imperative 59:6
60:13

implications
45:8

important 9:5
103:3

imposed 95:5

improve 21:19

improved 83:1,4
93:22

inaccurately 9:7

include 36:21
40:1 96:19 99:2,5,
9,12,14,20,23
115:24

included 59:22
96:12,20,25
125:14 137:4

including 16:7
22:9 37:16 58:16
106:6,16 111:7,9
138:4

income 37:13
38:11,22,25 39:4,
14

increase 86:20

increased 87:4,
23 88:20 92:19

indicating 96:2

individual 31:24
36:7 58:3

individual's
96:16 98:5

individuals 12:22
13:13 35:11 58:16
62:11 67:20 68:4

induced 32:12
33:20 61:16 93:9

industry 50:9

infant 37:16 52:20

Infants 114:7,14
115:23

influence 39:4,
15,19

inform 30:11 37:9
73:20

Informatics
28:11

information 7:5,
23 8:24 10:9,16
36:3,5,9,11,24
59:1 61:12 62:6,
15,18,20 78:7,8,
10,13 79:7

informed 54:22
63:1 64:24 90:3,9
93:10 100:11
101:21 103:10,17,
24 104:11,16,21
105:1,7,23
121:21,23 122:5,
20,24 123:10,17,
21 125:6 132:11,
18 141:13

initially 8:25

initiative 60:9

initiatives 59:5
60:4

injunction 95:7

injury 37:20

input 121:8
130:18

inquiries 49:3,6

inquiry 49:15

inspection 47:4
62:25

inspections
46:25

instability 88:9,
14,20 89:1

institute 139:17
140:4,8,11

insurance 41:4

intent 32:5

intentions
143:18,21,23

interact 26:1

interest 22:8
67:19 68:3 75:17
97:12,14 100:15,
19 101:17 102:20
106:5,10,12,14,

20,25 107:5
136:21,23 146:24

interested 7:4
32:1 78:3

interests 15:14,
18 49:16 75:17
97:19,21 100:11,
24 101:3,7,10,13,
21,25 102:22
103:4 104:7
146:20

interject 14:1

intern 21:9

internal 42:8

internal/external
16:7

internally 53:23
70:12 100:15
127:25

internet 94:21

interpreted
122:13,23,24
123:10,21

Interrogatories
102:14

interrogatory
102:17

interrupt 8:17

intimate 90:23
91:3,8 115:13,16

intrigued 74:25

introduce 30:13
71:20

introduced 19:24
42:6 43:6,11,14,
17,20,22 45:1
46:24 56:4 69:25
71:18 120:4 125:7

introducing
127:4

introduction
137:5

invited 72:15

involved 25:22
69:16,19 70:18
121:2

involvement
11:11 12:11,24
13:15 69:14 70:3

irreversible 92:2

issue 14:15 50:6
68:8,10,13 75:4
76:4 131:20

issues 9:21 29:16
98:22 129:9

item 67:21 68:1

items 25:22 62:23
64:21 65:3,8,10,
13 66:2,5,7,8,14,
16,19,20,22 67:8,
12 68:1 125:14

ITOP 32:25 33:1,3
132:12

J

Jane 61:3 132:6

January 74:15
76:24 77:24

Jason 6:11

Jeremy 59:6
60:13,20,21,23
77:8 116:22
117:10 124:19
125:20 128:21,25
139:10 143:12

John 18:15

join 125:13,17
126:2,4,20 127:13

judgment 91:23

jump 10:3

June 80:2

K

Kennedy 77:7
132:7 135:24
136:3,6,7 139:9

Kiesling 80:6

kind 72:10 73:6,9

knew 79:7

knowledge 48:3,
4 51:3,6 98:15
116:7 134:9

Knoxville 22:18

L

labeled 132:23

lack 40:17 98:24

Lambuth 146:3

language 7:19
137:7 138:1

law 22:17 31:4,8
54:20 55:12 61:4
69:24 71:17 103:2

laws 141:25 142:3

lawyer 10:10

lead 18:17

leader 20:10

leaders 48:11

leadership 18:14,
17

leave 99:23

left-hand 25:24

legislation 29:18,
23 30:4,14,22
31:15 42:5,21,23
45:13 46:24 49:4
56:11 63:9 67:16
70:18 78:5 125:3
131:7 136:22
141:6 142:7,9,16

legislations
142:19

legislative 18:22
19:19,21 20:12,14
21:6 28:18 29:6
30:21 41:18,22,25
42:9,13,14,20
44:9,20 45:6,10
50:15,18,23 51:7,
17 52:1 56:6,9
59:1,5 60:4,19,24
65:4 68:14 70:16,
24 72:8,17,23
73:1,3,5,7,10
117:11 121:5

125:12,18,23,24,
25 126:6,10,13,
18,19,23,24
127:3,10,11,14,20
133:21

legislator 30:16,
18 49:13 51:17
56:16 60:9,10
63:12,19 73:20
101:9 126:21
127:4 144:15

legislators 16:24
31:25 35:15,17,21
42:13 47:17 52:3,
20,23 54:3,6
55:19 59:14,18,19
60:5 63:16 64:18
65:9,13 66:2,16
70:5 73:4 80:23
100:23 101:2
125:15,24 144:3,
9,14

legislature 32:5
35:23 133:3

legitimate 103:4
106:4

license 21:25
22:1 25:4

licensed 106:5,15
117:19 122:2

licensees 120:18

licensing 22:5

licensure 28:10
30:2 31:14 78:17
117:21

life 103:6 104:13,
18,23 105:3

limit 144:17

limited 35:10
125:19

lines 61:2,11

link 139:12,13

linked 139:18
140:24

list 12:23 13:14
14:17 16:5 18:6
39:25 42:3 110:18
117:14

listed 16:25 17:15
18:4 39:24 64:4,7
66:9,14 67:23
108:5 119:14
122:1 141:16

listen 49:16

lists 141:12

litigation 6:23,24

living 109:19,24
110:4

lobbying 17:14

lobbyists 59:16,
22 75:12,16

local 22:11 23:14
24:25

located 24:17

long 9:13,17 19:8
40:7,10 58:16
80:7 96:20 99:14,
17

longer 28:24 33:6
46:25

Lori 61:17 124:15
139:8,23

Lori/benton
61:11

lot 97:25

Lotz 128:24
130:21

loud 8:7

love 75:3 76:3

low 38:25

lower 39:4,14

M

made 11:24 13:17
14:25 56:18 71:9
94:2 122:8,18
123:5,15 135:2

major 87:11,17,23
88:4 92:2,6,14,20

majority 24:14

make 9:8 23:23
24:2,7 43:7 45:14,

17 90:2,9 137:15
138:23 140:25
146:23

makes 42:25
132:10

making 57:13
94:13,17 121:9
133:18

Management
29:2

mandate 23:13
26:14

mandatory
62:24,25 141:4

mangle 7:18

mark 10:18 54:10
58:9 102:4 107:12
116:14 124:7
128:13 131:24
135:6 139:2

marked 10:20
25:10 54:12 58:11
74:9 79:19 102:6
107:14 116:17
124:9 128:16
132:2 135:9 139:5
143:6,9 145:1

marketing 146:3

Mary 61:3 132:7
136:3,6,7 139:9

Master's 146:3

materials 64:22
140:7,10

maternal 22:9
111:5 112:13,18,
23 113:1,19,24
114:4

matter 14:22 16:9
42:7 45:3 47:20,
21 48:9,10,13,16,
19,22,25 49:22,25
50:11,16,19,24
116:24

matters' 20:13

mayor 22:20 23:4

Mcdonough
58:17 62:1,2,12

124:16

meaning 133:7

means 23:10
46:3,4 47:25 84:5
120:3 133:9 134:1
136:7,20

meant 66:5

medical 27:16,21
28:12 55:1 91:21,
23 92:9,13,15,19,
21,24 93:3 94:21
95:6 113:8 120:24
121:13,16 122:3,4
138:9

medication 36:21
84:13,18,22 85:2

medicine 121:15

meet 94:7

meeting 42:8
49:17,18 51:7
73:1 74:23 75:4
76:4,16 77:5,7,19,
22 78:1,11 79:5,
10,11 80:17,20
81:10 121:7

meetings 42:8
80:22,25 81:4,8
100:14

member 18:14

members 30:13
41:24 49:7 50:2
125:22

mental 37:4
90:13,18

mention 97:3

mentioned 76:17
77:5 79:2 96:7
98:13 133:12

mentions 77:12

messaging 41:21
42:4,19 44:19

met 18:17 78:15

method 30:15

methods 36:18

Metros 23:3

Michael 34:12
124:16

Michelle 58:16

middle 91:19
112:13

Mike 74:15,22
77:12

milk 49:13

mind 12:6 142:23

mindful 8:3

minority 85:24
86:4,9,13 108:11,
20,22,25 109:8
110:2,15

minutes 53:18
142:24

misdiagnoses
138:13

misdiagnosis
138:4

missing 129:6

mission 18:16
21:18 44:15

missions 21:17

Missouri 141:21

misunderstood
23:1 126:22

Moff 6:11 74:18
91:13 97:20
119:4,8,13 142:23
144:22 147:2,5,20

money 39:18
99:2,9

morning 6:8

mortality 37:16
52:21

mothers 116:8

move 53:6 78:19,
21

N

Nagoshiner 6:2,
14,16 10:23 18:9
21:11 53:12 54:15

58:14 74:13 79:22
81:13 100:6 102:9
116:20 124:12
128:19 132:5
135:11 139:7
143:5 147:6

Nashville 22:18

necessarily
47:22 51:11
120:16

necessitate
91:24

Nedivs 118:10

needed 56:3
71:11 137:12,13,
17

negatively 39:1,
23 40:5,11,22
41:5,9,23 46:14
47:4,9,12 83:22
84:22 85:16 86:9
93:3 94:16

neighborhood
37:14

neonatal 52:21

Neubert 132:7

neutral 46:1

news 59:2 63:4,5,
8 65:5 68:7,11

nice 26:5

nods 8:5

non-privileged
16:6

non-profit 17:14
26:2

nonpartisan
20:22

notes 76:20,21
77:4,11 78:15
79:3

notice 10:24 11:8
14:4 103:1

notified 71:15,16,
23

November 19:22
58:15

number 10:20
11:21 12:10,23
15:13 16:5 17:12
18:2 21:20 22:1,7
25:10 36:12 45:4
51:5 54:12 56:10
58:11 74:9 79:19
86:16 96:24
102:6,17 107:14
116:17 118:3,14,
17,18 119:14,15
124:9 128:16
132:2 135:9 139:5
143:9,13 145:1,6

numbers 118:11
119:9

numerical 119:14

Nursing 120:25
123:4

O

object 138:3

objection 14:2

objections 10:13
11:23

obtain 90:4,10

obtained 90:14,
19

occur 36:13 76:16

occurred 77:19
100:7

occurs 130:4

offer 81:2,6

office 18:22,23,24
20:10 21:8,10
27:18 28:23 29:1,
17 30:1,21 31:9
32:9,10,12,20,22,
23 33:6 34:5 42:5,
9,14,17 43:1,3
51:25 52:2,11,19
56:6,9 62:14
63:21 66:23 67:6,
9,13,16 70:15
71:13 108:10,15,
18 114:13 121:5
126:19 129:21,23
130:1 131:2,4,9,

16,19 133:21,23
134:2 143:17,20

officer 27:16,22
28:13

offices 16:24
18:19,21,22 22:8
26:1 28:22 29:9
41:25 51:19 52:8
70:10

official 49:20
100:19

officials 49:4
55:24 101:6,12,16

older 34:2,3

omissions 138:4

one's 39:2,4,15,
24 40:5,11,17
41:5 99:12,23

ongoing 14:2

operate 22:11

operations
27:17,23 29:3

opinion 146:9,15
147:9

opinions 61:4

opportunity
51:19

opposed 47:1
138:10

option 137:16,17

orally 93:11

order 7:11 48:6
119:14

organizational
26:6

organizations
17:14

organized 29:6

original 56:4
137:5

Osteopathic
120:24 122:17

out-of-state
64:23 65:16

67:20,22 68:1,4,
19,23

outcomes 37:16

outlets 65:5

outline 125:11

outreach 22:6

overdoses 37:18

oversight 23:12

P

packet 10:16

packets 10:9

pages 118:2,5
119:1,6

pamphlet 25:20

paper 119:5

paragraph 59:4
78:14 93:8 106:3
117:13 125:10,11

paragraphs 55:5
95:1

part 42:18 62:9
117:11 119:24
142:8

parties 16:7 69:10

partner 26:2
90:23 91:3,8
115:13,16

parts 24:9,10

pass 24:18,24
25:3

passage 70:3
71:23 82:17,21,25
83:4 100:11
101:18 103:10,17,
24 106:18,25
110:12 112:9
115:10 121:21,23
122:5,10,20
123:7,17 124:1

passed 20:2 30:8
63:9 70:17,19,22
73:22 103:24

past 53:17 65:4

<p>68:14</p> <p>patient 18:23 28:18</p> <p>pay 39:18</p> <p>PC 118:3,14,16,18</p> <p>pending 9:13,14</p> <p>Pennsylvania 103:2</p> <p>people 19:6 26:10,13,17 37:21</p> <p>people's 41:1</p> <p>perform 93:12</p> <p>performed 55:3 65:1 93:9</p> <p>period 14:11,23, 25 15:15 16:8 19:20 54:23 55:3, 8,10,12,17,20,23 57:1,12,19,24 58:5 62:25 64:22 69:15,17,21 70:3, 6,13 71:3,12,24 72:5 81:15,19,22 82:1,6,10,17,25 83:8,12,16,21 84:1,8,12,16,21 85:1,6,10,15,20, 24 86:3,8,12,18, 25 87:4,16,22 88:3,13,19,25 89:5,10,16,19,22 90:4,8,24 91:4,7, 11 92:12,18 95:5, 8,14,15,20,23,24 96:2,3,20 100:12 102:1 103:1,11, 17,25 104:6,11, 17,21 105:2,7,9, 13,18,24 106:18 107:1,4 112:2,3 114:3 121:22,23 122:6,20 123:10, 17,21 125:6 132:12 141:6 142:15</p> <p>periods 141:10 142:1</p> <p>permanently 95:2</p>	<p>person 50:9 78:25 93:11,18 94:7 97:14</p> <p>personal 98:14 146:15 147:9,12</p> <p>personally 31:25</p> <p>personnel 71:5</p> <p>perspective 47:18 48:5 51:6</p> <p>pharmacy 24:17</p> <p>phonetic 118:10</p> <p>phrase 38:15</p> <p>physician 93:11, 13,19 94:8 142:5</p> <p>physician's 91:22</p> <p>physician-only 64:25</p> <p>physicians 106:6,16 122:2</p> <p>piece 46:24 78:5 131:7 136:22</p> <p>pieces 24:15 119:5</p> <p>place 48:12 74:25 132:13</p> <p>plaintiff 95:12</p> <p>Plaintiff's 10:24</p> <p>plaintiffs 6:9 11:22</p> <p>Plaintiffs' 102:13</p> <p>plan 107:3</p> <p>planning 18:24 28:17 29:20 30:23 31:9 32:10,15 33:5,7 34:5 37:9 61:22 62:9 111:7, 9 139:25</p> <p>point 9:13 50:21 64:15,16 65:15 66:1 69:1,5 73:3</p> <p>Policies 139:17</p> <p>policy 22:11 27:10 32:9,15</p>	<p>33:5,6 34:4 35:3 61:21 62:9 129:21 131:4 139:25</p> <p>politicians 20:25</p> <p>populated 22:18</p> <p>population 24:19 27:15,21 28:2,7 34:9</p> <p>populations 36:15 37:19 38:1 85:25 86:4,9,13 108:22 109:1</p> <p>pose 113:10</p> <p>position 19:11, 13,17,23 20:1,4, 11,17,20,22,25 21:3 42:23 43:5 45:22,25 46:1,15, 16,19 75:24 133:4 135:16,20 136:15 140:20 141:5 142:1</p> <p>positions 43:3 45:7,12</p> <p>positively 41:23 83:17 84:1,8,17 85:1,11,20 86:4, 12 92:24 94:12</p> <p>possession 67:3</p> <p>possibly 25:2 39:7 40:6,13,24 47:11 77:6 78:4 96:23 99:4,11</p> <p>post 146:1</p> <p>posterity 82:2</p> <p>potential 59:5 60:4,9 73:17 81:14,18 113:14 114:25 115:5 125:2</p> <p>potentiality 103:6 104:12,18, 22 105:3</p> <p>potentially 75:1 125:19 134:16 138:5,13</p> <p>power 19:1 24:4</p>	<p>practice 52:4,5 121:15</p> <p>practices 122:5</p> <p>practitioners 22:1 117:22 121:1</p> <p>pregnancies 138:14</p> <p>pregnancy 32:13 33:20 37:17 61:16 87:13,18,24 88:5, 10,15,21 89:2 91:25 92:7 113:15 115:1 138:5</p> <p>pregnant 91:24 93:10 103:5,9,16, 24 110:11,15 112:9 115:9</p> <p>preliminarily 95:2</p> <p>preparation 15:7 18:3 121:6</p> <p>prepare 11:25 12:20 13:11 15:11 16:3,19 17:24 20:12 70:13 71:2</p> <p>prepared 10:4 11:15 13:5,22 15:4,22 16:13 17:4,19 97:6 135:24 136:6</p> <p>preparedness 22:11</p> <p>preparing 10:7</p> <p>present 20:11 41:21 77:8,13</p> <p>preserving 103:4</p> <p>press 42:20</p> <p>presume 77:23</p> <p>prevent 29:18,19 37:20 100:7</p> <p>prevents 55:2</p> <p>previous 15:8 126:15</p> <p>previously 16:1, 17,20 17:8,11,22</p>
---	---	--	--

primarily 30:14
printout 108:1
prior 19:14 56:23
57:13,20,24 58:2
89:16
private 26:2 99:7
probable 73:17
problems 90:14,
19
procedure 10:25
64:24,25 65:1
67:22 68:2 95:17
121:2 132:12
procedures
31:11 65:17
68:20,24
process 72:14
73:3 95:15 134:24
produce 33:19
produced 118:10
produces 33:21
production
28:21,22
professionals
25:4 37:19 106:6,
15
program 107:9,18
108:6,14,19,24
109:4,8,17 110:1,
10,23,25 111:10,
14 112:6,8,15,17,
21,25 113:3,7,13,
18,22 114:10,12,
14,15,16,20,24
115:4,8,12,15,18,
24
programs 26:1
72:1,4
prohibit 64:23
65:16 67:21 68:1
prohibiting 67:19
68:4
promote 21:19
44:16
promoted 82:18,
21

proposal 59:2
63:3,16,22,25
64:4,9,18 65:17,
21,24
proposed 13:17
14:25 42:10 69:12
73:18
proposing 63:13
prosperity 82:22
83:5
protect 21:19
protected 81:22
82:1
protecting 103:4,
5
protection
104:12,17,22
105:2
protects 82:6,10
provide 7:7 8:25
25:21 30:17,18
48:2 49:9 61:12
62:6 64:22 72:7,
16,19,21 73:6,9,
11,16,24 74:2
94:21
provided 62:15
providers 21:25
117:21 137:18
providing 114:14
provision 82:6,
18,21 83:1,4,12
100:12,16,20,24
101:3,7,10,13,17,
22 102:1 103:11,
18,25 104:12,17,
22 105:2 110:12
112:10 113:24
114:4 115:10
123:7 125:7
132:18 141:4
142:21
provisions 138:3
public 26:2 28:19,
23 35:7,8,23 36:2
42:21 99:5,10
publication
32:11

publications
34:22 35:6,7
48:21
publicly 33:19
35:18 42:24
published 35:14,
18
pull 34:6
pulled 32:22
purchase 116:9
purpose 6:22,23
21:16 34:21,22,25
77:21
purposes 14:10
91:20 97:6
purview 28:6,12,
19
put 80:20,22 121:5
127:4 134:17
136:25 145:5

Q

qualifications
48:25
qualified 38:3
39:16,21 41:7,11
68:6 97:2,7 99:16,
22,25 108:17
111:1 138:21
qualify 146:8
question 7:13,15,
21 8:14,18,23,25
9:13,14 23:21
30:9 33:16 35:16
38:3,8,9 39:17,21
41:7 44:13,17
45:19 47:7 52:16
54:24 57:10 64:6
67:24 68:6 73:8
79:13,14 83:10
89:25 97:2,8
99:22,25 100:25
106:11,13 109:7
126:15,16 128:9
129:25 134:13
135:18 138:21
144:6 145:16

questions 6:7,18
7:8,12 8:6 15:9
129:11 143:1
144:24 145:4
147:5,7,16,21
quote 38:6,18

R

race 37:11
rare 130:4
rate 52:21
rates 37:14
raw 49:13
reach 30:18 31:25
48:2 51:22,25
reached 49:21
89:14
read 78:18 79:3
ready 12:16
real 125:10
reason 9:6,12,24
33:11 53:12
reasons 92:8
recall 8:24 20:19,
21,23 24:23 29:13
31:12 32:7 33:13
34:14,24 35:2,4
36:1,10,17,22
37:1,5 38:14 41:3
43:19 44:4 48:20,
23 49:2,23 52:12,
25 53:4 54:4,7
56:16,18,21
57:15,22 58:1,6
59:13,15,20,21,
24,25 60:2 61:6,7,
8,10 62:17,19
63:7,11,14,20,23
64:2,11,14,19
65:7,11,14,19,22
66:3,18,21,24
67:11 68:9,10,12,
13,15,17 69:4,9,
13 70:11 71:9,21,
25 72:3,6,18,24
73:2,13 74:1,4
76:1,18 78:11
79:9 80:19,21

81:1,11,16,20,24
82:3,12 83:14,19,
24 84:4 103:14,
19,21 104:4
126:11 127:15,18
130:7,10 131:14,
18,22 138:11,15,
25 140:22 141:7
142:2,6,17
143:22,25 144:18

recap 70:17 121:6

receive 49:3
99:24

received 78:7

receiving 61:7

recent 49:10
126:15

recess 142:24

recognize 54:15,
21 58:20 117:5
124:22 129:12,14
139:20,21 145:5

recollection
77:18 144:1,8

recommend 43:9
44:15 45:21,24
137:13

recommendation
43:7,10 44:12
45:9,14,15,18
56:19 73:15 131:6

recommendation
s 42:25 43:13,16,
21,23 44:5,6,10
45:5,11 122:9,19
123:6,16

recommended
45:7 94:19 133:3
136:15 137:7
138:1

recommends
45:22

record 7:16 8:13
74:19 100:4 116:6

recorded 8:6

recording 8:1

records 32:12,22

33:4,10 34:16,18
61:13,14 62:7,8,
11,14

reduce 37:22

reduced 95:16

Reed 77:8 124:16

refer 21:11 55:10
60:20 61:17,23
137:22

reference 118:21

referencing
59:12

referring 21:13
33:1 55:11 60:15,
21 61:24,25 66:8
93:12 97:9 132:16
136:3 137:6
146:22

refresh 144:1,7

registrar 62:4,12

regret 89:6,11

regular 9:18

regulate 30:5,7,
12 31:16,21 32:6
49:9 117:21
121:15

regulates 50:9
120:21 122:9

regulating 32:1
106:5,15

regulation 28:10
30:2 31:15 43:18
64:23

regulations
43:23 52:24 53:3
69:2,7,12

regulatory 21:20,
23 24:15

related 12:19
14:20 29:11,16
31:11 33:15,18
37:3 43:22 62:6
70:21 71:14 95:13
112:18 117:15,18,
19,20 118:22
120:8 125:3

relations 75:11

relationship 37:3
76:5

relative 61:12
78:11

relay 79:6

release 42:20

Released 139:13

releases 42:20

relevancy 142:12

relevant 8:24
15:17 61:5 125:14

reliable 40:19,21
96:9 98:24

relied 14:20 15:17
97:18

remotely 94:9

rename 32:21

renamed 32:19

rephrase 28:4
57:10 59:23
66:10,13

replied 130:21

report 18:19 19:3,
4,6,7 22:22 23:4,
8,10,12 25:14
27:10,17,23 28:6,
25 29:9 36:7
129:5

reported 117:12

reporter 146:5

reporting 19:2
61:13,14 62:7
63:4

reports 28:24
29:2 36:3

represent 6:9
75:14,16,18 76:8

representation
108:3 140:25

representative
6:21 56:20,21
57:4,9,12,17 58:4
80:6 97:16

representatives
6:18 126:2

represented
75:19 108:1

representing
77:15

Republican
20:25

repurposed
28:22

request 56:23

requested 69:23
78:2

requesting 57:13

requests 41:24

require 46:25
64:21 65:2 74:24

required 47:3,8
84:1,8 85:1,20
86:12,25 87:4
88:3,25 104:6
113:23 132:18
134:16 141:3
142:20

requirement
13:1,18 14:3,8,11,
12,16,23,24,25
15:15 16:8 54:23
55:8,17,20,24
57:1,13,20,24
58:5 69:15,18,22
70:4,7,14 71:3,7,
12,24 72:2,5
81:15,19,22 82:1,
10 83:8,17,22
84:12,17,21 85:6,
11,16,24 86:3,8,
18 87:16,22
88:13,19 89:6,10,
19,22 90:5,8,24
91:4,7,12 93:17,
22 94:2,7,12,16
102:21,22 103:18
105:8,9,14,19,24
106:19 107:1,4
112:2,3 113:4,14,
19 114:25 115:5
121:22,24 122:6,
21,25 123:11,18,
22 132:12 141:6
142:4,15

requirements

61:13,14 62:7,25
92:12,18 103:1,2
141:14

requires 132:11**research** 14:18

15:16 40:25 68:18
81:13 87:7,10
88:7 92:5 93:16
97:17 101:20,24
103:8,13 104:5,
10,15 105:5,11,
16,21 106:22
108:21,24 109:3,
4,10,13 110:3,8
111:10,14,18,23
112:21,25 113:13,
18 114:3,16,20,24
115:4 138:12

researched 83:7,
11 84:11 85:5,23
86:15**residents** 64:24
65:16 67:22 68:1,
19,23**resources** 37:10
38:7,13**respect** 141:5
142:14**respond** 15:7,25
16:16,19 17:7,10,
24 130:17**responding**
49:15**response** 11:17
13:8 102:13,25**responses** 8:5
147:16**responsibilities**
21:21,24**rest** 9:19**restate** 23:11,21
44:13 100:25
108:16 119:9
128:4 129:25**restroom** 9:20**result** 7:6 90:14,
19 132:17**retitled** 29:1**return** 95:18**returning** 74:23**reversed** 95:8**revert** 95:9**review** 10:7 13:7,
24 15:24 30:4,23
31:9 45:5 48:24
56:11 70:20 71:17
142:7,16**reviewed** 10:9
11:17 12:18 15:6
16:15 17:6,21
18:3,7 145:13**reviewing** 142:19**reviews** 30:21
31:15 42:5 45:6**Rieger** 12:7 97:9**risk** 87:8,11,17,23
88:4,8,14,20 89:1
92:1,6,13,19**risks** 113:5**role** 18:10,13
19:9,10 20:9
22:21 23:7 44:20
51:4 70:6 146:19**rule** 18:3 24:3,24
58:4 120:18 145:9
146:13**rulemaking**
23:19 56:2,12,24
57:14,20,25 58:2
69:24 127:22,23
128:7 137:2,10,13
144:4,10,14**rules** 10:25 23:23
24:7,19,21 25:3
71:18,20 137:15
138:22**run** 143:17,20**runs** 27:3**rural** 109:19,24
110:4

S

safe 83:8,13,18,23
84:2,9**safety** 46:25 47:2,
5,9,13**SAITH** 147:22**satisfied** 104:7**SB** 119:14**SB122** 119:3**SB1222** 12:12
74:3 113:1
119:11,18,19
126:10 130:6,17
144:3,4,9,16**SB1222-HB0977/
BILL** 135:12**school** 146:1**scope** 98:1 111:1
146:13**scratch** 89:22**section** 53:7
54:25 55:6,7 64:8
75:1 91:18,20
93:7 94:24 95:11**seek** 36:16 64:24
65:16 67:22 68:2**seeking** 67:20
68:4,19,23 92:14,
20 93:18 105:6,
12,17,22 113:15
115:1**select** 48:8,10,13
50:11,15,24 51:2**selected** 50:19**selecting** 48:16,
19**senate** 13:10
19:23 21:8 44:2
54:6 72:19,23
73:1 108:25
109:14 110:3
111:15,18 114:21
120:5 126:18
127:14 132:23
146:18**senator** 21:9
56:20,25 57:6,18,
19 58:4 74:23,25
78:16,23 79:2,7,
11 80:5**senators** 80:23
128:2,6**send** 126:2**sending** 56:23
64:16 66:17,23**senior** 18:14**sentence** 60:12
117:16 138:2**separate** 78:17**serve** 103:3**served** 15:15
21:8,9 31:6 97:19,
21 100:11,15,24
101:3,7,10,13,17,
21,25 102:20,22
146:20,24**service** 30:5,17
31:5,17,21 42:10,
12 46:14 49:9**services** 28:11,18
29:6 30:21,23
31:7 46:13 86:17**session** 59:8
70:15 125:3,13,18**set** 35:3 49:16,18
51:1 102:14
145:14,17**setting** 72:12**shake** 8:6**share** 35:13,22
48:5 64:12 66:2,6,
16,19,20,22 67:8,
12 78:9 131:1
133:22**shared** 35:20 66:5
140:16 143:23**shares** 143:18**sheet** 119:12**Sheldon** 12:5**Shifting** 41:17
81:12

short 53:8 100:3
133:2 143:2

shorter 64:21

show 31:25
135:16,20

showing 120:7

shows 26:6,9
27:8

sic 41:22 47:8
56:25 129:20
146:10

side 25:24 120:4,5

signature 129:17

significant 46:23
47:5,10,14

significantly
46:20 133:13
134:4

similar 103:2

simply 70:21

Simpson 60:15,
17,18 80:2 116:22
117:10 124:19
125:20

sir 19:5 35:12,19

site 63:12

Slattery 6:10

small 20:10

snapshot 25:21

social 37:12 38:5,
10,12,16,19 39:1,
12,22 40:4,11,15
41:5,8,9,13 96:8,
10,12,15,21 97:1
98:4,7,10,11,13,
15,19,22,25
145:23 146:9

solely 75:2

someone's 41:10
75:17

sort 36:5

South 141:21

space 51:5

speak 7:18 8:2
10:4 11:15,25
12:16,20 13:5,11,
22 15:4,10,20,22
16:2,11,13,18
17:4,9,19 50:3
57:11,16,23
63:15,21,24
72:22,25 80:17
126:21

speaking 11:18
14:13 33:14 61:15
73:4 97:4 136:21

specific 22:8 32:2
45:20 51:22 71:17
73:19 75:15,24
79:5 107:10
120:12 126:8
134:14 136:24
141:13

specifically
22:14 50:14 55:16
56:13,16 60:2
63:13 65:15 70:23
96:9 110:15
120:19 121:17
130:2 141:21
142:14

split 32:20

spoke 29:4 58:3

spoken 17:23
56:24

sponsor 56:14,15
136:18,25

sponsored 56:17

sponsoring
73:21

sponsors 118:4,
15,18 136:22

spreadsheet
117:14 118:2,17

spreadsheets
116:24 117:2,10

stable 40:4

staff 18:11 19:15
27:16,22 28:20
147:14,17

stakeholder

76:7,10,11 134:18

stakeholders
47:16 48:7 76:13
134:8,15,23
137:19

stamped 74:18
130:15

stance 133:19
142:20

stand 121:12
122:16 123:3,13
136:17

stand-alone
33:24

standard 14:8

start 8:14 48:11
89:16 116:11

starting 59:11

starts 59:4 91:20

state 11:24 15:14,
18 31:4 61:11
62:4 97:12,14,19,
21 100:10,15,19,
23 101:2,3,7,10,
12,13,16,17,21,25
102:20,21 104:7
106:9,12 107:4
116:6 139:17
141:25 142:3,19
146:20,24

State's 103:3

stated 16:1,17,20
17:8,11,22 23:6
30:24 31:3,19
38:18 56:13 63:8
95:14 96:14
145:20

states 10:24
12:10,23 13:14
14:18 15:14 16:6,
23 17:12 37:8
61:3 62:23,24
64:21 74:22 76:2
80:5 93:8 95:1
102:19,25 106:4
107:21 110:19
117:14 118:20
119:2 125:11
129:2,20 132:9
135:12,24 137:7

138:1,2 139:13
141:2,12,16,19
142:8 143:15

states' 141:4
142:16

statistics 33:10,
14,18,22,23 34:7,
13,23 35:3,13,14,
17,21 36:8,15,18,
24,25 62:9

statute 91:11 93:6
94:23 133:13,15

statutes 142:8

statutorily
117:20

statutory 92:8

stay 12:9 129:10

stenographer
8:1 9:19

step 139:22

steps 70:12,21

stigma 41:8

Straight 50:4

stretch 9:20

strong 59:6 60:13

structure 19:1
26:6,9 30:10

structured 27:8

studies 69:11

subdivision 55:2
95:3,5

subdivisions
29:5,8,10

subject 14:22
16:9 20:13 42:7
45:3 47:20 48:1,9,
10,13,16,19,22,25
49:19,21,25
50:11,15,19,24
95:6 116:24

submit 31:6 44:8
45:5,9 133:4
135:20

submitted 11:21
31:11 135:16

subsequently 95:8
subset 35:10
substantial 92:2
substituting 14:23
suffer 90:13,18
sufficient 46:15
suggest 53:5
suggestion 146:12
Sullivan 129:20
support 121:18
surgical 75:22
survivors 90:23 91:2,8
sworn 6:4
syndrome 52:21
system 45:2

T

tab 25:6 54:9 107:11
takes 43:3,5 96:24
taking 139:22 141:5 142:5 146:19
Talent 29:2
talk 49:17 80:7
talked 133:11
TASCA 78:15 79:6,8,12
TDH0000018 74:18
TDH10A.001. 130:15
TDH15 76:20
team 18:14,17 44:9 45:6,10 60:19,25 117:11 125:12,18,23,24 126:6,10,13,18,

20,23 127:3,10,14 143:5
technology 94:20
teen 37:16
**telecommunicati
ons** 94:20
teleconferencing 94:9
temporarily 95:2
ten 53:17
ten-minute 53:5 100:2
Tennesseans 21:20 44:16 47:2, 5,9,13 81:23 82:2, 7,11,18,22 83:1,5 109:19,23 110:4
Tennessee 6:17 11:2 21:11,13 23:2 24:12,13,16 25:14,25 26:10, 11,14,18,23 27:4 37:9,21,23 51:17 52:7,15 53:2 54:19 64:24 65:17 67:21,23 68:2,5, 20,24 69:3,8 80:13 83:9,13,18, 23 84:3,9,13,18, 23 85:3,7,12,17, 21,25 86:5,13 87:1 92:25 93:4 96:4 106:4 108:2, 7 109:6 126:24 134:3 138:9 141:1 142:9
Tennessee's 102:25
Tenntracks 44:8 45:2 131:5,9 134:13
term 14:16 47:22, 23 87:13,19,25 88:5,10,16,22 89:2 115:25 127:6 133:2
terminate 92:7 113:15 115:1

termination 32:13 33:20 61:16
testified 6:4,21 98:3
testify 72:15 97:16 145:10,11, 19,23
testifying 20:13
testimony 9:7 10:1 18:4 53:14 73:7,10,12 145:15
text 61:2 62:22
thing 14:8
thought 144:16
threat 113:10
threaten 113:9
Thursday 45:5
tie 64:15
time 7:1,13 19:20 27:19 28:21 30:9 32:11 49:11 62:8 63:15,19,22 64:1, 6,16 65:10,15 66:6 73:8 77:16 80:15 96:20 109:7 119:16 135:18 140:2 141:24
times 7:20 96:24
Timur 6:8
title 10:11 24:9,10, 11 47:25
titled 141:9
TLS 129:5
TMA 138:2,8
today 10:4 18:11 41:14 42:11 146:13
top 27:9 28:9 37:8 50:4 59:11 62:23 76:23 107:17 114:7 116:21 118:6 129:10 135:11 136:14
topic 8:23 11:11, 15,18 12:1,14,16

13:3,5,8,12,14,20, 22 14:17 15:2,4, 11,20,22,25 16:3, 11,13,19,22 17:2, 4,7,17,19,24 18:2 49:8,22 51:5 97:5, 11 112:18
topics 7:5 10:5,12 12:21 16:21,25 17:15 18:4 111:5 125:2 145:10,14, 17 146:15 147:8
total 22:25 36:12
touch 31:13
touched 107:7
track 45:1
tracked 37:2
tracking 33:15,17 117:15 129:3
tracks 34:23
transportation 39:10 40:1,9,15, 16,17,20,22 96:7, 10,15,21,25 97:23 98:4,8,15,22,25 99:3,6,10
transportation's 41:1
travel 40:7,10 96:24 99:14,20
treatment 75:22
tricky 118:24
trimester 65:1
trips 142:4
true 103:22
Tuesday 143:13
turn 11:9 25:23 37:6 74:13 91:18 102:15 106:2 114:6
Tusiray 6:7,8 10:22 12:8 14:5,9 25:12 53:9,11,24 54:1,14 57:5 58:7, 13 66:8,12 74:5, 12,21 79:1,4,15,

21 91:14,15 97:12
98:2 99:19 100:1,
4,5 102:8 107:16
116:4,12,19
118:9,12 119:11,
17 124:3,11
128:12,18 131:23
132:4 135:5,10
139:1,6 143:3,10
144:20

type 43:17 49:6
52:23 73:11 78:17
121:1

types 22:6 46:6,7
81:3

typical 49:3,14

U

uh-huhs 8:9

uh-uhs 8:9

ultimate 45:15

ultrasound 65:3

uncertainties 9:9

unclear 7:20 8:10
143:12

unconstitutional
95:4

underneath 26:5
62:24 102:19
108:5 137:9,25

understand 7:8
9:15 11:10 14:2,
12 21:13 30:17
32:24,25 37:15
44:17 49:8 55:11
66:5 79:13 95:12
106:13

understandable
7:12,22

understanding
6:19 26:16,22
31:3 38:15 59:7
60:14 95:11

understands
42:9

understood 9:7
46:17

undertaken
133:18

unemployment
37:13 38:19

unit 41:18 42:20
51:18

University 146:3

unwanted 87:13,
18,24 88:5,10,15,
21 89:2

update 61:4,5,7,9

upheld 103:3

uphold 44:15

uploaded 131:8

Utah 141:22

V

vacated 95:8

vaccinations
72:12,13

VALERIE 6:2

vein 8:9,17 38:24
40:14

verbally 67:9,10,
13,17

versed 72:13

version 54:22

versions 55:23

versus 14:3

view 47:16 65:2
147:12

Vincent 58:17
124:16

violence 90:23
91:3,8 115:13,16,
19

vision 18:16
25:14

vital 32:12,22
33:4,10,22,23
34:7,13,16,18
61:13,14 62:6,8,9,
11,14

voices 8:2

vouchers 115:24,
25 116:3,8

vulnerable 37:21
38:2

W

wait 8:14

waiting 14:11,23,
25 15:15 54:23
55:3,8,10,12,16,
20,23 57:1,12,19,
24 58:5 62:24
64:21 69:15,17,21
70:3,6,13 71:2,11,
24 72:5 81:15,19,
22 82:1,6,10,17,
25 83:8,12,16,21
84:1,8,12,16,21
85:1,6,10,15,20,
24 86:3,8,12,18,
25 87:4,16,22
88:3,13,19,25
89:5,10,16,19,22
90:4,8,24 91:4,7,
11 92:12,18 95:4,
8,13,15,20,23,24
96:2,3 100:12
101:25 103:1,10,
17,25 104:6,11,
16,21 105:1,7,9,
13,18,23 106:18
107:1,4 112:2,3
113:24 114:3
121:22,23 122:6,
20,24 123:7,10,
17,21 125:6
132:11,18 141:6,
10,25 142:15,20

waiving 14:6

wanted 49:13
115:24 120:23
137:16

ways 31:20

website 108:2

Wednesday
128:20,24

weeks 49:12

wellness 28:3,6

29:17,22 44:16
52:20,23 110:20,
22 111:2,12,19,24
112:4,7

Wester 124:17

WIC 111:7,9
115:23 116:2,7

wished 30:5,7
31:16

withdraw 33:16
73:5 79:14 87:9
89:20,25 99:13
130:25 139:19
140:9 141:2

witnesses 72:7,
16,19,21 73:11

Womack 56:21
57:23

woman 91:24
93:10,18 103:5,9

women 36:16
65:2 69:3,7 85:7,
12,17,21 86:16,21
87:12 88:9,15,21
89:1,6,10,14,19
90:2,8,13,18,22
91:2 92:7,14,20
96:4 103:16,24
104:8 105:6,12,
17,22 110:11,15,
16 112:9 113:4,8,
15 114:7,13
115:1,6,9,23

women's 83:17,
22 84:2,9,17,22
85:2 92:25 93:4,
23 94:3,13,17
104:7 114:17,21

wondering 96:11
97:22

work 18:15,25
20:24 21:2 22:12,
14,20,25 23:7
29:11 51:16,20,23
52:2,6,7,10 72:14
76:9,11,14 99:12
127:20 142:8

worked 37:22
52:14,17,20,23
53:2

working 51:4

59:5 60:3,8

124:25 125:1

136:18,25

works 48:1 76:8

world 45:25

worse 94:2

wraps 144:20

written 22:17 67:5

wrong 57:17

79:25

WWS 136:15,17

**www.tn.gov/
health/health-
program-areas.
html** 107:22

Y

years 51:5

yes-or-no 128:9

you-all 129:3

young 116:10

132:6

younger 116:9

1	Q.	BUT YOU KNOW THERE WAS AT LEAST ONE	14:10:04
2		LEGISLATOR AT THE MEETING?	14:10:06
3	A.	CORRECT.	14:10:08
4	Q.	SO HAS THE DEPARTMENT TAKEN ANY ENFORCEMENT	14:10:21
5		ACTIONS TO ENFORCE ANY PROVISION OF HB0977 OR	14:10:24
6		SB1222?	14:10:33
7	A.	NOT THAT I'M AWARE OF.	14:10:36
8	Q.	AND WHAT INDIVIDUAL OR ENTITY DOES THE	14:10:37
9		DEPARTMENT HAVE THE JURISDICTION TO REGULATE UNDER	14:10:40
10		HOUSE BILL 0977 OR SENATE BILL 1222?	14:10:41
11	A.	IT WOULD BE AMBULATORY SURGICAL TREATMENT	14:10:46
12		CENTERS AND/OR HOSPITALS.	14:10:50
13	Q.	SO YOU'RE SPEAKING SPECIFICALLY ABOUT THE	14:10:56
14		DIVISION OF LICENSURE AND THE BOARD FOR LICENSING	14:11:01
15		HEALTH CARE FACILITIES?	14:11:06
16	A.	CORRECT.	14:11:07
17	Q.	WOULD THE DEPARTMENT AS A WHOLE -- EXCUSE ME	14:11:09
18		-- SO WHAT INDIVIDUALS OR ENTITIES OUTSIDE OF THAT	14:11:10
19		DIVISION WOULD THE DEPARTMENT HAVE THE JURISDICTION	14:11:13
20		TO REGULATE UNDER THESE BILLS?	14:11:16
21	A.	THERE IS A SISTER BOARD TO OUR BOARD, THE	14:11:27
22		HEALTH RELATED BOARDS FOR THE LICENSED PROFESSIONALS	14:11:29
23		ARE. BUT THAT'S THE EXTENT OF MY KNOWLEDGE OF THAT.	14:11:34
24	Q.	AND WHAT TYPES OF ENFORCEMENT ACTIONS COULD	14:11:39
25		THE DEPARTMENT TAKE AGAINST THOSE INDIVIDUALS THAT	14:11:46

1	-- OR CENTERS ON THE STATUTE?	14:11:48
2	A. THE BOARD CAN PLACE PROBATION ON A FACILITY'S	14:11:55
3	LICENSE. THEY CAN SUSPEND A FACILITY'S LICENSE.	14:11:59
4	THEY CAN ULTIMATELY CLOSE THE FACILITY'S LICENSE.	14:12:04
5	Q. AND TO DATE, HAVE THEY TAKEN ANY OF THESE	14:12:10
6	ACTIONS? TO DATE, HAS THE DEPARTMENT TAKEN ANY OF	14:12:12
7	THESE ACTIONS?	14:12:16
8	A. CAN YOU BE MORE SPECIFIC?	14:12:17
9	Q. TO DATE, HAS THE DEPARTMENT PUT AN AMBULATORY	14:12:20
10	SURGICAL TREATMENT CENTER UNDER PROBATION --	14:12:25
11	A. NO.	14:12:27
12	Q. -- FOR INFRINGING UPON --	14:12:27
13	A. NO.	14:12:30
14	Q. TO DATE HAS THE DEPARTMENT SUSPENDED -- AND	14:12:33
15	IF I REFER TO AN AMBULATORY SURGICAL TREATMENT	14:12:36
16	CENTER AS ASTC, WILL YOU UNDERSTAND THAT I'M	14:12:38
17	REFERRING TO THAT?	14:12:42
18	A. YES.	14:12:43
19	Q. HAS THE DEPARTMENT, TO DATE, SUSPENDED ANY	14:12:44
20	ASTC FOR INFRINGING ANY OF THESE BILLS?	14:12:48
21	A. NO.	14:12:53
22	Q. HAVE THEY CLOSED ANY ASTC?	14:12:53
23	A. NO.	14:12:57
24	Q. OTHER THAN THE SURVEYORS WITHIN THE DIVISION,	14:13:02
25	WHAT OTHER TOOLS DOES THE DEPARTMENT HAVE IN PLACE	14:13:04

1	OF OTHER ACTIVITIES THAT WOULD FALL UNDER THE	14:13:07
2	STATUTE?	14:13:10
3	A. CAN YOU BE MORE SPECIFIC?	14:13:12
4	Q. SURE. I MEAN, ARE SURVEYORS THE ONLY WAY	14:13:14
5	THAT THE DEPARTMENT HAS TO DETERMINE WHETHER A	14:13:16
6	CENTER HAS NOT FOLLOWED THE RULES PROMULGATED,	14:13:21
7	EITHER IN HB0977 OR SB1222?	14:13:29
8	A. SURVEYORS ARE IT.	14:13:33
9	Q. JUST SURVEYORS.	14:13:34
10	A. HM-HMM.	14:13:35
11	Q. DOES THE DEPARTMENT WORK WITH OTHER	14:13:41
12	GOVERNMENT AGENCIES TO ENFORCE THE STATUTE?	14:13:43
13	A. CAN YOU BE MORE SPECIFIC?	14:13:56
14	Q. SO WITHIN THE DEPARTMENT WE HAVE THE	14:13:57
15	SURVEYORS --	14:13:58
16	A. HM-HMM.	14:13:59
17	Q. -- WHO WILL DETERMINE WHETHER OR NOT THESE	14:14:00
18	BILLS -- LET ME TAKE A STEP BACK AND GIVE YOU WHAT	14:14:05
19	WE HAVE PREVIOUSLY MARKED AS DEPOSITION EXHIBIT 3.	14:14:17
20	(WHEREUPON, DEPOSITION EXHIBIT 3 WAS	
21	PASSED TO THE WITNESS.)	
22	BY MR. TUSIRAY:	
23	Q. AT THE TOP OF THAT EXHIBIT, DO YOU SEE WHERE	14:14:42
24	IT SAYS, "39-15-202, INFORMED CONSENT WAITING PERIOD	14:14:47
25	SIGNS AND PENALTIES"?	14:14:51

1	A.	YES.	14:14:52
2	Q.	DO YOU RECOGNIZE WHAT THIS STATUTE IS?	14:14:54
3	A.	YES.	14:14:56
4	Q.	WHAT IS THAT?	14:14:57
5	A.	IT SAYS "INFORMED CONSENT WAITING PERIOD	14:14:59
6		SIGNS AND PENALTIES."	14:15:01
7	Q.	IS THIS THE STATUTE -- IS THIS THE STATUTE	14:15:04
8		THAT CODIFIES THE LANGUAGE OF SENATE BILL 1222?	14:15:13
9	A.	IT APPEARS TO BE.	14:15:40
10	Q.	OKAY. SO THIS IS THE STATUTE THAT WOULD	14:15:44
11		CONTAIN THE RULES THAT YOUR DIVISION IS TASKED WITH	14:15:47
12		ENFORCING; IS THAT CORRECT?	14:15:51
13	A.	THIS IS NOT THE STATUTE THAT OUR FACILITIES	14:15:58
14		OPERATE UNDER. WE ARE 68-11-201.	14:16:01
15	Q.	IF I REFER TO THIS DOCUMENT -- LET'S JUST DO	14:16:08
16		IT THIS WAY. IF YOU WILL TURN TO PAGE 2 OF THE	14:16:10
17		EXHIBIT, TWO PARAGRAPHS DOWN, SECTION D-1. DO YOU	14:16:32
18		SEE WHERE IT STATES THAT "NO ABORTION SHALL BE	14:16:37
19		PERFORMED UNTIL THE WAITING PERIOD OF 48 HOURS HAS	14:16:42
20		ELAPSED"?	14:16:44
21	A.	YES.	14:16:46
22	Q.	AND AT THE VERY END DO YOU SEE "AFTER THE 48	14:16:47
23		HOURS HAVE ELAPSED AND PRIOR TO THE PERFORMANCE OF	14:16:49
24		THE ABORTION, THE PATIENT SHALL SIGN THE CONSENT	14:16:51
25		FORM REQUIRED BY THE SUBSECTION?	14:16:54

1	A.	YES.	14:16:56
2	Q.	EXCUSE ME. I AM DOING THIS ALL JUMBLED.	14:16:56
3		AND ALSO DO YOU SEE "AFTER THE TENANT" --	14:16:59
4		SORRY. "NO ABORTION SHALL BE PERFORMED UNTIL A	14:17:04
5		WAITING PERIOD OF 48 HOURS HAS ELAPSED AFTER THE	14:17:07
6		ATTENDING PHYSICIAN OR THE REFERRING PHYSICIAN HAS	14:17:10
7		PROVIDED THE INFORMATION REQUIRED BY SUBSECTIONS B	14:17:11
8		AND C." DO YOU SEE THAT? SO I JUST WENT BACK UP	14:17:13
9		AND REPEATED A LITTLE BIT?	14:17:18
10	A.	OH, YES. YES.	14:17:20
11	Q.	SO IF I REFER TO -- DO YOU RECOGNIZE THIS	14:17:20
12		PROVISION AS THE NOTICE AND WAITING PERIOD	14:17:24
13		PROVISION?	14:17:28
14	A.	YES.	14:17:28
15	Q.	AND IF I REFER TO IT SIMPLY AS THE WAITING	14:17:33
16		PERIOD REQUIREMENT, WILL YOU UNDERSTAND THAT I AM	14:17:35
17		REFERRING TO THAT PROVISION?	14:17:39
18	A.	YES.	14:17:40
19	Q.	HAS THE DEPARTMENT ENGAGED IN ANY ENFORCEMENT	14:17:40
20		ACTION TO ENFORCE THE WAITING PERIOD REQUIREMENT	14:17:46
21		PROVISION?	14:17:47
22	A.	NO.	14:17:48
23	Q.	HAS THE DEPARTMENT IMPLEMENTED ANY MECHANISMS	14:17:49
24		TO TRACK COMPLIANCE WITH THE WAITING PERIOD	14:17:52
25		REQUIREMENT?	14:17:52

1	A.	NO.	14:17:55
2	Q.	HAS THE DEPARTMENT WORKED WITH OTHER	14:17:55
3		GOVERNMENT AGENCIES TO ENFORCE THE WAITING PERIOD	14:17:57
4		REQUIREMENT?	14:18:00
5	A.	CAN YOU SPECIFY "OTHER GOVERNMENT AGENCIES"?	14:18:01
6	Q.	ANYTHING THAT'S NOT THE TENNESSEE DEPARTMENT	14:18:04
7		OF HEALTH.	14:18:06
8	A.	NO, NOT TO MY KNOWLEDGE.	14:18:07
9	Q.	AND HAS THE DEPARTMENT WORKED WITH ANY	14:18:09
10		PRIVATE AGENCY TO ENFORCE THE WAITING PERIOD	14:18:12
11		REQUIREMENT?	14:18:16
12	A.	NOT TO MY KNOWLEDGE, NO.	14:18:18
13	Q.	OUTSIDE THE GOVERNMENT AGENCIES AND PRIVATE	14:18:20
14		AGENCIES, CAN YOU THINK OF ANY OTHER AGENCIES THAT	14:18:23
15		THE DEPARTMENT HAS WORKED WITH TO ENFORCE THE	14:18:26
16		WAITING PERIOD REQUIREMENT?	14:18:31
17	A.	I DON'T KNOW OF ANY.	14:18:33
18	Q.	AND OUTSIDE OF SURVEYORS, HAS THE DEPARTMENT	14:18:40
19		IMPLEMENTED ANY MECHANISMS TO TRACK COMPLIANCE WITH	14:18:43
20		THE WAITING PERIOD REQUIREMENT?	14:18:46
21	A.	NO.	14:18:47
22	Q.	AND WOULD THE DEPARTMENT -- OUTSIDE OF WHAT	14:18:52
23		YOU MENTIONED EARLIER REGARDING SUSPENDING --	14:18:59
24		OUTSIDE OF PUTTING A CENTER ON PROBATION, SUSPENDING	14:19:09
25		THEIR LICENSE, OR SHUTTING THEM DOWN HAS THE	14:19:10

1	DEPARTMENT -- CAN A DEPARTMENT TAKE ANY OTHER TYPES	14:19:13
2	OF ENFORCEMENT ACTIONS FOR CENTERS NOT IN COMPLIANCE	14:19:16
3	WITH THE WAITING PERIOD REQUIREMENT?	14:19:20
4	A. NOT THAT I CAN THINK OF, NO.	14:19:23
5	Q. AND HAS THE DEPARTMENT ANALYZED WHETHER THE	14:19:26
6	WAITING PERIOD REQUIREMENT FURTHERS THE DEPARTMENT'S	14:19:29
7	INTEREST IN LICENSING HEALTH CENTERS?	14:19:31
8	A. I DON'T KNOW.	14:19:35
9	Q. HAS THE DEPARTMENT SEEN ANY EVIDENCE THAT THE	14:19:35
10	WAITING PERIOD REQUIREMENT -- HAS THE DEPARTMENT	14:19:37
11	SEEN ANY EVIDENCE INDICATING THAT THE WAITING PERIOD	14:19:42
12	REQUIREMENT FURTHERS THE DEPARTMENT'S INTERESTS IN	14:19:44
13	LICENSING HEALTH CENTERS?	14:19:46
14	A. I DON'T KNOW.	14:19:49
15	Q. HAS THE DEPARTMENT SEEN ANY -- HAS THE	14:19:53
16	DEPARTMENT SEEN ANY EVIDENCE THAT THE WAITING PERIOD	14:19:57
17	REQUIREMENT PRODUCED ANY INTERESTS THAT THE	14:19:58
18	DEPARTMENT HAS IN LICENSING HEALTH CARE	14:20:02
19	PROFESSIONALS OR CENTERS?	14:20:05
20	A. I DON'T KNOW.	14:20:08
21	Q. HAVE YOU SEEN ANYTHING?	14:20:13
22	A. NO.	14:20:14
23	MR. TUSIRAY: WHY DON'T WE TAKE A QUICK	14:20:28
24	FIVE-MINUTE BREAK AND COME BACK.	14:20:30
25	(SHORT BREAK.)	

1	BY MR. TUSIRAY:	
2	Q. GOING BACK TO THE TOPIC OF SURVEYORS, WHAT	14:28:33
3	MEASURES DO SURVEYORS TAKE TO CONFIRM THAT THE ASTCS	14:28:37
4	AND HOSPITALS ARE COMPLIANT WITH THE WAITING PERIOD	14:28:44
5	REQUIREMENT?	14:28:47
6	A. CAN YOU BE MORE SPECIFIC IN THE TERM	14:28:50
7	"MEASURES"?	14:28:53
8	Q. SURE. FOR EXAMPLE, DO THE SURVEYORS REQUEST	14:28:54
9	FORMS THAT INDICATE INFORMED CONSENT HAS BEEN GIVEN?	14:28:56
10	A. YES. THEY USE INTERVIEW, OBSERVATION, AND	14:29:00
11	RECORD REVIEW.	14:29:05
12	Q. OKAY. AND THOSE ARE THE THREE PRONGS THAT	14:29:07
13	THEY'LL ADDRESS IN THEIR SURVEYS; IS THAT CORRECT?	14:29:14
14	A. YES.	14:29:16
15	Q. SO INTERVIEW, OBSERVATION, AND RECORD REVIEW?	14:29:17
16	A. YES.	14:29:19
17	Q. GREAT. AND SO WHO WOULD THEY INTERVIEW AT	14:29:20
18	ONE OF THESE CENTERS?	14:29:23
19	A. ANY STAFF, POSSIBLY PATIENTS.	14:29:27
20	Q. AND WHAT EXACTLY WOULD THEY OBSERVE TO SEE	14:29:37
21	THAT THE CENTER IS COMPLIANT WITH THE WAITING PERIOD	14:29:40
22	REQUIREMENT?	14:29:43
23	A. THAT WOULD BE MORE OF A RECORD REVIEW ITEM.	14:29:48
24	Q. AND WHAT RECORD WOULD THEY LOOK AT TO CONFIRM	14:29:51
25	THAT A CENTER IS COMPLIANT WITH THE WAITING PERIOD	14:29:55

1	REQUIREMENT?	14:29:59
2	A. THEY WOULD REVIEW A PATIENT'S CHART FOR ANY	14:30:00
3	PAPERWORK SUPPLIED TO THEM UPON ADMISSION AND	14:30:03
4	COMPLETED BY A PATIENT, AND PAPERWORK COMPLETED	14:30:07
5	DURING THEIR STAY IN THE FACILITY, AND ANY DISCHARGE	14:30:14
6	PAPERWORK.	14:30:18
7	Q. AND WOULD THEY LOOK AT ANY OTHER TYPE OF	14:30:20
8	EVIDENCE THAT WOULD SHOW THAT INFORMED CONSENT WAS	14:30:23
9	GIVEN IN ANY OTHER WAY?	14:30:28
10	A. NO.	14:30:31
11	Q. AND WOULD THEY REQUEST ANY OTHER EVIDENCE	14:30:35
12	THAT THE WAITING PERIOD REQUIREMENT WAS -- EXCUSE ME	14:30:39
13	-- WOULD THEY LOOK AT ANY -- WOULD THEY REQUEST ANY	14:30:40
14	OTHER EVIDENCE TO INDICATE THAT THE WAITING PERIOD	14:30:50
15	REQUIREMENT WAS ALSO UPHELD?	14:30:52
16	A. THEY DO LOOK AT FACILITY POLICY AND	14:31:00
17	PROCEDURES, WHICH COULD DIRECT SOME OF THEIR SURVEY	14:31:05
18	ACTIVITIES.	14:31:10
19	Q. AND DOES THE DIVISION PUBLISH A RECOMMENDED	14:31:11
20	FACILITY POLICY AND PROCEDURES ONLINE?	14:31:19
21	A. NO.	14:31:21
22	Q. DO THEY HAVE ANY KIND OF INPUT INTO FACILITY	14:31:22
23	POLICY AND PROCEDURES?	14:31:28
24	A. ONLY AS A POLICY AND PROCEDURE MAY RELATE TO	14:31:29
25	REQUIREMENTS OF THE MINIMUM -- CONTAINED WITHIN THE	14:31:31

1	MINIMUM STANDARDS.	14:31:34
2	Q. AND WOULD THE DEPARTMENT PUBLISH ANY BEST	14:31:36
3	PRACTICES FOR POLICIES AND PROCEDURES FOR THESE	14:31:44
4	CENTERS?	14:31:48
5	A. NO.	14:31:50
6	Q. AND WHAT CREDENTIALS DO THESE SURVEYORS HAVE?	14:31:56
7	ARE THEY CERTIFIED?	14:32:01
8	A. THEY ARE REGISTERED NURSES FOR THE HEALTH	14:32:04
9	INSPECTIONS. SOME OF THEM PROBABLY DO HAVE SOME	14:32:08
10	SORT OF CERTIFICATION FROM CENTERS FOR MEDICARE AND	14:32:10
11	MEDICAID SERVICES, CMS, AND THEY ARE LIFE SAFETY	14:32:14
12	SURVEYORS WHO DO THE BUILDING INSPECTIONS AND THEY	14:32:18
13	ARE FROM A WIDE VARIETY OF A BACKGROUND.	14:32:22
14	MR. TUSIRAY: I THINK WE'RE DONE.	14:32:33
15	MR. HART: JUST REAL QUICK. A COUPLE OF	14:32:34
16	QUESTIONS.	14:32:34
17		
18	EXAMINATION	
19	QUESTIONS BY MR. HART:	
20	Q. ALL RIGHT. AT THE PREPARATORY MEETING YOU	14:32:36
21	MENTIONED WITH THE ATTORNEY GENERAL'S OFFICE, WAS I	14:32:43
22	PRESENT AT THAT MEETING?	14:32:46
23	A. YES.	14:32:46
24	Q. WAS ALEX RIEGER PRESENT?	14:32:47
25	A. YES.	14:32:49

REPORTER'S CERTIFICATE

STATE OF TENNESSEE

COUNTY OF MONTGOMERY

I, D. ROCHELLE KOENES, LICENSED COURT
REPORTER, WITH OFFICES IN NASHVILLE, TENNESSEE,
HEREBY CERTIFY THAT I REPORTED THE FOREGOING
DEPOSITION OF MS. ANN REDD BY MACHINE SHORTHAND TO
THE BEST OF MY SKILLS AND ABILITIES, AND THEREAFTER
THE SAME WAS REDUCED TO TYPEWRITTEN FORM BY ME.

I AM NOT RELATED TO ANY OF THE PARTIES
NAMED HEREIN, NOR THEIR COUNSEL, AND HAVE NO
INTEREST, FINANCIAL OR OTHERWISE, IN THE OUTCOME OF
THE PROCEEDINGS.

I FURTHER CERTIFY THAT IN ORDER FOR THIS
DOCUMENT TO BE CONSIDERED A TRUE AND CORRECT COPY,
IT MUST BEAR MY ORIGINAL SIGNATURE, AND THAT ANY
UNAUTHORIZED REPRODUCTION IN WHOLE OR IN PART
AND/OR TRANSFER OF THIS DOCUMENT IS NOT AUTHORIZED,
WILL NOT BE CONSIDERED AUTHENTIC, AND WILL BE IN
VIOLATION OF TENNESSEE CODE ANNOTATED 39-14-104,
THEFT OF SERVICES.

D. Rochelle Koenes

D. ROCHELLE KOENES, RPR, LCR
ELITE REPORTING SERVICES
ASSOCIATE REPORTER - AND
NOTARY PUBLIC STATE OF TENNESSEE



MY NOTARY PUBLIC COMMISSION EXPIRES: 03/11/2019
LCR # 689 - EXPIRES: 6/30/2019

<hr/> 0 <hr/>	ABORTIONS 25:10	25:12 ALEX 35:24	<hr/> B <hr/>
0977 21:22 22:6, 16 23:23 25:5 26:10	ACCESS 25:5,9, 13	AMBULATORY 17:4,6 26:11 27:9, 15	BACK 25:1 28:18 30:8 32:24 33:2
<hr/> 1 <hr/>	ACCREDITED 18:3	AMENDMENTS 10:23 11:12	BACKGROUND 35:13
1 8:25 9:1 1222 18:7 19:19 22:2 23:19 25:4 26:10 29:8	ACCREDITING 18:4	ANALYSIS 11:8	BAKER 36:3
<hr/> 2 <hr/>	ACCURACY 7:23	ANALYZE 16:7	BASED 13:11 14:9 15:1 17:17
2 9:8,9 29:16 2002 13:13 2006 12:21 13:14	ACCURATE 6:3, 11 8:14	ANALYZED 32:5	BEGAN 13:13
<hr/> 3 <hr/>	ACTION 15:20 30:20	AND/OR 11:8,11 26:12	BILL 18:7,15,16 19:19 21:21 22:2, 6,16 23:10,13,19, 23 24:19,21 25:4 26:10 29:8
3 9:25 28:19,20 30(B)(6) 36:10 39-15-202 28:24	ACTIONS 26:5,24 27:6,7 32:2 37:3	ANN 5:2	BILLS 22:19 24:5, 7,24 25:10,14 26:20 27:20 28:18
<hr/> 4 <hr/>	ACTIVITIES 28:1 34:18	ANSWERS 6:3 7:4,9	BIT 30:9
4 9:6 10:10 48 29:19,22 30:5	ACTIVITY 14:12	APOLOGIES 19:15	BOARD 12:4,12, 14 14:8,11 15:3, 14 16:9,10,12,14, 17 22:1,5,9,14 24:17,20 26:14,21 27:2 37:4
<hr/> 5 <hr/>	ADAMS 5:10	APPEARS 29:9	BOARDS 24:3 26:22
5 10:20	ADDITIONAL 7:18	APPLICATIONS 12:18	BODY 18:4
<hr/> 6 <hr/>	ADDRESS 16:10 33:13	APPLIES 7:3	BOYLE 5:10
6 11:6 68-11-201 29:14	ADDRESSED 24:20	APPROVE 12:17	BREAK 8:6,7,10 32:24,25
<hr/> A <hr/>	ADDRESSING 5:12	AREA 13:22,24 14:1	BREAKING 16:8
ABILITIES 24:16 ABORTION 16:23 17:4,8,12 25:5,13 29:18,24 30:4	ADMINISTRATIVE 12:12 16:15	AREAS 13:19 17:10	BUILDING 35:12
	ADMISSION 34:3	ARISE 8:4	
	ADVOCATE 23:11	ARM 12:12 14:3	
	AFFAIRS 22:10, 15	ASTC 27:16,20,22	
	AFTERNOON 5:8	ASTCS 33:3	
	AG'S 9:18	ATTENDING 30:6	
	AGENCIES 28:12 31:3,5,13,14	ATTORNEY 35:21	CALLED 5:3 21:16 23:4
	AGENCY 31:10	ATTORNEYS 36:9	CARE 12:5,11,13, 15,17 14:1,18,20 15:5,14 16:12 18:21 19:20 20:14 21:25 22:4,8,13 23:2 24:2,16 26:15 32:18 36:17,23 37:4
	AGING 13:4,7	AUTHORITY 16:18,24 24:10	
	AHEAD 8:1	AWARE 10:1,10, 20 11:7 22:3,7,12, 17 26:7 37:1	
	AIDES 21:5,9		

CARRIED 24:21

CASE 5:9

CATHERINE
36:3

CENTER 17:5,7,
20 27:10,16 28:6
31:24 33:21,25

CENTERS 26:12
27:1 32:2,7,13,19
33:18 35:4,10

CERTIFICATION
35:10

CERTIFIED 17:25
35:7

CHANCE 7:13

CHART 34:2

CLARIFY 13:21
21:20

CLEAR 6:8,16 7:7

CLOSE 27:4

CLOSED 27:22

CMS 35:11

CODIFIES 29:8

COLLEAGUES
5:11

COMBINED 12:7

COMFORTABLE
5:12

COMMISSION
13:4,5,7

COMMISSIONER
15:25

COMMISSIONER
'S 23:6

COMMUNICATIO
NS 18:6,13 20:11
21:21

COMMUNITY
13:11

COMPARE 15:9

COMPLAINT
15:1 36:17,20

COMPLAINTS

36:22

COMPLETE 6:3
7:21 8:14

COMPLETED
11:9 17:17 34:4

COMPLETING
17:16

COMPLIANCE
30:24 31:19 32:2

COMPLIANT
33:4,21,25

COMPLYING
36:18,24

CONFIRM 33:3,
24

CONSENT 17:4
28:24 29:5,24
33:9 34:8

CONTAINED
34:25

CONTENT 22:21

CONTEXT 25:2

CONVERSATION
22:22 24:2,23

CONVERSATION
S 22:18 23:18,22

CONVEY 25:3

CORRECT 13:14,
15 14:22 15:6,7,8,
11,18,23 16:4,13,
16 17:21 23:5
24:8 26:3,16
29:12 33:13

CORRECTIONS
8:3

CORRESPONDE
NCES 8:22

COUNSEL 9:18
14:11 15:17,21
16:6 19:8,17

COUNSEL'S
15:22,24

COUPLE 35:15

CREDENTIALS
35:6

D

D-1 29:17

DARK 36:3

DATE 27:5,6,9,14,
19

DAVIS 18:18

DEFINITION 17:6

DELAY 10:24

DELAYED 11:12

DEPARTMENT
5:15,17,21 11:9,
10,21,23,24,25
12:3,23 13:20,23,
25 14:15,17 15:22
16:1,3,4 19:4,10
20:11 21:18
22:10,15 23:17,21
24:15 25:20 26:4,
9,17,19,25 27:6,9,
14,19,25 28:5,11,
14 30:19,23 31:2,
6,9,15,18,22 32:1,
5,9,10,15,16,18
35:2 36:22

DEPARTMENT'S
9:9 10:2,12,22
14:14 32:6,12

DEPONENT 37:9

DEPOSITION
7:18 8:15,21,25
9:1 28:19,20
36:10

DEPOSITIONS
7:24

DESIGNATED
5:14 6:1 8:18 9:8
10:1,11,21 11:7
14:4

DESIGNEE 5:20

DETERMINATIO
N 16:10

DETERMINE
28:5,17

DEVELOPMENT
18:8

DIRECT 34:17

DIRECTLY 18:9

DIRECTOR 12:4
18:20

DISABILITY 13:4,
8

DISCHARGE
34:5

DISCIPLINARY
15:20

DISCUSS 18:15
36:12

DISCUSSED
19:18 22:24
24:11,12 25:2,7

DISCUSSION
11:8

DIVISION 14:6,
19,24 16:14 17:9,
10 22:10,15 23:13
24:15 26:14,19
27:24 29:11 34:19

DIVISIONS 14:16

DOCUMENT
29:15

DOCUMENTS
8:20

DULY 5:3

DUTIES 12:8

E

E-MAIL 8:22
22:23 24:18,23
25:21

EARLIER 31:23

EAST 36:13

ELAPSED 29:20,
23 30:5

EMPLOYEE 19:3,
10

END 29:22

ENDED 13:14

ENFORCE 26:5
28:12 30:20 31:3,

10:15 ENFORCEMENT 9:10 10:3,12,23 11:11 14:3,5,7,12 15:20 17:11 26:4, 24 30:19 32:2 37:3 ENFORCING 13:20,23 29:12 ENGAGED 11:9 30:19 ENTAIL 14:25 ENTITIES 26:18 ENTITY 26:8 EVIDENCE 32:9, 11,16 34:8,11,14 EXAMINATION 5:6 35:18 EXCEL 8:22 EXCHANGE 6:16 EXCUSE 24:15 26:17 30:2 34:12 EXHIBIT 8:24,25 9:1,4,6 28:19,20, 23 29:17 EXPLAIN 18:12 EXPRESS 25:9, 12 EXPRESSED 20:13 EXTENT 26:23	16:11 19:20 27:2, 3,4 FAIRLY 7:16 FALL 14:17 28:1 FAST 6:13 FEDERALLY 18:3 FILES 12:10 FINAL 11:6 FINALLY 8:6,13 23:17 FINDINGS 14:10 15:9 FINE 5:13 FINISH 7:8 FIVE-MINUTE 32:24 FLYNN 5:11 FORGET 13:22 FORM 29:25 FORMS 33:9 FORWARD 7:4 FRAME 17:17 FULL 6:2 7:13 8:14 FURTHERS 32:6, 12	31:3,5,13 GREAT 11:20 33:17	<hr/> I <hr/> IDENTIFIED 5:17 IMPLEMENTED 30:23 31:19 IMPORTANT 7:23 INACCURATELY 8:1 INDICATING 32:11 INDIRECTLY 18:10 INDIVIDUAL 26:8 INDIVIDUALS 26:18,25 INFORMATION 5:25 6:17 7:18 30:7 INFORMED 17:4 28:24 29:5 33:9 34:8 INFRINGING 27:12,20 INHERENT 16:18 INITIALLY 7:20 17:18 INPUT 34:22 INSPECT 15:5 INSPECTIONS 35:9,12 INTENT 25:9,12 INTEREST 25:4 32:7 INTERESTED 5:24 INTERESTS 32:12,17 INTERRUPT 7:11 INTERVIEW 33:10,15,17 INVESTIGATE 36:20
<hr/> F <hr/> FACILITIES 12:5, 11,17,19 14:2,20 15:1,3,5,15 16:12 17:25 18:21 20:14 23:3 24:2,17 26:15 29:13 37:4 FACILITY 12:13, 15 14:3,18,21 15:10 17:1,22 22:1,4,8,13 34:5, 16,20,22 36:18,23 FACILITY'S	<hr/> G <hr/> GENERAL 13:25 15:22,24 17:11 19:8,17 23:18 GENERAL'S 35:21 GENERALLY 13:19 14:7 GIVE 7:1,13 8:14, 24 15:4 23:7 28:18 GOOD 5:8 GOVERNMENT 12:25 13:16 28:12	<hr/> H <hr/> HAILY 5:11 HAIR 36:4 HAPPENED 25:23 HART 9:20,22 35:15,19 37:7 HB0977 9:10 26:5 28:7 HEAD 6:24,25 HEALTH 5:15,18 11:21,24,25 12:5, 11,12,14,17 13:19 14:1,15,18,19,20 15:5,14 16:12 17:25 18:21 19:20 20:14 21:25 22:4, 8,13 23:1,2 24:2, 16 26:15,22 31:7 32:7,13,18 35:8 36:17,23 37:3,4 HELD 14:7 21:18 HM-HMM 19:5 28:10,16 HOLD 12:22 13:16 HOME 13:10 HOSPITALS 26:12 33:4 HOURS 29:19,23 30:5 HOUSE 21:21 22:5,16 23:22 25:4 26:10 HOUSED 15:25 HUGHES-TOOMBS 18:24 19:1,9	

INVOLVEMENT
9:10 10:2,12,22

ITEM 33:23

J

JANE 18:23 19:3

JASON 5:11

JUMBLED 30:2

JURISDICTION
26:9,19

K

KENNEDY 36:11

KIND 34:22

KNOWLEDGE
16:5 26:23 31:8,
12

L

LADY 36:3

LANGUAGE 29:8

LAW 14:4

LEFT 9:23

LEGAL 9:18
14:10 15:17,21
16:3,6

LEGISLATIVE
22:10,15

LEGISLATOR
19:23 20:1,3,7,12
21:5,8,21 25:3,8,
9,20,23 26:2

LEGISLATORS
18:7 21:3 22:1,5
23:18,22 25:19

LICENSE 16:11
27:3,4 31:25

LICENSED 12:17,
19 14:4 15:1
26:22 36:23

LICENSING 12:5,
10,12,14 14:2
15:14 19:20 20:15

23:2 24:3 26:14
32:7,13,18

LICENSURE
12:4,10,18 14:19
17:13 18:5 23:1
26:14

LIEU 18:5

LIFE 35:11

LIMIT 25:9,13

LIMITS 25:5

LIST 9:25 10:20

LITIGATION 5:22

LONG 8:8 12:20
13:12

LOUD 7:1

M

MADE 10:23
11:12

MAKE 8:3 14:8
16:10

MANAGEMENT
12:10

MARKED 8:25
28:19

MARY 36:11

MATTER 20:17

MATTERS 9:7

MEASURES
33:3,7

MECHANISMS
30:23 31:19

MEDICAID 35:11

MEDICARE
35:10

MEET 15:3 18:2

MEETING 18:14,
17 19:13,18,24
20:8,12,16,20
21:6,9,11,16,18,
24 22:9,20,24
23:5,9,24 24:1
25:1,2,7,8,16,19,
21,24 26:2 35:20,

22

MEETINGS 22:1,
5

MENTIONED
31:23 35:21 36:9

MINDFUL 6:22

MINIMUM 15:2,
10,13 16:25 34:25
35:1

MOFF 5:11 37:8

MOVE 16:9

N

NAGOSHINER
18:23 22:9,14,19
24:14

NATURE 18:12

NODS 6:24

NOTICE 5:17
30:12 36:18,24
37:5

NUMBER 9:1,7
10:20

NURSE 13:10

NURSES 35:8

O

OBSERVATION
33:10,15

OBSERVE 33:20

OFFICE 9:18
14:18,19 15:22,24
19:8,17 23:6,8
35:21 36:14

ONLINE 34:20

OPERATE 29:14

ORDER 6:6

P

PAPERWORK
34:3,4,6

PARAGRAPHS
29:17

PASSAGE 21:14

PASSED 9:2
24:19,22 28:21

PATIENT 29:24
34:4

PATIENT'S 34:2

PATIENTS 33:19

PENALTIES
28:25 29:6

PENDING 8:8,9

PERFORMANCE
29:23

PERFORMED
29:19 30:4

PERIOD 10:13
11:11 28:24 29:5,
19 30:5,12,16,20,
24 31:3,10,16,20
32:3,6,10,11,16
33:4,21,25 34:12,
14 36:19,25

PERSON 23:7

PHONETIC 18:24

PHYSICIAN 30:6

PLACE 21:12
27:2,25

PLAINTIFFS 5:9

POINT 8:8 13:1
23:14 25:8

POLICIES 35:3

POLICY 34:16,20,
23,24

POSITION 12:6,7,
8,20,22 13:9,12
23:10,13 24:24

POSITIONS
13:17

POSSIBLY 18:23
33:19

POTENTIAL
12:18

POWERS 14:5,7

PRACTICES 35:3	PROMULGATES 15:13	REASON 7:25 8:7,13	23:1
PREPARATION 22:23 36:9	PROMULGATIO	RECALL 7:18 9:22 18:14 19:2, 22,25 20:1,6,7,10, 17,19 21:7,11,17, 24 23:4,15 24:13 25:11,15,18	REGULATIONS 12:16 17:3,5 20:15 24:6,7
PREPARATORY 35:20	N 19:21 20:15 23:1 24:5	RECOGNIZE 9:4 29:2 30:11	RELATE 34:24
PREPARE 9:14 10:7,18 11:3,4,17	PRONGS 33:12	RECOGNIZED 18:4	RELATED 11:10 17:3 22:20 26:22
PREPARED 8:17 9:12 10:5,15 11:1, 15	PROPOSED 10:23 11:12	RECOLLECTION 19:22	RELATIVE 22:23
PREPARING 8:21 23:9	PROSECUTE 16:8	RECOMMENDAT	RELEVANT 7:19
PRESENT 9:24 18:17 19:23 20:20,23 21:3,5,9 35:22,24 36:1	PROVIDE 6:2 7:19	IONS 14:9	RELIED 11:10
PRESENTED 14:10,11	PROVIDED 17:1 30:7	RECOMMENDED 34:19	REMEMBER 9:19
PREVIOUS 10:19 11:5,19	PROVISION 26:5 30:12,13,17,21	RECORD 6:11 7:7 33:11,15,23, 24	REPEAT 25:6
PREVIOUSLY 10:9 28:19	PUBLISH 34:19 35:2	RECORDED 6:25 25:16	REPEATED 30:9
PRIOR 12:23 13:1,17 21:14 29:23	PURPOSE 5:21	RECORDING 6:20	REPORT 15:7,16
PRIORITIZES 17:10	PURPOSES 17:13	REED 5:2,12,14, 24 9:4 13:19 18:6	REPORTS 16:7
PRIORITY 17:15	PUT 15:2 27:9	REFER 11:23 27:15 29:15 30:11,15	REPRESENT 5:9
PRIVATE 31:10, 13	PUTTING 31:24	REFERENCED 23:25	REPRESENTATI
PROBATION 27:2,10 31:24	QUALITY 13:10	REFERENCES 17:7	VES 5:16
PROCEDURE 34:24	QUANTE 18:24 19:1,9	REFERRING 11:25 27:17 30:6, 17	REQUEST 33:8 34:11,13
PROCEDURES 34:17,20,23 35:3	QUESTION 6:8, 10,13,15 7:8,12, 17,19 8:8,9 13:21	REGIONAL 36:14	REQUIRED 17:23 29:25 30:7
PRODUCED 32:17	QUESTIONS 5:7, 16 6:1,3,7,24 35:16,19	REGISTERED 35:8	REQUIREMENT 10:13,24 11:11,13 18:2 30:16,20,25 31:4,11,16,20 32:3,6,10,12,17 33:5,22 34:1,12, 15 36:19,25
PROFESSIONAL	QUICK 32:23 35:15	REGULATE 26:9, 20	REQUIREMENTS 15:10,13 34:25
S 26:22 32:19	REALM 16:23 17:12	REGULATED 14:4	RESEARCH 11:8
PROGRAM 13:11	REACH 25:20	REGULATION 14:2,19 16:23	RESPONSE 6:24 21:23
PROMULGATE 12:16	REAL 35:15		RESPONSIBLE 12:9
PROMULGATED 28:6			RESULT 6:2
			REVIEW 8:20 33:11,15,23 34:2
			RIEGER 35:24
			RISES 15:19
			ROLE 12:2,23

13:1,9 19:6,16,20
20:14 24:3

ROLES 14:24,25

ROLL 19:12

RULE 16:8

RULEMAKING
16:17,24 24:10,16

RULES 12:16
19:21 23:2 24:6,7
28:6 29:11

S

SAFETY 35:11

SAITH 37:9

SB1222 10:3
21:14 22:11 26:6
28:7

SCHEDULE
17:15

SECTION 29:17

SENATE 18:7
19:19 20:5 22:2
23:19 25:4 26:10
29:8

SENATOR 20:22,
23

SEND 15:17

SERVICES 13:11
16:15 17:1 35:11

SET 15:2,10 16:25
25:21,25

SHAKE 6:25

SHELDON 9:23

SHORT 32:25

SHOW 34:8

SHUTTING 31:25

SIGN 29:24

SIGNS 28:25 29:6

SIMPLY 30:15

SISTER 26:21

SLATERY 5:10

SORT 14:12 35:10

SPEAK 6:13,21
8:17 9:12,14 10:5,
7,15,17 11:1,3,15,
17 22:14 24:14

SPEAKING 26:13

SPECIFIC 14:21
16:21 17:10 27:8
28:3,13 33:6

SPECIFICALLY
9:19 13:24 16:22
21:13 24:9 26:13
36:13

SPREADSHEET
S 8:23

STAFF 12:9 33:19
36:13

STAND 18:4

STANDARDS
15:2 17:1,2 35:1

START 7:8

STATE 17:13

STATES 29:18

STATUTE 18:5
27:1 28:2,12 29:2,
7,10,13

STAY 34:5

STENOGRAPHE
R 6:19

STEP 28:18

SUBJECT 20:17

SUBMITTED
12:18

SUBSECTION
29:25

SUBSECTIONS
30:7

SUE 9:23 36:1

SUPERVISE 12:9

SUPERVISOR
18:20

SUPPLIED 34:3

SURGICAL 17:5,
6 26:11 27:10,15

SURVEY 14:9
17:20,22,23 18:5
34:17

SURVEYED
17:18 18:1

SURVEYORS
14:8,13,14,15
15:4,16 27:24
28:4,8,9,15 31:18
33:2,3,8 35:6,12
36:19

SURVEYORS'
14:25

SURVEYS 15:1
17:16 33:13

SUSPEND 27:3

SUSPENDED
27:14,19

SUSPENDING
31:23,24

SWORN 5:4

T

TALKED 36:8

TALKING 20:14

TASKED 13:20,
23 29:11

TENANT 30:3

TENNESSEE
5:15,17 11:20,23,
25 12:11 13:5,7
31:6 36:14

TERM 33:6

TERMINOLOGY
17:8

TESTIFIED 5:4,
20

TESTIMONY
7:25 8:15 9:7

TIME 6:8 17:17
18:25 19:7,12
24:22

TIMUR 5:8

TOOLS 27:25

TOP 28:23

TOPIC 7:17 9:9,
12,15,25 10:5,8,
10,15,18 11:1,4,6,
15,18 18:15 24:2,
12 33:2

TOPICS 8:17
22:24

TRACK 30:24
31:19

TRACKS 17:18

TREATMENT
17:5,7 26:11
27:10,15

TURN 9:6 29:16

TUSIRAY 5:7,8
9:3 28:22 32:23
33:1 35:14

TYPE 15:19 17:15
34:7

TYPES 14:3 17:22
26:24 32:1

TYPICALLY
25:19

U

UH-HUHS 7:3

UH-UHS 7:3

ULTIMATELY
27:4

UNCERTAINTIE
S 8:4

UNCLEAR 6:14

UNDERSTAND
8:10 9:8 11:24
27:16 30:16

UNDERSTANDA
BLE 6:7,16

UNDERSTANDIN
G 5:18

UNDERSTOOD
6:4 8:1

UPHELD 34:15

UPHOLD 15:11

V

VALERIE 18:23
22:9,14,18 24:14

VARIETY 35:13

VEIN 7:11

VINCENT 18:18

VOICES 6:21

W

WAIT 7:8

WAITING 10:13
11:11 28:24 29:5,
19 30:5,12,15,20,
24 31:3,10,16,20
32:3,6,10,11,16
33:4,21,25 34:12,
14 36:19,24

WIDE 35:13

WOMEN'S 25:9,
13

WORK 11:20
12:25 14:1,9
28:11

WORKED 31:2,9,
15

WRITE 15:7

Y

YEAR 17:23

YEARS 17:21,24

YOUNG 18:23
19:3