No. 24-43

In the Supreme Court of the United States

STATE OF WEST VIRGINIA, ET AL.,

v.

B.P.J., BY NEXT FRIEND AND MOTHER,
HEATHER JACKSON,

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

SUPPLEMENTAL JOINT APPENDIX

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(continued from front cover)

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TABLE OF CONTENTS

Page

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA
CHARLESTON DIVISION

B.P.J., by her next friend and
Mother, HEATHER JACKSON,

Plaintiff

vs. Case No. 2:21-CV-00316

WEST VIRGINIA STATE BOARD OF
EDUCATION, HARRISON COUNTY
BOARD OF EDUCATION, WEST
VIRGINIA SECONDARY SCHOOL
ACTIVITIES COMMISSION, W.
CLAYTON BURCH in his official
Capacity as State Superintendent,
DORA STUTLER in her official
Capacity as Harrison County
Superintendent, PATRICK MORRISEY
In his official capacity as Attorney General, and THE
STATE OF WEST VIRGINIA,

Defendants.

The VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF ARON JANSSEN, M.D., taken on behalf of the Defendant, State of West Virginia herein, pursuant to the Rules of Civil Procedure, taken before me, the undersigned, Lacey C. Scott, a Court Reporter and Notary Public in and for the State of West Virginia, on Thursday, April 4, 2022, beginning at 9:09 a.m.

***

[11]

ARON JANSSEN, M.D.,

CALLED AS A WITNESS IN THE FOLLOWING PROCEEDINGS, AND HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS FOLLOWS:

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[13]

EXAMINATION

BY ATTORNEY BARHAM:

Q. Good morning, Dr. Janssen.

A. Good morning.

Q. Have you ever had a deposition before?

A. No.

Q. All right.**[14]** I'm going to ask you a series of questions about this case and your involvement in it. Do your best to answer audibly. Just nodding the head, while it can be captured on video cannot be captured by our court reporter, and so we'll try to make her life as easy as possible. I'm going to do my best to wait until you finish an answer before starting the next question. And I will ask that you do the same. We'll probably violate that rule a few times, but cross talk doesn't translate well on the record. So if you need to take a break at any time today, please let me know and we will do our best to facilitate that as quickly as possible. I know we need to take a break at two o'clock.

A. I think about 2:30, 2:45, something like that.

Q. Okay. You just let us know when you need to take it. All right.

ATTORNEY BARHAM: I'm going to show you a document we're going to mark as Exhibit-1. This will be Tab 90 for online purposes.

(Whereupon, Exhibit 1, Expert Report, was marked for identification.) **[15]**

BY ATTORNEY BARHAM:

Q. This is a copy of your expert report in this

case. Is that correct?

A. Yes, that is correct.

Q. If you'll turn to the first page of your CV.

It's probably page 21 of this document. Do you have -?

VIDEOGRAPHER: This is the videographer.

Can I ask Counsel to speak up? You are kind of getting cutoff at the end of your sentences.

ATTORNEY BARHAM: Pardon. I will do my best.

BY ATTORNEY BARHAM:

Q. Do you have a degree in adult psychiatry?

A. There is not a degree in psychiatry.

Q. Okay. So your academic training in psychiatry began with your psychiatry residency? Is that how it works?

A. I did a medical degree, where there is psychiatry training and then a residency in adult psychiatry and a fellowship in child psychiatry.

Q. Do you consider yourself trained and **[16]** professionally competent in using the American Psychiatric Association's Diagnostic and Statistical Manual, DSM-V, to make child and adolescent metal illness or psychiatric diagnoses generally beyond just gender dysphoria?

A. Yes.

Q. Do you have any residency or fellowship in pediatrics?

A. No.

Q. Do you have any residency or fellowship in endocrinology?

A. No.

Q. Do you have any training in sports physiology?

A. No.

Q. Do you have any training in sports medicine?

A. No.

Q. Have you published any papers, conducted any research or given any lectures relating to sports physiology?

A. No.

Q. Have you published any papers, conducted any research or given any lectures relating to sports medicine?

A. No. **[17]**

Q. Have you published any papers, conducted any research or given any lectures relating to male physiological advantages in athletics before, during or after puberty?

A. No.

ATTORNEY BLOCK: Objection to form. You can answer.

BY ATTORNEY BARHAM:

Q. Have you published any papers, conducted any research or given any lectures relating to the impact of any drugs or hormones on athletic performance?

A. No.

Q. Have you published any papers, conducted any research or given any lectures relating to the impact of testosterone suppression on athletic performance?

A. No.

Q. Have you published any papers, conducted any research or given any lectures relating to the effect of transsex surgeries on athletic performance?

A. No.

ATTORNEY BLOCK: Objection. Objection to terminology.

BY ATTORNEY BARHAM:

Q. Have you published any papers, conducted any [18] research or given any lectures relating to the safety issues and risks to women associated with transgender participation in female athletics by male athletes?

ATTORNEY BLOCK: Objection to form. Sorry, objection to form.

THE WITNESS: Yeah, I think there's a bit of a premise in there that I don't agree with, but I have not given any lectures about transgender participation in sports.

BY ATTORNEY BARHAM:

Q. Do you consider --- do you have any professional expertise related to the concept of fairness?

A. I do not.

Q. Do you have any professional expertise on the definition of fairness?

A. I do not.

Q. Would you agree that fairness is an elusive,

subjective concept with malleable boundaries?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I do not have an opinion on the definition of fairness.

BY ATTORNEY BARHAM:

Q. Have you treated or personally examined BPJ?

A. I have not. **[19]**

Q. You have no direct knowledge as to what Tanner

stage BPJ started puberty blockers at the age. Correct?

A. Correct.

Q. You do not know how BPJ's physiology or athletic capabilities compare with genetic females at the same age?

A. I do not.

ATTORNEY BLOCK: Objection to terminology.

BY ATTORNEY BARHAM:

Q. This report, Exhibit-1 of 20 pages sets out the complete statement of all opinions that you will testify to at trial. Correct?

A. Which report are you referring to?

Q. The report in front of you, Exhibit-1, Tab 90.

A. And can you repeat the question? Sorry.

Q. This report sets out a complete statement of all opinions that you will testify to at trial. Correct?

A. I do not know the answer to that. I mean, I would assume so, but I don't know. I've never been in a trial, so I don't know if there will be questions asked **[20]** outside of this document.

Q. Does this report identify all facts and data that you considered in forming the opinions that you set forth in your report?

A. I wouldn't say it has all facts because I don't think it is possible to include all facts in an expert report, but the relevant facts, yes.

Q. This includes the facts that you'll rely on in supporting those opinions. Correct?

A. That's correct.

Q. Does your report set out all the reasons for the opinions that you propose to offer?

A. Yes.

Q. Your footnotes cite to I believe 32 scientific or professional articles and you reference some others in your CV. Are those all the articles that form the basis of the opinions you propose to offer?

A. No.

Q. What other articles form the basis of the opinions you propose to offer?

A. I guess the question is what has formed my professional expertise around gender health, and I've read

a lot that aren't necessarily going to be apropos **[21]** to this specific report.

Q. But those are the articles that you cited and referenced in this document are those that you relied upon as the basis of opinions that you intend to offer. Correct?

A. That is correct.

Q. You currently serve as the Clinical Associate

Professor of Child and Adolescent Psychiatry. Correct?

A. Yes.

Q. And what institution is that with?

A. It is with Northwestern University Feinberg School of Medicine, and Ann and Robert H. Lurie Children's Hospital of Chicago.

Q. And how much of your time in this position is related to discussing or treating gender dysphoric children and adolescents?

ATTORNEY BLOCK: Objection to terminology.

THE WITNESS: It's hard to quantify. Probably about 40 percent of my time is allocated in some way to either clinical care, research or academics around gender health.

BY ATTORNEY BARHAM: **[22]**

Q. And what is your compensation for this position?

A. It is roughly $265,000 a year in salary.

Q. You also serve as the Vice Chair of the Pritzker Department of Psychology and Behavioral Health at the Ann and Robert H. Lurie Children's Hospital of Chicago. Correct?

A. That's correct.

Q. And how much of your time in this position is related to discussing or treating gender dysphoric children and adolescents?

ATTORNEY BLOCK: Objection to terminology.

THE WITNESS: Again, it is hard to parse out what specific about my leadership role is around gender health but it is a minority of my day-to-day work in that role.

BY ATTORNEY BARHAM:

Q. Do you have an approximate percentage?

A. No.

Q. Twenty-five (25) percent, more or less?

A. Probably ten percent.

Q. Ten percent. Okay. And what is your compensation for that **[23]** position?

A. I get a stipend of around $30,000.

Q. You currently serve as the Medical Director of Outpatient Psychiatric Services at the Lurie Children's Hospital of Chicago. Is that correct?

A. That's correct.

Q. And how much of your time in this position is related to discussing or treating gender dysphoric children and adolescents?

ATTORNEY BLOCK: Objection to terminology.

THE WITNESS: About 25 percent of my time is probably spent discussing or related to the health of transgender youth or transgender --- gender diverse youth.

BY ATTORNEY BARHAM:

Q. And what is your compensation for that position?

A. There is no compensation.

Q. You currently serve as the Clinical Director of

the NYU Gender and Sexuality Services. Is that correct?

A. That is not correct.

Q. When did you conclude your role in that **[24]** position? I'm referencing page one of your CV.

A. That was when I moved to Chicago a few years ago.

Q. Okay.So where it says 2011 to present Clinical

Director, NYU Sexuality Service, that is just a typo?

A. That is a typo, yes.

Q. You currently serve as the Associate Professor of Child and Adolescent Psychology at Northwestern University, and we have already discussed that. Is there a difference between Clinical Associate Professor and Associate Professor of Child and Adolescent Psychiatry?

A. No.

Q. You serve as the Vice Chair of Clinical Affairs at the Pritzker Department of Psychiatry and Behavioral Health at the Lurie Children's Hospital.

Correct?

A. That's correct.

Q. And how much time in this position is related to discussing or treating gender dysphoric children and adolescents?

ATTORNEY BLOCK: Objection to terminology. **[25]**

THE WITNESS: I think I answered that one with the guess of about ten percent.

BY ATTORNEY BARHAM:

Q. Okay? So that's the same as the Vice Chair of the Department of Psychiatry?

A. Correct.

Q. You currently serve as the Associate Editor for Transgender Health. Correct?

A. That is correct.

Q. And what is your compensation for that position?

A. There is no compensation for that position.

Q. What is that publication's annual income?

A. I do not know.

Q. You serve as a reviewer for LGBT Health. Correct?

A. Yes.

Q. And how much of your time is related --- in that position is related to treating or discussing transgender children and adolescents?

A. I would say 100 percent of my review time with LGBT health is around gender.

Q. Do you receive any compensation for that **[26]** position?

A. I do not.

Q. Do you receive any compensation for your role as a reviewer with the Journal of the Academy of Child and Adolescent Psychiatry?

A. I do not.

Q. You served in various positions with different professional organizations according to paragraphs 11 and 12 of your report. Do any of those positions provide you financial compensation?

A. No.

Q. You founded and directed Gender Variant Youth and Family Network. Correct?

A. Correct.

Q. What's your compensation for that position?

A. Zero.

Q. What is the entity's annual income or budget?

A. Zero.

Q. You indicate in your report that you have seen approximately 500 transgender patients. Is that correct?

A. That is correct.

Q. How many patients do you see per year? **[27]**

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I'd have to look at my report. I don't have the information in front of me right now.

BY ATTORNEY BARHAM:

Q. Do you have a ballpark of how many patients you see in a year?

A. I don't.

Q. Does this include --- and I'm assuming that your colleagues see additional patients beyond just those that you see. Correct?

A. Correct.

Q. How frequently do you see each patients?

A. I see --- the frequency with which I see patients is dependent upon their clinical need, so between once or twice a week to once every three months.

Q. And how much are patients charged per appointment?

A. Everything is billed to their insurance, so I'm not sure.

Q. Do you receive any other income related to your work on gender dysphoria?

A. I'm being paid for my expert report for this, so [28] that's the only other income I receive.

Q. Do you receive any speaking fees?

A. I have received speaking fees for participation and grand rounds as an example.

Q. And how much would those speaking fees run?

A. It is typically about a thousand dollars per event.

Q. Before the last four years had you provided any expert testimony on issues related to gender dysphoria?

A. Can you clarify the difference between testimonies and reports? I've submitted a report but not ---.

Q. Okay. So you have submitted a report?

A. Correct.

Q. Do you remember what case that involved?

A. That involves Medicaid and top surgery in Arizona.

Q. Okay. Have you ever provided any testimony in trial or deposition before related to gender dysphoria?

A. I have not.

Q. And how much compensation have you received so far in this case? **[29]**

A. This case so far, none thus far.

Q. How much are you expecting to receive so far in this case?

A. I haven't added up my invoice yet, but I imagine it's probably around $10,000.

Q. Okay. Do you have any professional expertise related to the legal definition of relevance?

A. I do not.

Q. Do you have any legal training or education?

A. I do not.

Q. When you were preparing your report did you consult the Federal Rules of Evidence or any other legal sources as to the meaning of relevance?

A. I did not.

Q. Several people in this case have referenced disorders of sexual development. Would you agree that gender dysphoria is not a disorder of sexual development?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Gender dysphoria has not been classified as a disorder of sexual development.

BY ATTORNEY BARHAM:

Q. Of the approximately 500 transgender patients **[30]** you had seen how many suffered from disorder of sexual development?

A. A minority of patients, less than ten.

Q. So you would agree that the vast majority of individuals with gender dysphoria or who assert a transgender identity do not suffer from a disorder of sexual development. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: The data we have speaks to the majority of people with gender dysphoria do not have a disorder of sex development.

BY ATTORNEY BARHAM:

Q. Do you have any reason to believe that BPJ suffers from a disorder of sexual development?

A. I have not reviewed BPJ's case.

Q. Are you aware of any instance in which an individual with a disorder of sexual development has attempted to play on a girls' or women's sports team in West Virginia?

A. I am not aware.

Q. Is it your opinion that a person's gender identity is durable?

ATTORNEY BLOCK: Objection to form. **[31]**

THE WITNESS: Can you define durable?

BY ATTORNEY BARHAM:

Q. Unchanging.

ATTORNEY BLOCK: Objection to form.

THE WITNESS: It is my testimony that there is a concept of gender identity that remains generally fixed for most people throughout their lives.

BY ATTORNEY BARHAM:

Q. So it's your opinion that a person's gender identity cannot be changed with medical or mental health intervention. Correct?

COURT REPORTER: Sorry, Counsel, that question one more time.

BY ATTORNEY BARHAM:

Q. So it's your opinion that a person's gender identity cannot be changed with medical or mental health intervention. Correct?

A. Yes.

ATTORNEY BARHAM: I'm going to hand you what we're going to mark as Exhibit-2. This will be Tab 5. **[32]**

(Whereupon, Exhibit-2, Endocrine Society's Guidelines, was marked for identification.)

BY ATTORNEY BARHAM:

Q. If you'll turn to page 3873 of this document. This document is the Endocrine Society's Guidelines, Endocrine Treatment of Gender Dysphoric or Gender Incongruent Persons, Endocrine Society Clinical Practice Guideline published in 2017. Correct?

A. That is correct.

Q. On page 3873 of this document the Endocrine Society indicates that this continuum gender identity ranged from all male through something in between to all female yet such a classification does not take into account that people may have gender identities outside this continuum. For instance, some experience themselves as having both a male and female gender identity whereas others completely renounce any gender classification. There are also reports of individuals experiencing a

continuous and rapid involuntary alternation between a male and female identity. Do you see that? **[33]**

A. I don't see that.

Q. Second column, towards the bottom of the page.

A. Yes, I see that.

Q. Is this consistent with your understanding of gender identity?

ATTORNEY BLOCK: Can you give him time to read?

ATTORNEY BARHAM: Gladly.

THE WITNESS: I think there is a difference between a gender identity and how people understand and express that gender identity. And in the context of this article the rapid involuntary alteration between male and female identity as an example is a case reported of single individuals subjective experience of their gender according to the reference.

BY ATTORNEY BARHAM:

Q. And by that you're referring to note ten?

A. Correct.

Q. So according to this document, someone can be one sex or the other, both, neither or in between. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I can't speak for the conclusions drawn by the author of this article.**[34]**

BY ATTORNEY BARHAM:

Q. And according to the Endocrine Society a person's gender identity can change rapidly. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I'm not a part of the Endocrine Society, so I'm not sure how they discuss this.

BY ATTORNEY BARHAM:

Q. According to this document, the Endocrine Society is indicating that there are reports, plural, of individuals, plural, experiencing a continuous and rapid involuntary alternation between male and female gender identity. Correct?

A. That is documented in the article.

Q. Okay.

A. I'm not sure of the governance of the Endocrine Society.

Q. Do you think the Endocrine Society Guidelines are wrong?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think anything relating to gender identity has to be taken in a broader context **[35]** within both the article in and of itself but in broader practice and specifically around children and adolescents.

BY ATTORNEY BARHAM:

Q. So what is your basis for indicating that this statement is potentially inaccurate?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think there is more context that's needed in order to understand the intent of the authors in this particular section.

ATTORNEY BARHAM: I'm going to hand you what we will mark as Exhibit-3. This is the document from the World Health Organization entitled Gender and Health.

(Whereupon, Exhibit-3, World Health Organization, was marked for identification.)

BY ATTORNEY BARHAM:

Q. Are you familiar with the World Health Organization?

A. I've heard of them.

Q. Do you agree with these World Health **[36]** Organization statements?

ATTORNEY BLOCK: Objection to form. Can he have time to read the document?

ATTORNEY BARHAM: Of course.

VIDEOGRAPHER: Counsel, is that Tab 10?

LAW CLERK WILKINSON: Tab 10.

ATTORNEY BARHAM: It is.

VIDEOGRAPHER: Okay. Thank you.

THE WITNESS: Can you repeat the question?

BY ATTORNEY BARHAM:

Q. Do you agree with these World Health Organization statements?

A. Not in their entirety.

Q. In what parts do you dispute?

A. The word gender as a concept is much more complicated and I do not agree with their characterization in this page.

Q. So the World Health Organization says that gender itself is a social construct and can change over time. Correct?

ATTORNEY BLOCK: Objection to form. Does this document have a URL to it? **[37]**

ATTORNEY BARHAM: It does, but I don't see it printed on the document.

LAW CLERK WILKINSON: We can get it.

ATTORNEY BARHAM: We can supply that.

THE WITNESS: I agree that it says on the document that gender varies from society to society and can change over time.

BY ATTORNEY BARHAM:

Q. And according to the World Health Organization, gender identity refers to a person's experience of gender which is a social construct. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I don't see in the document where it refers to gender identity or defines gender identity.

BY ATTORNEY BARHAM:

Q. It says gender interacts with different sex, which refers to the different biological and physiological characteristics of males, females, intersex persons such as chromosomes, hormones and reproductive organs. Correct?

A. That is correctly read. I don't see gender **[38]** identity defined in this document.

Q. Gender identity refers to a person's deeply held internal and individual experience of gender. Correct?

A. That's what it says here, yes.

Q. If an individual asserts an identity of man or both, how can a clinician verify whether that individual is telling the truth?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I'm not sure what exactly that means. The process of an assessment for gender care involves a complex series of interviews, diagnostics.

BY ATTORNEY BARHAM:

Q. So how does the clinician assess whether the patient is accurately relating their experiences?

A. In the typical process, particularly around child and adolescent psychiatry, part of the assessment involves information gathered from multiple contexts.

Q. Such as?

A. Such as parents, schools, caregivers, other providers, history over time, et cetera.

Q. And if --- so how does one assess from those various contexts whether someone who's claiming to be **[39]** male or both is accurately relating what's going on?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Yeah, I guess I don't understand the question exactly. You know, my job is not necessarily to define what is accurate in someone's own experience. It's to understand how that fits into typical processes and developmental expectations for the broad range of gender diversity over time.

BY ATTORNEY BARHAM:

Q. How do you determine whether someone in that scenario is accurately understanding his own subjective feelings --- his or her subjective feelings?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: The context of the treatment is really important. If an individual is seeking specific interventions that require a mental health assessment, there are specific components of that mental health assessment that must be met.

BY ATTORNEY BARHAM:

Q. So what are the treatments that would require a mental health assessment?

A. Puberty blocking medications, hormones or surgery.

Q. And what are the interventions that would not **[40]** require mental health evaluations, in your opinion?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: It depends upon what guidelines you're talking about and what recommendations that the family is looking for.

BY ATTORNEY BARHAM:

Q. Well, what are some of the inventions? You said there's some interventions that would require a mental health evaluation, so that implies that there are some that would not. What are the interventions that would not require a mental health evaluation?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: You know, parents giving hugs to their kids is not something that a mental health assessment would require. Providing a way of helping families to understand their kids or asking questions is not something that requires a mental health evaluation and

some children will socially transition prior to any assessments by any mental health professional.

BY ATTORNEY BARHAM:

Q. How do you determine --- if an individual asserts a gender identity of male or both, how do you determine whether the individual is making a statement based on societal expectations for a particular gender **[41]** rather than ---?

ATTORNEY BLOCK: Objection. Travis, I'm sorry, the male or both phrasing, is that a quote from something. I don't have the paper in front of me, so just want to clarify.

ATTORNEY BARHAM: No, that's not a question from something. That's just my question.

ATTORNEY BLOCK: Okay.

THE WITNESS: Can you repeat the question?

BY ATTORNEY BARHAM:

Q. If an individual asserts a gender identity male or both, how can a clinician verify whether the individual is making the statement based on societal expectations for a particular gender rather than his own genuine gender?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I personally never had anybody assert an identity of male or both, but part of the assessment of --- if we are diagnosing gender dysphoria is understanding the cultural and social contexts and ensuring that folks are not presenting with a gender identity that is incongruent with their sex assigned at birth because of actual or perceived **[42]** cultural advantages.

BY ATTORNEY BARHAM:

Q. And how does one go about assessing the motivations behind the claimed gender identity or transgender sex?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: For any psychiatric assessment this is through a combination of interviews, gathering history from relevant data sources and sometimes for some people structured interviews or scales.

BY ATTORNEY BARHAM:

Q. And how long does it take to conduct such an assessment?

A. There is no specific timeframe involved in this assessment. It really depends upon contextual factors that are hard to nail down.

Q. So if you were treating a child or teenager, how many relevant data sources would you need to get information from in order to make a complete assessment of the child's motivations?

A. I don't think there's ever going to be a concrete answer in terms of how many. There's not a specific answer of how many sources are necessary. It's **[43]** however many sources are necessary to gather the relevant information.

Q. So how do you determine whether you have gathered enough information to make a competent assessment?

A. It's hard to state this in a non-pithy way, but that's kind of what the process of psychiatry and child psychiatry training helps you to learn.

Q. Could you explain to someone who doesn't have the training how you come to the conclusion, okay, I've

gathered enough information to make a competent assessment?

A. Sure. I can try. How accurate is the reporter in their description of their history. How much does it align with reports from other informants, how much does it match with or is deviant from expected phenotypic processes with the disorders in question and what is the impression of the evaluator about the accuracy of the statements.

ATTORNEY BARHAM: I'm going to show you what we will mark as Exhibit-4, this will be Tab 12.

(Whereupon, Exhibit-4, Harvard Medical School Study, was marked for **[44]** identification.)

BY ATTORNEY BARHAM:

Q. Are you familiar with this study? This is a study from the Harvard Medical School entitled Gender Fluidity: What it Means and Why Support Matters?

ATTORNEY BLOCK: Objection.

THE WITNESS: This looks like a popular website article and not a study.

BY ATTORNEY BARHAM:

Q. Are you familiar with the author, Dr. Sabrina Katz -- Sabra Katz-Wise?

A. Dr. Katz-Wise has published in the world of transgender health. I'm not familiar with them personally, I don't know them.

Q. Do you know Dr. Katz-Wise at least by reputation?

A. I don't. I've only read some studies.

Q. But you would agree that she is highly respected in this area. Correct?

A. I would not be able to offer an opinion.

Q. But she is widely published in this area. Correct? **[45]**

ATTORNEY BLOCK: Objection to form.

THE WITNESS: From my recollection, yes.

BY ATTORNEY BARHAM:

Q. At the bottom of page two of this document, Dr. Katz-Wise indicates that while some people develop a gender identity early in childhood others may identify with one gender at one time and then another gender later on. Is that correct?

A. You're reading that accurately, yeah.

Q. So according to this article, on page three a gender fluid person is one whose gender identity changes frequently. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I do not --- I have not read it in here that it is defined in that way and that's not how I would define gender fluidity.

BY ATTORNEY BARHAM:

Q. At least you see the statement at the first full paragraph at the top of page three, ultimately anyone who identifies as gender fluid, is a gender fluid person often the term is used for a person's gender expression or gender identity, essentially their internal sense of **[46]** self changes frequently?

ATTORNEY BLOCK: Objection. We're jumping quickly from pages. Can you give him some more time to read before answering the question?

ATTORNEY BARHAM: Certainly.

THE WITNESS: Yes. I'm not seeing where that is here. Can you point that out for me?

BY ATTORNEY BARHAM:

Q. Top of page three, just above that, how is gender fluidity related to health in child and teens?

A. Gender fluidity is a very nonspecific term that means very different things to different people. In the practice of the clinical work with transgender and gender diverse youth, kids who are self identifying as gender fluid, I want to understand what it means to them and what that definition is for that individual. I don't think there is one established definition of gender fluidity that has been agreed upon.

Q. But at least some respected professionals in this arena indicate that the term gender fluidity means that the person's internal sense of self, their gender identity changes frequently. Correct?

ATTORNEY BLOCK: Objection to form. **[47]**

THE WITNESS: I can't speak to what Dr. Katz-Wise is using to define it. The way I would describe gender fluidity, again outside the context of how my patients are actually using the term, is that understanding of the expression of gender identity may change over time.

BY ATTORNEY BARHAM:

Q. So you said that their understanding of gender identity can change over time. Dr. Katz-Wise says that their gender identity changes frequently? Is that correct?

A. That's what it stated in this popular press article.

Q. And Dr. Katz-Wise is an Assistant Professor in Adolescent and Young Adult Medicine at Boston Children's Hospital. Is that correct?

A. I would have to take your word for that.

Q. Okay. Are you aware that she co-directs the Harvard Sexual Orientation and Gender Identity Expression Equity Research Collaborative?

A. I do not know the term, no.

ATTORNEY BARHAM: I'm going to show you **[48]** what we will mark as Exhibit-5, and this will be Tab 13.

(Whereupon, Exhibit-5, American Psychological Association Guidelines, was marked for identification.)

BY ATTORNEY BARHAM:

Q. This document is the American Psychological Association Guidelines for Psychological Practice with Transgender and Gender Non-Conforming People. Correct?

A. That is correct.

Q. And on page 836 of this document the APA writes just as some people experience their sexual orientation as being fluid or variable, some people also experience their the gender identity as fluid.

Correct?

A. Can you show me on the page where that is?

Q. The bottom of the first paragraph in the first column of page 836.

A. Yes.

Q. So the APA Guidelines say that gender identity can be fluid or changing. Correct? **[49]**

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Well, I think the important piece is some people experience gender identity as fluid or variable.

BY ATTORNEY BARHAM:

Q. So it can be fluid or changing? Correct?

ATTORNEY BLOCK: Objection to form.

BY ATTORNEY BARHAM:

Q. For at least some people. Correct?

THE WITNESS: As I would describe it and understand it, that's the experience of expression of gender identity can be fluid over time, which is different.

BY ATTORNEY BARHAM:

Q. How is that different to say that one's gender identity changes?

A. It's getting a little complicated in terms of the concepts that we're talking about, but the identity that gender identity is something that is inherently fixed, that how people understand, experience it and express it can change over time. That's the difference.

Q. But the American Psychological Association at **[50]** least describes gender identity as being fluid. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: In the article that you have put in front of me it describes that people's experience of their gender identity is fluid over time.

BY ATTORNEY BARHAM:

Q. Would you agree that these guidelines were developed by among the most respected researchers in the field?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I wouldn't disagree with that, no.

BY ATTORNEY BARHAM:

Q. Do you respect Dr. Hembree of Columbia University Medical Center? **[51]**

A. I do.

Q. Do you respect Dr. Cohen-Kettenis of the University of Amsterdam?

A. I would say I respect all of these clinicians and researchers, although Sabine Hannema I am not familiar personally.

Q. If you will turn to page 3879 of this document. Right under the heading evidence this article reports that the large majority, about 85 percent of prepubertal children with a childhood diagnosis did not remain GD, slash, gender incongruent in adolescence. Is that correct?

A. That is correctly read, yes.

Q. And footnote 20 of this document cites to Dr. Steensma, de Vries, Cohen-Kettenis article in 2013?

A. That's correct.

Q. These are extensively published original peer reviewed research --- peer reviewed researchers in the field. Correct?

A. Correct.

Q. So this committee reveals evidence that the large majority of children, about 85 percent, with a childhood diagnosis do not remain gender dysphoric in **[52]** gender adolescence. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Yeah, in these studies have been published primarily by the Dutch clinic the rates of dissentience of the diagnosis of gender dysphoria has been upwards of 85 percent.

BY ATTORNEY BARHAM:

Q. And at the bottom of the first column of page 3879 the committee indicates that their clinical experience suggests that the persistence of gender dysphoria or gender incongruence can only be reliably assessed after the first signs of puberty.

Is that correct?

A. That is what is written, yes.

Q. You have not offered an opinion in your report as to whether or --- whether or to what transgender identity has a biological basis. Is that correct?

A. Let me just make sure that I'm reviewing it. I have not offered an opinion.

Q. If you will turn to page 76 of Exhibit-2, Tab 5. The committee with all of its experience and presenting all the evidence said that gender dysphoria in children, **[53]** quote, does not invariably persist into adolescence and adulthood. Is that correct?

A. That is correct.

Q. In fact, this committee concluded that that gender dysphoria, a minority of prepubertal children appears to persist in adolescence. Is that correct?

A. That is correct.

Q. I'm going to turn your attention to --- this will be Tab 15, Exhibit-6.

(Whereupon, Exhibit-6, Lisa Littman Study, was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is a 2021 study by Lisa Littman entitled Individuals Treated for Gender Dysphoria with a Medical and/or Surgical Transition who Subsequently De-transitioned. Is that correct?

A. That is correct.

Q. Are you familiar with this study?

A. I am. **[54]**

Q. The study was based on survey responses from a hundred adult individuals who were approved for hormonal and/or surgical transition, underwent such transition, lived in a transgender identity for a period of years and then decided to de-transition or revert to a gender identity associated with their biological sex.

Is that correct?

A. That is my understanding of the study, yes.

Q. And all of the subjects had detransitioned by discontinuing their medications, having surgeries to reverse the effects of transition or both. Correct?

ATTORNEY BLOCK: Objection to form. Are you reading something?

ATTORNEY BARHAM: I'm referencing page two, column two, at the bottom of the page.

THE WITNESS: My recollection from the study was that this was all self report, so there was no way to verify if that was correct or true.

BY ATTORNEY BARHAM:

Q. But that's at least what the participants reported. Correct?

A. From my recollection. I'd have to reread the **[55]** entire study to say for sure but that is my recollection, yes.

Q. And if you turn to page eight of the second column, under the heading de-transition?

A. I don't have page numbers on mine.

ATTORNEY BLOCK: Do you reference the page number at the top?

ATTORNEY BARHAM: The source contains no page numbers, making it difficult.

BY ATTORNEY BARHAM:

Q. Under the heading detransition it's the page right before table four.

ATTORNEY BLOCK: I'm sorry. Can I see the heading on the document? Just for the record, this doesn't appear to be a paginated version of the article where, you know, when I pull it up I get a publication, date and pages. So I don't know if this is the final version of the article or not, but you can proceed with the questions.

ATTORNEY BARHAM: Counsel, I'll return to your concerns, Mr. Block.

BY ATTORNEY BARHAM:

Q. Do you see the one page before the page that contains Table 4? **[56]**

A. I do.

Q. Do you see the heading detransition?

A. I do.

Q. And it says there that when participants decided to detransition they were a mean age of 26.4 years old. Correct?

A. That is correct.

Q. Have you read this study before today?

A. I have.

Q. So doesn't this study at least suggest that patients may think they have a sense of belonging to the opposite sex but can be mistaken?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think what this study does is hear experiences from a select group of individuals who are motivated to participate in the study about detransition and hear their experiences of their care.

BY ATTORNEY BARHAM:

Q. But the study still indicates that those individuals had a sense of belonging to the opposite sex and later concluded that they were were mistaken. Is that correct?

A. You will have to forgive my clinician nature **[57]** here, but language is important when working with patients who are transitioning. I don't know if that's the language that they would use or if that is the language that was used in this particular survey.

Q. But the effect of detransitioning is that they at one time thought they belonged to the opposite sex and then later concluded that they did not?

ATTORNEY BLOCK: Objection to the form.

THE WITNESS: Again, I think we would want to know specifically what each individual person, how they described their process. I don't know what detransition

means to those who are taking a relatively anonymous survey, so it's hard to draw a conclusion about the specific nature of it. The generally accepted upon definition of detransition is generally aligned with somebody who reverts back to a gender identity or gender expression that is more aligned with their sex assigned at birth.

BY ATTORNEY BARHAM:

Q. This study defines detransition as discontinuing medications, having surgeries to reverse the effect of transition or both. Is that correct? It is on page two?

A. Show me where on page two. **[58]**

Q. The second column of page two, at the bottom of the page?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Yeah. I'm not seeing that Dr. Littman is specifically defining detransition but describing the objective of the study for folks who detransitioned by those aspects that you noted.

BY ATTORNEY BARHAM:

Q. Okay. But she notes in the last paragraph on that page the objective of the current study was to describe the population of individuals, skipping, who then detransitioned by discontinuing medications, having surgery to reverse the effects of transition or both?

A. That's correct.

Q. So she is indicating what she understands detransitioning to mean in this article. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Again I'm not sure how she specifically defines detransition. It is not necessarily made clear in that statement.

BY ATTORNEY BARHAM:

Q. Is it true that people may mistake feelings **[59]** resulting from trauma, mental illness or homophobia for a genuine sense of transgender identity?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think there are a lot of complicated experiences that people may have that make them question their gender identity.

BY ATTORNEY BARHAM:

Q. So it's at least possible that people could mistake feelings resulting from trauma, mental illness or homophobia for genuine sense of transgender identity. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I don't disagree with that, no.

BY ATTORNEY BARHAM:

Q. You said it's complicated, so it sounds like it would be hard sometimes for a clinician to tell with certainty what's going on?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: What I would describe is that in anything related to mental health that there are complications and nuances. This is no different.

BY ATTORNEY BARHAM:

Q. Now, I believe you alluded to this a moment ago. **[60]** You mentioned that this is a self-reporting study and

it obviously concerns an emotionally fraught area of gender identity. So is it your position that this does not produce scientifically meaningful results?

A. I don't know what you mean by scientifically meaningful.

Q. Do you believe that this --- the results of this article are scientifically reliable?

A. It depends upon what question is being asked. As a blanket, any kind of selection bias, particularly for this study based upon where the participants were drawn from makes us not want to draw conclusions about their generalized applicability of this study to other transgender folks, including other folks who may have detransitioned, but the goal of science is not necessarily to draw widely applicable conclusions, but to put us in a position where we can ask more questions and improve our care for our patients.

Q. Now, why do you say --- why do you highlight concerns about where the participants were drawn from?

A. I highlight that because it creates a sense of selection bias, which potentially, as I said, can reduce the why applicability of the conclusions drawn.

Q. And why do you say that there is a potential for **[61]** selection bias in this article?

A. Based upon the websites that Dr. Littman has drawn her participants.

Q. And why do you have concerns about those websites?

A. I have concerns about the websites because of the contents of those websites.

Q. And what is contents of those websites that causes you concern?

A. The content of the websites is unscientific. And I guess I'm not sure how to articulate it in a most defined way very specific to answering a set of questions that reenforces the prestudy hypotheses.

Q. So which websites that she drew participants from cause you concern?

A. As an example, Fourth Wave Now is a website that Dr. Littman had used for some of her study recruitment.

Q. And why are you concerned about the use of Fourth Wave now in the recruitment process?

A. What I would say is that when you're designing a study that presupposes the conclusion and the website is designed to attract people who presuppose that conclusion, that limits the applicability of the results. It just have to be taken into account. It **[62]** doesn't mean that there isn't data from this kind of snowball recruitment that isn't valuable and I wouldn't say that there isn't value to some of Dr. Littman's work, specifically this study as compared to the last, though you have to take it in the context with which it was developed.

Q. So are you suggesting that Dr. Littman presupposed the conclusion that she wanted to reach in designing this survey?

A. I'm less familiar with the design of this study than previous studies that she has designed, which I would say that was correct.

Q. What other websites did she use in the process to cause you concern?

A. I'm not as familiar with this study, so I don't know if she specifically identified which websites. And I can't recall right now on the others which they were.

Q. If you look at page three she discusses the method and the participants and procedures. Would reviewing that refresh your recollection as to any concerns about participants?

A. It would not because she does not describe the specific fora. She describes a closed Facebook group, Tumbler, Twitter and Reddit, but those are large **[63]** websites that have a lot of different kind of content.

Q. So is it your position that it's not possible to know whether anonymous or any results have any relation to true fact in actual case histories?

A. That is not my position.

Q. Do you have any --- you mentioned earlier something about how these were anonymous results. So is it possible to know whether they actually corresponded with true cases?

A. I think anonymous surveys, you have to really dig into the specifics of the survey design in order to draw conclusions. And again, with any study in any survey in particular you just want to make sure you have an understanding of that context how broadly to draw conclusions.

Q. Would you agree that online recruitment does not provide a statistically meaningful sample?

A. I would not agree with that.

Q. Is it your position --- how can an online recruitment produce a statistically meaningful sample?

A. I think I would need to understand the context of what you mean by statistically meaningful. There is a difference between a survey that could be potentially poorly designed and yet reach statistical significance. **[64]** You would need to understand the broader context in order to draw conclusions about what that statistical significance means and that means really digging into the specific methodology of this study. There is a vast literature about efficacy of survey data and it really depends on the specifics.

Q. We've previously referenced paragraph eight of your report where you mention you've seen approximately 500 transgender patients.

ATTORNEY BLOCK: Travis, sorry, not to avoid a pending question, but we're almost at one hour, so if this is a good time, if you're moving to a different subject maybe this would be a good time to break.

ATTORNEY BARHAM: Let me wrap up a few more and then we will do that.

ATTORNEY BLOCK: Thanks.

BY ATTORNEY BARHAM:

Q. Your clinical practice for children and adolescents started in 2013, about eight years ago. Is that correct?

A. No, I finished medical school in 2011 and have been working with adults, children and adolescents since then. **[65]**

Q. Okay.

A. Actually that's when I finished --- to go back, that's when I finished my residency and fellowship. I finished medical school in 2006. I can't believe it's been long.

Q. And when did you begin your work in child and adolescent psychiatry?

A. I had child and adolescent psychiatry experiences when I was in medical school.

Q. When did you begin practicing child and adolescent psychiatry?

A. That's not a very specific term. I practiced child psychiatry as a medical student in my training.

Q. When were you licensed, when were you first licensed to practice child and adolescent psychiatry?

A. There's no specific license to practice child psychiatry. Anybody who is --- has a medical license can practice any medical specialty. I was Board Certified in Child and Adolescent Psychiatry, which is a different process and I would have to look through to recall the date. I'm assuming that it's 2012 or 2013. 2013 is when I was Board Certified.

Q. So when did you begin --- and you finished your fellowship in child and adolescent psychiatry when? **[66]**

A. 2011.

Q. 2011. When did you begin treating as a child and adolescent psychiatrist children with gender dysphoria?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I saw children with gender dysphoria during my residency and in my fellowship.

BY ATTORNEY BARHAM:

Q. And your fellowship?

A. Between 2006 and 2009.

Q. And what proportion of those patients socially transitioned?

A. Of all of the patients that I saw in my training or in all of the patients that I've seen over my time as a physician?

Q. Let's go first with the training.

A. It was a much smaller number, so probably if I were to guess, and I'm going back, probably close to 95 percent.

Q. Ninety-five (95) percent socially transitioned when you were in training?

A. Yes.

Q. And how many of your patients overall have socially transitioned? **[67]**

A. I'm not sure how to answer that question. Over the course of our time working together, before I started seeing them or --- I'm not sure how to accurately answer that question.

Q. Over the --- just in general how many of your patients socially transitioned, not just while they were being treated under your care?

A. And these are patients who are seeing me specifically through the context of gender or of those 500 transgender patients?

Q. Of the 500 transgender patients.

A. Probably --- I mean, it's a guess but probably in the order of 85 percent.

Q. And what proportion of the 500 patients used puberty blockers?

A. Probably a minority of those patients. If I had to guess, probably 20 percent or less.

Q. And what percent of those 500 transgender patients used cross sex hormones?

A. I don't have my records in front of me, so it would really just be a guess, but probably close to the same percentage that socially transitioned, probably a little bit less than that.

Q. If I recall correctly that's about 85 percent? **[68]**

A. Probably somewhere on the order of that.

ATTORNEY BLOCK: Would now be a good time for that break?

ATTORNEY BARHAM: One last question.

BY ATTORNEY BARHAM:

Q. What systems do you have in place to track these patients five years after they have been in your care?

A. I have the same systems as most psychiatrists. We see the patients within our care. Folks will reach out to us after time has passed and it's one of the great pleasures of being a child psychiatrist, we get to see folks longitudinally. So there is not a specific system apart from mutual care.

Q. So you rely on them to reach out to you. Is that correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: It depends on context.

BY ATTORNEY BARHAM:

Q. But do you have any systematic way of tracking all patients five years after they leave your care?

A. There is no systematic way of tracking all patients.

ATTORNEY BARHAM: All right. Let's take a break. How long would you all like? **[69]**

ATTORNEY BLOCK: Five minutes.

ATTORNEY BLOCK: Should we go off the record?

VIDEOGRAPHER: Going off, 10:14 a.m.

OFF VIDEOTAPE

(WHEREUPON, A SHORT BREAK WAS TAKEN.)

ON VIDEOTAPE

VIDEOGRAPHER: Back on the record. The time is 10:27 am.

BY ATTORNEY BARHAM:

Q. Moments ago we were discussing Dr. Littman's 2021 study, that was Tab 15, Exhibit 6. Are you aware of any studies that contradict Dr. Littman's data?

A. Can you be more specific?

Q. Are you aware of any studies that contradict Dr. Littman's work survey in this article in Exhibit-6 that find fault with her data?

ATTORNEY BLOCK: Objection to the form.

THE WITNESS: Yeah. I'm sorry. I don't think I understand the question. There are other articles that have been written about detransition and clinical experiences of patients that have **[70]** detransitioned who have described those experiences. There has not been a specific survey designed of detransitioners outside of this one that I'm aware of.

BY ATTORNEY BARHAM:

Q. Has anyone written an article finding fault with the way Dr. Littman interpreted the data that ---?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: For this specific data set or for previous?

BY ATTORNEY BARHAM:

Q. For this specific data set?

A. For this specific data set, from my recollection, this was studied --- or published just recently so I'm not aware of any. It doesn't mean that there aren't.

Q. Are you aware of any studies that contradict Dr. Littman's conclusions in this 2021 article?

A. If you give me a moment I will read the conclusion.

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Insomuch as Dr. Littman's conclusion is that there's no single narrative to explain the experiences of all individuals who detransitioned and we should take care to avoid painting **[71]** the population with a broad brush, I agree with that conclusion.

Q. Are you aware of any studies that contradict her conclusions not just in the conclusion section but her description of the detransitioners?

ATTORNEY BLOCK: Objection to the form.

THE WITNESS: I think it's hard to provide a specific answer to that question. We have to look at each study and judge each individual study based upon the merits. The conclusions she draws are from a subset of patients with a very specific viewpoint, and I agree with her and her conclusion that there needs to be more research to better understand the broader implications of this care.

BY ATTORNEY BARHAM:

Q. You're not aware of any article that has been published specifically critiquing this 2021 study by Dr. Littman. Is that correct?

A. Not that I'm aware of.

ATTORNEY BLOCK: Objection to form.

BY ATTORNEY BARHAM:

Q. A few moments ago we were also talking about the **[72]** patients that you have treated, the 500 transgender patients you referenced in your report, and you mentioned that about 20 percent or less of those had used puberty blockers. I'm wondering why that percentage is so low.

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I don't know. Low compared to what? I think it's important to understand the context that in 2011, when I first started my gender program, that puberty blocking medications were not widely available, cost upwards of $3,000 a month and were not covered by most insurance. So puberty blockers were not something that were available in the same way they are now. And I also saw a fair number of adults and older adolescents for whom puberty blockers are not indicated.

BY ATTORNEY BARHAM:

Q. So of the 500 patients that you reference in paragraph eight of your report, what percentage of those are adults?

A. I would really have to go back and look. I mean, in my current practice, I see adolescents and young adults, so kind of parsing out artificially who is 18 and up, it would take some time to do that. Probably **[73]** in the order of 75 percent are children in adolescence, 25 percent adults. But

of course, over 2011 to now, a lot of those folks are now adults.

Q. And when I'm asking about these percentages I mean when you were treating them. What percentage of the patients you were treating were children?

A. That's my best guess.

Q. Seventy-five (75) percent?

A. Yes.

Q. And are you distinguishing between prepubertal children and adolescents in that 75 percent or both?

A. That's both.

Q. Of that 75 --- of all the patients you've seen, at the time you saw them, how many were prepubertal children?

A. Probably --- and again, I have to give this a major caveat. I would have to go back and look through everything, but I would say probably 25 percent of that 75 percent were prepubertal at the time of initial assessment.

Q. And so then the remaining 75 percent of 75 would be adolescents. Is that correct?

A. Correct. **[74]**

ATTORNEY BLOCK: Objection to form.

BY ATTORNEY BARHAM:

Q. How many of your patients of those 500 patients have detransitioned in a year?

A. It's kind of a hard question to answer. The one patient who self identifies as having detransitioned started seeing me after she had detransitioned.

Q. Have any of your patients detransitioned while under your care?

A. Not that I'm aware of.

Q. And is the one patient who detransitioned before starting to see you, is that the only patient you're aware of of the 500 that has detransitioned?

A. That is the only one that I'm aware of, yes. But can I clarify that of those 500 patients there are certainly those who did not choose to transition.

Q. And how many of the 500 chose not to transition?

A. If I had to guess, probably about 10 to 20, probably ten percent.

Q. And did they make that decision before puberty began?

A. It was a mix.

Q. Of those who chose not to transition, how many were children when they made that decision? **[75]**

A. I couldn't tell you at that point, but significantly more were the prepubertal youth than adolescents.

Q. This is a sensitive question. I mean no offense

by it, but how many of the 500 patients have made the sad decision to commit suicide?

ATTORNEY BLOCK: I'm sorry. I couldn't heat that. Can you speak up?

BY ATTORNEY BARHAM:

Q. How many of the 500 patients have made the sad decision to commit suicide?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Is your question how many have completed suicide?

BY ATTORNEY BARHAM:

Q. Correct.

A. Of those 500 patients, zero.

Q. How many of those 500 patients have been hospitalized for a psychiatric illness?

A. I do not have that information in front of me.

Q. Do you have any general idea?

A. I don't.

Q. After five or more years what percentage of your patients would be characterized as lost to follow-up? **[76]**

A. Lost to follow-up is a specific term used in studies, so it's not something that I would use to describe my patients.

Q. How many patients do you lose contact with after five years?

A. Again, I don't know how to answer that question. I've been at my current role for three, so I haven't lost touch with any significant number of patients.

Q. What about patients that you saw before you were in your current position?

A. I'm not in contact with patients from my previous role.

ATTORNEY BARHAM: All right. Let's go to Tab 110. This is Exhibit-7 I believe.

(Whereupon, Exhibit-7, Study, was marked for identification.)

BY ATTORNEY BARHAM:

Q. Are you familiar with this study?

A. I am not.

Q. Have you seen it before today?

A. I have not.

Q. On page one this again has been --- it's **[77]** paginated in the top right corner or top inside corner. On page one the first sentence of the last paragraph says gender transition is as scientifically fascinating as it is socially controversial for it poses significant professional and bioethical challenges for those clinicians working in the field of gender dysphoria.

Do you agree that gender detransition poses significant professional and bioethical challenges for professionals treating gender dysphoria?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I don't necessarily agree with the language. And certainly don't agree with the author to use something that's scientifically fascinating. What I think is that every decision that we make in child psychiatry in particular is fraught with ethical challenges. This is not any different from the ethical challenges that we face with a lot of other interventions.

BY ATTORNEY BARHAM:

Q. What challenges does detransition pose to your profession in your view?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I don't see how it poses any challenges to my work. **[78]**

BY ATTORNEY BARHAM:

Q. Page three of this article, the authors identify several things that may prompt a person's decision to

detransition including understanding how past trauma, internalized sexism and other psychological difficulties influence the experience of gender dysphoria. Correct?

ATTORNEY BLOCK: Objection. Can you give him a chance to read?

ATTORNEY BARHAM: Of course.

THE WITNESS: And can you repeat what you said?

BY ATTORNEY BARHAM:

Q. On page three the authors identify several things that may prompt a person's decision to detransition including, quote, understanding how past trauma, internalized sexism and other psychological difficulties influence the experience of gender dysphoria. Correct?

A. Sorry. Just give me a second to look at the context here.

Q. Sure.

A. I agree that's how it is written and there **[79]** appears to be no basis from which the author has built that assertion. There is no methods described in this whatsoever.

Q. I believe the author in that instance is citing Dodsworth 2020, Gonzalez 2019, Herzog 2017, and one, two, three, four other studies. Do you see that?

A. I see those studies. I'd have to look at the specific studies in order to understand the implications and the context.

Q. But the authors obviously seem to have a basis or at least a citation basis for what they're saying. Is that correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Again, without knowing the specifics of those studies it's hard for me to say.

BY ATTORNEY BARHAM:

Q. The authors also indicate that solving previous psychological or slash emotional problems that contributed to gender dysphoria may prompt the decision to detransition. Is that correct?

A. Where is that?

Q. They are citing Butler and Hutchinson, 2020, **[80]** Stella 2016. It is the same paragraph.

A. Got it. Yeah I don't know what solving a psychological or emotional problem means in this context.

Q. But these authors are at least indicating that solving these problems, however they mean the term, may prompt a decision to detransition. Is that correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think I've answered how I can answer that.

BY ATTORNEY BARHAM:

Q. Okay. Let's go back to Tab 15, which is Exhibit-6. This was the Littman study that we were discussing a moment ago. On page three --- excuse me, according to Table 5, on page nine, 60 percent of the participants in this survey reported that they became more comfortable identifying as their natal sex. Is that correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I see 65 percent of those assigned female at birth and 48 of those assigned male at birth reported that. **[81]**

BY ATTORNEY BARHAM:

Q. So 45 and 15 is 60, so that would be 60 percent of the 100 participants in the study. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I believe.

BY ATTORNEY BARHAM:

Q. I'm sorry. I didn't hear your answer.

A. I trust your math, yes.

Q. Okay. And on page 12, under the heading discussion, this survey indicates that only a small percentage of detransitioners, 24 percent, informed the clinicians and clinics that facilitated their transfer that they --- their transition that they had detransitioned. Is that correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Yes, the participants in the study, that is correct.

BY ATTORNEY BARHAM:

Q. And you testified a moment ago, if I recall correctly, please correct me if I'm wrong, that you are aware of only one patient in your career that has detransitioned.[82] Is that correct?

A. That I'm aware of, yes.

Q. Let's go to Tab 116, which is Exhibit-8.

(Whereupon, Exhibit-8, Article by Vandenbussche, was marked for identification.)

BY ATTORNEY BARHAM:

Q. Are you familiar with this article?

A. I have not read this article.

Q. And this is a 2021 article by I believe a gentleman named --- or an individual named Vandenbussche, Detransitioned Related Needs in Sports. Is that correct?

A. That is correct.

Q. Did you review this article when preparing your report?

A. I did not.

Q. If you look at page four this article examined a sample survey of 237 detransitioners. Is that correct?

ATTORNEY BLOCK: Objection. Can you give him time to read the document he has never seen before. [83]

ATTORNEY BARHAM: Certainly.

THE WITNESS: Can you repeat the question?

BY ATTORNEY BARHAM:

Q. This article highlights the results of a survey of 237 detransitioners. Correct?

A. Yes, as they are defining detransitioning, yes.

Q. And on page five these authors --- these researchers report that 70 percent of participants detransitioned because they realized that their gender dysphoria was related to other issues. Correct?

A. Correct.

Q. And that was the most common reported reason for detransitioning. Correct?

A. As they stated, yes.

Q. In paragraph 43 of your report you cite Lisa Littman's 2018 study. Paragraph 43. And you highlight what you describe as serious methodological flaws that render the study meaningless. Is that correct?

A. Correct. [84]

ATTORNEY BARHAM: I want to show you Tab 117, and this will be Exhibit 9. It will be an article by Lily Durwood entitled Mental Health and Self Worth in Socially Transitioned Transgender People.

(Whereupon, Exhibit-9, Article by Lily Durwood, was marked for identification.)

BY ATTORNEY BARHAM:

Q. Are you familiar with this article?

A. I am.

Q. You cited this in footnote nine of your report as demonstrating the treatment associated with social transitions. Correct?

A. I have to look at the specific footnote. I know I cited it, but I don't know if it was citing to that specific conclusion.

Q. By all means take a look.

A. Can you point me to where my footnote is?

Q. Footnote nine is --- let me find it myself.

ATTORNEY SWAMINATHAN: It's page 11.

THE WITNESS: Yes.

BY ATTORNEY BARHAM: [85]

Q. The Durwood article in 2017 is a survey of children and their parents about the children's mental health. Is that correct?

A. Correct.

Q. The children in the Durwood article were not surveyed or assessed by clinicians. Is that correct?

A. I don't know the answer to that. I'd have to look at the specific ---.

Q. Well, if this is a self report it would be reporting what the children themselves said. Correct?

ATTORNEY BLOCK: Objection. Let him have time to read the article.

THE WITNESS: The trans youth project was directed by Dr. Ulson involved clinicians in the assessment of the children and their families. So I'm not sure specifically. I would have to go through the methods of this one particularly for me to recall. As you will see from the procedure on page 117 whenever possible parents and children completed the measurements in separate rooms or far enough in the same room to be out of ear shot. And so **[86]** they were researchers who were boarded who were participating in these interviews with the kids and their families.

BY ATTORNEY BARHAM:

Q. But those researchers were just recording what the students said out loud?

A. Correct.

Q. So there's no clinical assessment of the children as part of this survey. Is that correct?

ATTORNEY BLOCK: Object to form.

THE WITNESS: I wouldn't be able to answer that question. It depends upon how it's used. In a research context you might be using the same instruments that we would use for clinical assessments, but for the sake of research purposes it's not used in that way.

BY ATTORNEY BARHAM:

Q. But the purpose of this article was just to record what the children said as a self report.

Is that correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: As far as I understand the point of this article, they utilized child self report [87] which is what is typically used in children mental health studies.

BY ATTORNEY BARHAM:

Q. According to page --- the second page of this article, which is page 117, the participants were recruited through word of mouth, national and local support groups, summer camps and online forums for families of transgender and gender nonconforming youth. Correct?

A. That is correct.

Q. Frequently in your report you refer to gender-affirming care. What in your view are the components of gender-affirming care?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think that there is no one agreed upon use of that term and it is used by different people in different context to mean whatever they want it to mean, depending upon who is asking the questions. The way that I define it, for my own practice, is that it's important for children to be heard and listened to, that any particular gender identity outcome is not better than any other and that the child and families should be directing the process with appropriate assessments and interventions. [88]

BY ATTORNEY BARHAM:

Q. How do you handle a situation where parental desires may be differ than the child's desires?

A. That is almost a universal phenomenon of parenthood, so there's not an atypical process. When there is disagreement about specific issues in the treatment plan those interventions are going to be tailored to the individual families based upon their need.

Q. So when you use gender-affirming care what do you view as the different components or different aspects of gender-affirming care in your practice?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think that is also going to be highly context dependent. I'm a psychiatrist and I see a lot of children with complex psychiatric needs, so my process for gender-affirming care is going to be different than what somebody else might describe as gender-affirming care, but I think I highlighted what I see as the components of it for myself.

BY ATTORNEY BARHAM:

Q. I've missed in your list of the different components, so could you explain again what do you see as the components of gender-affirming care? **[89]**

A. That it should be child and family led, that listening to and understanding the child is an important aspect of the process and that there is no gender identity outcome that is privileged over another. I'm sure I said it slightly differently than the last time around but the concepts are the same.

Q. Do you consider social transition to be a component of gender-affirming care?

A. I think that understanding the risks, benefits and alternatives of social transition is a part of gender-affirming care. In that way, sometimes recommending not socially transitioning is a part of gender-affirming care.

Q. But gender-affirming care can be an approach used as part of gender-affirming care. Is that correct?

ATTORNEY BLOCK: Objection to the form.

THE WITNESS: Can you repeat the question?

BY ATTORNEY BARHAM:

Q. Social transitioning can be a method used as part of gender-affirming care. Correct?

A. It is an option. **[90]**

Q. An available tool. Correct?

A. Yes.

Q. Is it your belief that social transition is a type of medical or mental health treatment for gender dysphoria?

A. It's a hard question to answer. Social transition is a pretty diverse concept that's hard to get as a categorical variable to study, but the implication is that there's a lot of things that are often helpful for mental health that aren't specifically mental health treatments, right, like exercise, regular sleep. These aren't specific mental health interventions but nevertheless have impacts on mental health outcomes.

Q. Well, in paragraph 90 --- I mean paragraph 36 of your report you say that social transition is a treatment for gender dysphoria?

A. Yeah I would agree with that.

Q. So what kind of treatment is it?

A. It's a psychosocial intervention.

Q. Psychosocial. What does social transitioning include in your view?

A. I have to recall if I provided an operational **[91]** definition for it in my report. Essentially what we're talking about is an alignment of gender role and gender identity. So that's transition of name, pronouns, hair, participation in sex-segregated activities, et cetera.

Q. And so social transition in your view means the participation in girls or boys athletic teams in competitions consistent with ones gender identity.

Is that correct?

A. Again, it's going to be context dependent. It is not a yes or no question around social transition. What we're going to be doing in the context of an assessment is understanding the risks and benefits of all the various options that we have.

Q. I understand that it can differ from person to person, but participation in girls or boys athletic teams in competition consistent with one's gender identity is an aspect, a possible aspect, of social transitioning. Correct?

A. It may be an option for some students, yes.

Q. Do you consider the use of puberty blockers to be an available tool as part of gender-affirming care?

A. I do.

ATTORNEY BLOCK: Objection to form. **[92]**

BY ATTORNEY BARHAM:

Q. Do you consider the use of cross sex hormones to be an available tool as part of gender-affirming care?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Gender-affirming care can include hormones.

BY ATTORNEY BARHAM:

Q. Are there any other available tools that you use as part of gender-affirming care?

A. Yes, there is a lot of tools that I use that are involved in gender-affirming care. Work with the family is one big piece of it. Work with the school is another. Referrals for surgery when indicated, recommendations for assessment and treatment of any co-occurring mental health disorder is a part of it.

Q. What is your role in the prescribing of puberty blockers?

A. I'm occasionally in the role of doing a mental health assessment prior to initiation of those medications.

Q. And are you the individual who would prescribe the puberty blockers?

A. I am not.

Q. What type of professional would be responsible **[93]** for the prescribing?

A. In the clinics that I have worked these are either adolescent medicine specialists or pediatric endocrinologists.

Q. And is the same true with cross sex hormones?

A. Yes.

Q. In your report you describe gender-affirming care as the prevailing model of care for transgender youth. Is that correct? And I'm referencing paragraph 15 of your report.

A. Yes.

Q. Later on in your report you refer to prevailing standards of care, paragraph 18, paragraph 26, for

example. By that are you referring to gender-affirming care?

A. Which paragraph?

Q. Eighteen (18) and 26.

A. I would say that it is a part of what I'm referring to but not the entirety of what I'm referring to.

Q. What else are you referring to in paragraph 18 and 26 when you say prevailing standards of car?

A. This would include a lot of components, **[94]** including both the Endocrine Society Guidelines, the World Professional Association for Transgender Health Guidelines as well as recommendations and ethical guiding principles of the various governing bodies that we all work with.

Q. And you would describe those various documents that you just referenced as reflecting gender-affirming care. Correct?

A. I would have to go through, for example, the Endocrine Society Guidelines to know whether or not they use that specific term. Again, I think I just want to make sure that I'm emphasizing that gender-affirming care does not have an agreed upon definition so it's controversial and I wouldn't know how to answer that question.

Q. As you use the term and as you define the term in your practice, would you consider the WPATH standards to fall under the umbrella of gender-affirming care?

A. I would yes.

Q. And would you consider the Endocrine Society Guidelines to fall under the umbrella of gender-affirming care?

A. I would, yes. **[95]**

Q. In paragraph 15 of your report you claim that gender-affirming care is endorsed by at least five professional associations.

ATTORNEY BLOCK: Objection to form.

BY ATTORNEY BARHAM:

Q. And you reference others. What other organizations are you alluding to in paragraph 15 of your report?

A. I don't want to get the name of the organization incorrect, but National Association of Social Workers and the National Association of Marital and Family Therapists have released statements about it, but I don't have specific recollection of those sitting here today.

Q. Okay.

Are there any other organizations besides those and those listed in paragraph 15?

A. There likely are but none that are coming to mind today.

Q. When you were preparing your report did you consult the standards of care articulated by any international professional organizations?

A. Yes.

Q. Which ones? **[96]**

A. Both the Endocrine Society Guidelines as well as the WPATH standards of care.

Q. Any other international or professional organizations?

A. Not that I can recall, no.

Q. Are you aware that international and professional organizations have been moving away from using puberty blockers and cross sex hormones on children and adolescents under the age of 16?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I don't see that that is necessarily accurate. I'm going to have to take a break in five minutes if that is okay.

ATTORNEY BARHAM: This would be the perfect time.

THE WITNESS: I will be quick.

VIDEOGRAPHER: Going off the record. The current reads 11:01.

OFF VIDEOTAPE

(WHEREUPON, A SHORT BREAK WAS TAKEN.)

ON VIDEOTAPE

VIDEOGRAPHER: Back on the record. The **[97]** current time is 11:06 a.m.

ATTORNEY BARHAM: I'm going to show you what we will mark as Exhibit 10, this will be Tab 91.

(Whereupon, Exhibit-10, Statement by Royal Australian and New Zealand College of Psychiatrists, was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is a statement from the Royal Australian and New Zealand College of Psychiatrists. Correct?

ATTORNEY BLOCK: Objection. Can you give him a chance to look at the document?

THE WITNESS: It's what it says. I don't know what the government structure of this organization is or how they release their statements or how they are developed.

BY ATTORNEY BARHAM:

Q. This is Position Statement 103, according to the document. Correct?

A. I will take your word for it if that's what it **[98]** says.

Q. Right below the title. And it was published in August of 2021. Is that correct?

A. I don't know where it says that.

Q. Right below the tab.

A. Got it.

Q. The Royal Australian and New Zealand College of Psychiatrists is the professional body of psychiatrists for those two countries. Is that correct?

ATTORNEY BLOCK: Objection.

THE WITNESS: I do not know that.

BY ATTORNEY BARHAM:

Q. I'm sorry. I didn't catch your answer.

A. I do not know.

Q. According to page three of this document, the Royal College has concluded that there are, quote, polarized views and mixed evidence regarding treatment options for people presenting with gender identity concerns, especially children and young people. Do you see that?

A. I see that.

Q. Do you agree with their assessment? **[99]**

A. Yes.

Q. So this means that professionals can disagree with each other as to how to treat children and young people with gender dysphoria. Is that correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Yeah. I think any treatment decision, you're going to have professionals disagreeing with you about the best course of action. This isn't any different than that.

BY ATTORNEY BARHAM:

Q. And on page four of the document the Royal College says that psychiatric assessment and treatment should be both --- should be both based on available evidence and allow for full exploration of a person's gender identity. And it emphasizes the importance of the psychiatrist's role to undertake for assessment in evidence-based treatment ideally as part of a multidisciplinary team, especially highlighting distinguishing issues which may need addressing and treating. Do you agree with the Royal College's emphasis on psychiatrists' role and how it's important to ensure appropriate care for gender dysphoria?

ATTORNEY BLOCK: Objection to form. **[100]**

THE WITNESS: Psychiatrists are often a useful adjunct to the team, but isn't a necessary requirement. There are many other mental health professionals who have expertise and can fill this role.

BY ATTORNEY BARHAM:

Q. And what other professionals do you think could fill this role?

A. This would be licensed clinical mental health professionals.

Q. And those would include?

A. Psychologists, social workers, marital and family therapists and there are probably other titles that are governed by their regulatory boards that I don't recall right now.

BY ATTORNEY BARHAM:

Q. And on what are you basing your disagreement with the Royal College's emphasis on the importance of the psychiatrist's role

ATTORNEY BLOCK: Objection to form and characterization of the document.

THE WITNESS: The WPATH standards of care as an example does not dictate necessary involvement of a psychiatrist. And I would have to review the Endocrine Society, but I don't believe that they **[101]** specifically --- from my guild either.

BY ATTORNEY BARHAM:

Q. Is it true that psychiatrists have training and skills that psychologists and marital therapists and social workers do not have?

A. That is correct.

ATTORNEY BARHAM: I'm going to hand you what we will mark as Exhibit-11. And this will be Tab 92 for those watching online.

(Whereupon, Exhibit-11, Policy Change Regarding Hormonal Treatment of Minors, was marked for identification.)

BY ATTORNEY BARHAM:

Q. This document is an announcement of a policy change regarding hormonal treatment of minors with

gender dysphoria at Astrid Lidgren Children's Hospital. Are you aware that this is the main gender clinic in Sweden?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I don't see any specific information about this document that reports where it's from. **[102]**

BY ATTORNEY BARHAM:

Q. Are you aware of Astrid Lindgren Hospital by reputation?

A. I don't know if that's the name of it. No, I don't recall the specific name of the Swedish Children's Hospital.

Q. Are you aware that the Swedish Agency for Health Technology Assessment and Assessment of Social Services published an overview of the knowledge base which showed a lack of evidence of both long-term consequences of the treatments of gender dysphoria?

A. I have heard ---.

ATTORNEY BLOCK: Objection to form and where are you quoting from?

ATTORNEY BARHAM: Halfway through the first paragraph of the background section on page one.

ATTORNEY BLOCK: I'm sorry. Where was this document obtained from?

ATTORNEY BARHAM: I can supply that information, but this is an announcement of a policy change from a Children's Hospital in Sweden.

ATTORNEY BLOCK: Just for the record, this doesn't seem to have a walk --- like --- it just looks like words on a page without other sourcing on it. **[103]**

ATTORNEY BARHAM: Your objection is noted.

THE WITNESS: I mean without speaking to the providence of the document, I have heard that there was a change within the Swedish establishment in regards to prepubertal youth or prepubertal youth.

BY ATTORNEY BARHAM:

Q. And what was your understanding of that change?

A. I would have to look through the specifics to know for sure.

Q. What is your general understanding of the nature of that change?

A. My general understanding was there was a pause on some of the treatments, medical treatments available for children with gender dysphoria.

Q. And by pause, at least according to this document, it means that they had decided hormonal treatments, i.e. puberty blocking and cross sex hormones, will not be initiated in gender-dysphoric patients under the age of 16. Correct? First bullet point in executive decisions.

A. Again, not knowing the providence of this document, that's what this document says, yes. **[104]**

Q. Are you aware that the United Kingdom's National Health Service put an end to initiating hormone treatment in new cases of individuals under 16?

ATTORNEY BLOCK: Objection to form and foundation.

THE WITNESS: My understanding is that it's under litigation right now and a final decision has not been reached, but I could be wrong about that.

BY ATTORNEY BARHAM:

Q. Are you aware that that's at least a current practice to put an end to initiating hormonal treatment in new patients --- in new cases of individuals under 16?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Can you repeat the question?

BY ATTORNEY BARHAM:

Q. Are you aware that the United Kingdom's National Services' current practice is to put an end to initiating hormonal treatments in new cases of individuals under 16?

ATTORNEY BLOCK: Objection to form and foundation.

THE WITNESS: I do not have the NHS **[105]** policies in front of me, so I cannot speak to that.

ATTORNEY BARHAM: The document Exhibit --- what number are on, 11.

LAW CLERK WILKINSON: 11, yes

BY ATTORNEY BARHAM:

Q. Exhibit 11 indicates, quote, the United Kingdom's National Health Service put an end to initiating hormonal treatment in new cases of individuals under 16. Do you have any reason to believe that that statement is inaccurate?

ATTORNEY BLOCK: Just objection that this document came out at a certain time and so it's just not clear what timeframe, you know, this question is referring to. And just another objection to this document. This appears to be a translation ---.

ATTORNEY BARHAM: Your objection is noted. And we've already agreed that there are the three objections, so I will ask you to cease the speaking objections.

THE WITNESS: I have reason to doubt it. Yes.

BY ATTORNEY BARHAM:

Q. What is your reason to doubt it?

A. My understanding is that there were legal **[106]** processes involved that have changed the landscape of this care in the U.K.

Q. Are you aware of the National Health Service reinitiating hormonal treatments in new cases of individuals under 16?

A. I am unsure. That's where my doubt is.

Q. But you're aware that at one time they put an end to those treatments for individuals under the age of 16?

A. Yes.

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Yes.

ATTORNEY BARHAM: I'm going to show you what we will mark as Exhibit-12. This is a document -- an article by Lisa Nainggolan. I'm probably butchering the last name.

LAW CLERK WILKINSON: Tab 93.

ATTORNEY BARHAM: Tab 93, entitled Hormonal Treatment of Youth with Gender Dysphoria Stops in Sweden.

(Whereupon, Exhibit-12, Article by Lisa Nainggolan, was marked for identification.) **[107]**

BY ATTORNEY BARHAM:

Q. In the fourth paragraph it indicates that other centers in Sweden that treat gender dysphoria youth in Loom and Licopene will follow the lead of the ALB. Are

you aware that those two clinics had made the same decision as the Astrid Lindgren Children's Hospital?

A. I am not.

ATTORNEY BARHAM: I'm going to show you what we will mark as Exhibit-4 --- I mean, I'm sorry Tab 94, Exhibit 13.

(Whereupon, Exhibit-13, Study, was marked for identification.)

BY ATTORNEY BARHAM:

Q. Are you aware that Finland has similarly reversed its course issuing new guidelines that allow puberty blockers only on a case by case basis after extensive psychiatric assessment?

ATTORNEY BLOCK: Objection to form. And can you give the witness and me a chance to see this document? Can the document be scrolled down?

THE WITNESS: What I can say about this **[108]** document is that I don't --- I've not heard of what Cohere Finland is and how their recommendations impact policies on the ground in Finland.

BY ATTORNEY BARHAM:

Q. So are you not familiar with Cohere as an entity?

A. Correct.

Q. And that was a question. Are you?

A. I am not.

Q. Have you seen this document before today?

A. I have not.

ATTORNEY BARHAM: I'm going to show you what we'll mark as Exhibit 14, and this will be Tab 95 for those watching at a distance.

(Whereupon, Exhibit-14, Article Published on Medscape.com, was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is an article by Betsy McCall published on Medscape.com on October 7th, 2021. Is that correct?

A. Yes. **[109]**

Q. If you look at the third paragraph from the bottom. Ms. McCall reports that Scandinavian countries, most notably Finland, once eager advocates for the gender-affirmative approach, have pulled back and issued new treatment guidelines in 2020, stating that psychotherapy rather than gender reassignment should be the first line of treatment for gender dysphoric youth. Do you see that?

A. I see that.

Q. Do you agree with that approach?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Medscape is a popular press forum for discussing issues and the language that is used by this author implies to me that this is not somebody who has a great deal of expertise or understanding in this field.

BY ATTORNEY BARHAM:

Q. Do you agree with using psychotherapy rather than gender reassignment as the first line of treatment for gender dysphoric youth?

A. The term gender reassignment in and of itself is not a meaningful term in this context, and so it's unclear what this particular author is trying to get across. And it's a

false dichotomy that is being **[110]** positive that doesn't actually happen.

Q. Are you aware that Finland had issued new treatment guidelines in 2020?

A. I don't recall the specifics of when guidelines were recommended. But based upon the document that you placed in front of me it seems to be yes. But I think the description of those guidelines and what you put in front of me as the Cohere guidelines, which again I'm not sure what they actually represent in terms of their policies, there are contradictions there.

ATTORNEY BLOCK: I'm sorry. I want to put on the record this document about Finland also appears to be a translation from the original by the Society for Evidence Based Gender Medicine whose website describes it as an unofficial translation. So I just want to note that for the record.

ATTORNEY BARHAM: So noted. I'm going to show you what we will mark as Exhibit 15, Tab 96.

(Whereupon, Exhibit-15, Article in National Health Service, was marked for identification.)

BY ATTORNEY BARHAM: **[111]**

Q. And I will direct your attention to page 13. This is a --- to identify the document for the record. This is an Evidence Reviewed Gonadotrophin Releasing Hormone Analogs for Children and Adolescents with Gender Dysphoria, from the National Health Service in 2021 --or in 2020. On page 13, right at the beginning of the conclusions section the authors indicate that the results of studies that reported impact on the critical outcomes of gender dysphoria and mental health and the important outcomes of body image and psychosocial impact in

children and adolescents with gender dysphoria are a very low certainty using modified grade. They suggest little change with GnRH analogs from baseline to follow-up. Do you see that?

A. I do not.

Q. First paragraph, under the conclusion.

A. Yes, I see that.

Q. Do you have any scientific basis for disputing this conclusion?

ATTORNEY BLOCK: Objection. Let him read the document.

THE WITNESS: I mean, without having seen this before, I'm not sure what the scoping was for how they defined which studies to include, which ones were **[112]** excluded, which would be required in a validated metaanalysis type approach. So without a very specific description of the methodology it's going to be hard for me to make an educated statement.

BY ATTORNEY BARHAM:

Q. If you look at page three of the document, under executive summary it highlights the nine observational studies that were included in the evidence review.

A. Yeah, in a metaanalysis or even a systematic review one of the processes that occurs is you define as the authors what you are searching for, what are the exclusionary and inclusionary criteria for each individual study and a list of every single study that was reviewed and why or why not it was included. That is missing here, so it's --- I don't know how the

authors decided which ones to include or which ones not to include, which makes it hard to draw a conclusion from the report as it stands.

Q. Have you seen any other reports that suggest that the evidence being discussed on page 13 under the conclusions heading isn't anything higher than a very low certainty using modified grade?

A. I'm not 100 percent familiar with modified grade as a methodology, so I can't speak to how that would **[113]** apply to other studies.

Q. And the next paragraph the authors indicate that studies found differences in outcome could represent changes that are either a questionable clinical value or the studies themselves are not reliable and changes could be due to confounding bias or chance. Do you agree that that is possible?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Well, I agree that all things are possible, that scientific literature is not always 100 percent drawing any conclusions. But again, without knowing specifically how they included what they included or why they included what they included and why they opt to remove others, it's not possible for me to draw a specific conclusion from this.

BY ATTORNEY BARHAM:

Q. In paragraph 34 of your report you distinguish Dr. Levine's approach to treating gender dysphoria as --- or you describe it as gender identity conversion model. Do you recall that?

A. Yes.

Q. In your view are there two approaches to treating gender dysphoria in children and adolescents, the gender-affirming model and the conversion therapy **[114]** model?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I would not agree with that characterization.

BY ATTORNEY BARHAM:

Q. How many other approaches do you see? How do you categorize the different approaches for treating gender dysphoria in children and adolescents?

A. I don't agree with the premise, but there specific defined treatment paradigms that are used. I think there are --- there are elements of conversion therapy as I referred to in my report. There are elements of gender-affirming care and there is a spectrum in between that.

Q. What are the elements --- what are the elements of identity --- gender identity conversion model in your mind?

A. I think the primary element as I understand it in conversion therapy is a presupposition that a transgender outcome is an inherently negative outcome and that engagement or interventions should be put into place in order to make that outcome the least likely as possible.

Q. And in your mind gender-affirming care is care **[115]** that affirms that child's gender identity.

Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: As I described earlier, there are multiple components to how I would define gender-affirming therapy.

ATTORNEY BARHAM: Let's go to Exhibit 16, this will be Tab 97.

(Whereupon, Exhibit-16, Article by Roberto D'Angelo, was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is an article by Roberto D'Angelo published in 2020, entitled One Science Does Not Fit All. Are you familiar with these authors?

A. Not personally, no.

Q. Are you familiar with them by reputation?

A. Looking at Dr. D'Angelo's footnotes, given that he works for the Society for Evidence Based Gender Medicine, then I might draw some conclusions from that.

Q. And what conclusions would you draw from that?

A. That there is a presupposition that transgender **[116]** identity is a negative outcome.

Q. And why would you draw that conclusion from that association?

A. Based upon the description of the care on the website. But that would be an assumption. I would never do that on any individual basis for any of these authors without knowing them.

Q. Beyond the association, do you have any reason to doubt the scholarly integrity of the authors here?

A. I think you can't really talk about scholarly integrity when it's a letter to the editor. It's not the same --- same level of evidence as another study would be.

Q. It's a letter to the editor that cites 37 different sources. Is that correct? I'm looking at the last page.

A. The sources aren't numbered, so I don't know how many sources it has, but ---.

ATTORNEY BLOCK: Let him look at it.

BY ATTORNEY BARHAM:

Q. The references at the end are numbered. Excuse me. I apologize. I was looking at the wrong document.

A. There are 37 footnotes. I would assume that you are correct on that. **[117]**

Q. We are talking about this letter to the editor --- let me clarify for the record because I was looking at the wrong document prior to questioning for which I apologize. This letter to the editor contains approximately two pages of typed materials listing the references that it uses. Correct?

A. Yes, correct.

Q. Did you review this article when preparing your report?

A. I did not.

Q. Did you review this article before today?

A. I have not.

Q. The article reviews the document published by Turban, et al., in 2020, a study by Turban, et al, in 2020. Is that correct?

A. It does.

ATTORNEY BLOCK: Objection to form.

BY ATTORNEY BARHAM:

Q. If you look at the last page, that article is the same article that you cited in paragraph 34 of your report. Is that correct? **[118]**

A. That's correct.

Q. This D'Angelo, et al. criticized Turban on page one for his simplistic affirmation versus conversion binary --- or I should state permeates his narrative and establishes a foundation for their analysis and conclusions. Do you see that on the first page?

A. What page?

Q. The first page, second column, middle paragraph.

A. I see that, yes.

Q. These authors state the notion that all therapy interventions for gender dysphoria can be categorically classified into this simplistic binary betrays a misunderstanding of the complexity of psychotherapy. Would you agree with that statement?

ATTORNEY BLOCK: Objection to form and asking him questions about an article he hasn't read.

THE WITNESS: The premise of that statement implies a cognition on behalf of the authors of that study that I don't think is necessarily accurate. I don't think that the authors of the Turban study would suggest that there is a simple binary of therapy interventions.

BY ATTORNEY BARHAM: **[119]**

Q. And you would also say there's not a simplistic binary. Is that correct?

A. That is correct.

Q. So in paragraph 34 of your report you're not trying to draw a --- you're not trying to draw some sort of dichotomy between Dr. Levine's approach and yours?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: It is less helpful for me to describe it as identifying a dichotomy but really more focused on the goals of treatment approach. And if the goal of the treatment approach is a conversion type goal, then I think there is a draw between that and the standard of care of the affirmative model.

BY ATTORNEY BARHAM:

Q. So that in your view are there two different treatment goals when treating gender dysphoria? We can categorize treatment approaches by the goals, conversion therapy versus the gender-affirming model that you have outlined?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: The way I would describe the goal of the gender-affirming model is to have a healthy, resilient child whatever the gender identity **[120]** ends up being, whether that is a cisgender identity or transgender identity. The difference between that and a conversion therapy is again a presupposition that a transgender identity is an inherently worse outcome which is not focused on the overall mental health and wellbeing of the child.

BY ATTORNEY BARHAM:

Q. I understand the distinction that you're making. I'm trying to understand are there --- as we assess different people's approaches to this area, can we characterize them by the goals of their approach into a gender-affirming model and a conversion therapy model and those are basically two different camps. Is that correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: We cannot.

BY ATTORNEY BARHAM:

Q. And in saying that I'm not trying to say that therapeutic techniques belong in one or the other. I'm just trying to say can we categorize treatment approaches by the goals?

ATTORNEY BLOCK: Objection to form.

BY ATTORNEY BARHAM:

Q. Because that seems to be what you are doing in **[121]** paragraph 34 of your report.

A. There's a process versus an outcome question that I'm just not understanding the distinction between for as I'm defining conversion therapy here, it is a specific goal that a transgender outcome is a negative outcome. For gender-affirming therapy or interventions there is no presupposed outcome that is better than another other than building the mental health and well-being of the child.

Q. Okay.

A. And there is many different ways of approaching that question and intervening that are going to be outside of the scope of a goal-based approach.

Q. It still sounds and again I'm just trying to explore and understand what you're saying here. It still sounds like there is one approach that has a goal in your view of having the child return to comfort with the child's natal sex and then there is another approach that has a goal that says I don't care where you end up. Is that fair to say?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Again, I think it really narrows down what's a highly complex question, so it's really hard to give an answer to that. But if we define **[122]** conversion as

approach one and everything else outside of that, I can work with that if that is helpful for having further discussion or asking more questions.

BY ATTORNEY BARHAM:

Q. Is that the way you would describe this situation in the field at present?

A. It is not the way I would describe the situation in the field.

Q. On page five of this article ---.

ATTORNEY BLOCK: I'm sorry, which article?

ATTORNEY BARHAM: On Tab 97 of Exhibit 16. Dr. D'Angelo's article.

BY ATTORNEY BARHAM:

Q. It sounds to me like you are rejecting what these authors describe as a conflation of ethical non-affirming psychotherapy and conversion therapy, next to the last paragraph on the page.

ATTORNEY BLOCK: Objection. Please give him time to read the page.

THE WITNESS: I've never seen of or heard a definition for ethical non-affirmative psychotherapy, so I don't know what that means.

BY ATTORNEY BARHAM: **[123]**

Q. Is it your position that there is no such thing?

A. I have never heard of such a thing.

Q. On page six, in the first column, the authors write, in fact, some homophobic societies and indeed families that reject homosexuality among their children have embraced the affirmative biomedical pathway, which

poses questions as to whether, quote, affirmative care in some cases in some instances serve the role of gay conversion therapy. Do you believe that that's a legitimate concern?

A. I do not.

Q. Why not?

A. As I mentioned before, affirmative care is not presupposed any one specific outcome.

Q. Do you think that someone can have a concern that affirmative care could serve the role regardless of its dole, serve the role of gay conversion therapy?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Well, the authors appear to have that concern. It is not a concern that has been borne out by the literature in my clinical experience.

BY ATTORNEY BARHAM:

Q. Do you believe that the authors are reasonable in having that concern? **[124]**

A. I can't speak to what the authors' motivations are for writing this. I do not know.

Q. Based on your knowledge of the field, do you believe that that's a reasonable concern?

A. I do not.

Q. Why not?

A. Because understanding the overlap and the interaction between gender identity and sexuality and sexual orientation is a part of the assessment process in affirming care.

Q. At the bottom of page one the authors write, if anything other than affirmation is viewed as GICE---.

A. What page is that?

Q. On page six, I'm sorry. Same page you were on with the gay affirmative therapy or gay conversion therapy. The last paragraph in column one of page six. If anything other than affirmation is viewed as GICE, it follows that the provision of psychotherapy in these clinical scenarios can be seen as harmful conversion efforts. If these therapeutic efforts do not aim to convert or consolidate an identity but instead aim to help individuals gain a deeper understanding of their discomfort with themselves, the factors that have contributed to their distress and their motivations for **[125]** seeking transition. Is it your position that there are no therapeutic interventions that do not aim to convert or consolidate an identity?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: What I would say is that helping individuals gain a deeper understanding of their discomfort with themselves, the factors contributing to their distress and their motivations for seeking transition is a vital and inherent part of gender-affirming care.

BY ATTORNEY BARHAM:

Q. But a moment ago you indicated that you were not aware of any ethical non-affirmative psychotherapy?

A. That is not a phrase that I have heard or have heard described. What the passage that you are referring to describes is a very typical process involved in any kind of standard of care around anything really is understanding motivations and understanding distress. There is nothing --- there is nothing novel about that description of care that is not already under the umbrella of affirming care.

Q. And a little bit later in that paragraph, I believe at the top of column two of page six, the authors right both conversion and affirmative therapy **[126]** efforts carry the risk of undue influence potentially compromising patient autonomy. Do you agree that that is a possibility?

A. Again, I'm not sure what the authors are referring to when they say affirmation therapy efforts because what they're describing as ethical, non-affirmative interventions falls to me under the clear rubric of affirming care, so I don't know what they mean by this.

Q. Okay. In paragraph 35 of your report you indicate --you stated research indicates that social transitioning significantly improves the mental health of transgender young people. Is that correct?

A. Yes.

ATTORNEY BARHAM: And I'm going to show you what we will mark as Exhibit 17. This is Tab 118 for those following from a distance. This is a study by Gibson, et al. published in 2021.

(Whereupon, Exhibit 17, Study by Gibson, et al., was marked for identification.) **[127]**

BY ATTORNEY BARHAM:

Q. You've cited this article in footnote nine of your report. Is that correct?

A. Let me just double check. I believe so. Yes.

Q. Under methods on page one of Exhibit-17 it indicates this a cross-sectional study. Is that correct?

A. That is correct.

Q. Can cross-sectional studies be used to demonstrate causation?

A. Not on their own, no.

Q. So this study does not show that social transitions caused any improvement in mental health. Correct?

A. This study demonstrated that there was a correlation between improved mental health and social transition.

Q. So it did not show causation. Is that correct?

A. It did not show causation.

Q. I'm going to show you Exhibit 9. Let's go back to Exhibit 9.

LAW CLERK WILKINSON: Tab 117. **[128]**

BY ATTORNEY BARHAM:

Q. Tab 117. This is the article by Lily Durwood, et al. published in 2017. You cited this article also in footnote nine of your report. Is that correct?

A. That is correct.

Q. And we have previously discussed how this article reports what children and parents said about the children's mental health. Is that correct?

A. That is correct.

Q. Really a self report. Correct?

A. I think we went through that earlier. It was not just a self report. These were interview led evaluations.

Q. But an interview led self report. Correct?

A. There were also parent reports that were ---.

Q. And so self reports of children, parental reports about their children. Correct?

A. Correct.

Q. Okay. **[129]** And then in footnote nine you also cite a study by Olson, et al. in 2016, footnote nine of your report. Correct?

A. That is correct.

Q. And in footnote nine you indicate that alleged statistical errors in that article have already been corrected in 2018. Correct?

A. Correct.

Q. And for that assertion you cite a study by Olson, et al. in 2018. Is that correct?

A. I don't see that.

ATTORNEY BLOCK: Objection. Where are you at?

THE WITNESS: I don't see it. If you can point to me where that is.

BY ATTORNEY BARHAM:

Q. Footnote nine, on page 11, small statistical errors in Olson 2016 had already been corrected in 2018, see Olson, et al., 2018, mental health of transgender student who are supported in their identity throughout.

A. Yes.

Q. Is that correct? **[130]**

A. Yes.

ATTORNEY BARHAM: I'm going to show you what we are going to mark as Exhibit 18. This will be tab 119.

(Whereupon, Exhibit-18, Errata Sheet, was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is the errata sheet that you cited in footnote nine of your report. Is that correct?

A. That is correct.

Q. The only change in this 2018 article is the highlight and missing common from the 2016 article. Is that correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Yes.

BY ATTORNEY BARHAM:

Q. In paragraph 40 of your report you say that studies have repeatedly documented puberty blocking medication and gender-affirming hormone therapy are associated with mental health benefits in both the short and long term. **[131]** Is that correct?

A. That is correct.

Q. And the studies that you're citing for that assertion are those listed in footnote 14 of your report. Correct?

A. That is correct.

Q. Are there any others that you are referencing?

A. Those are the only that I'm referencing.

Q. In paragraph 41 of your report you claim that Dr. Cantor fails to discuss many of the studies documenting the benefits of puberty blocking medication. Which of the studies in footnote 14 did he fail to discuss?

A. I would need to review Dr. Cantor's report to know specifically.

Q. Do you recall now which ones he failed to discuss?

A. I do not.

ATTORNEY BARHAM: All right. I'm going to show you what we will mark as Exhibit-19, and this is Tab 98.

(Whereupon, Exhibit-19, Article by **[132]** Tordoff, et al., was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is an article by Tordoff, et al, published in 2022, entitled Mental Health Outcomes in Transgender and Non-Binary Youth Receiving Gender-Affirming Care. This is one of the studies that you cited in footnote 14 of your report?

A. That is correct.

Q. According to table one on page five of this report 65 percent of the participants were also receiving mental health therapy. Is that correct?

A. That is correct.

Q. So it's not possible to determine how much of the improvement was due to puberty blocking medication and gender-affirming hormone therapy and how much was due to the mental health therapy. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: There is a lot of questions in that one singular question about study design and what we know about the history of transgender health **[133]** outcomes prior to the existence of gender-affirming care. As this study is designed, it is not designed in such a way to be able to specifically keep that apart.

ATTORNEY BARHAM: All right.

I'm going to show you what we will mark as Exhibit-20, and this will be Tab 99.

(Whereupon, Exhibit-20, Article by Amy Green, et al., was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is the second article. This is an article by Amy Green entitled ---- it says et al. entitled Association of Gender Affirming Hormone Therapy with Depression, Thoughts of Suicide and Attempted Suicide Among Transgender and Nonbinary Youth published in 2021. This is the second article that you cited in footnote 14 of your report. Is that correct?

A. That is correct.

Q. On page six of this report, column two, the authors indicate that causation cannot be inferred due to this study's cross-sectional design. **[134]** Correct?

A. That is correct.

Q. This study also does not prove that puberty blocking medication and gender-affirming hormone therapy caused any improvements. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: This study was not designed to show a causal outcome, no.

ATTORNEY BARHAM: Let's go to Exhibit 21, this will be Tab 100.

(Whereupon, Exhibit-21, Article by Turban, et al., was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is an article by Turban, et al. published in 2020 entitled Pubertal Risks for Transgender Youth and Risks of Suicide Ideation --- Suicidal Ideation?

ATTORNEY BLOCK: Objection to misreading the name of the study.

BY ATTORNEY BARHAM:

Q. This is the third article that you cited in **[135]** footnote 13 of your report. Is that correct?

A. That is correct.

Q. And on page seven of this article the authors also indicate that limitations include the cross-sectional --- the study's cross-sectional design, which does not allow for determination of causation. Is that correct?

A. That is correct.

Q. So this study does not prove that puberty blocking medication and gender affirming hormone therapy caused any improvements. Correct?

A. This study was not designed to demonstrate causation.

ATTORNEY BARHAM: I'm going to show you what we will mark as Exhibit-22. This is an article by Achille, et al. entitled Longitudinal Impact of Gender Affirming Endocrine Intervention on Mental Health and Well-being of Transgender Youths, Preliminary Results published in 2020.

(Whereupon, Exhibit-22, Article by Achille, et al., was marked for **[136]** identification.)

BY ATTORNEY BARHAM:

Q. You also cited this article in footnote 14 of your report. Is that correct?

A. Yes, I did.

Q. And on page two of this report, the bottom of the first column, the authors write that most subjects ---

quote, most subjects were followed by mental health professionals, closed quote, and quote, those that were not were encouraged to see a mental health professional. Correct?

A. That is correct.

Q. And on page three, the first column, the authors say that after statistically adjusting for psychiatric medication and engagement in counseling, quote, most predictors did not reach statistical significance. Is that correct?

A. Where are you?

Q. Page three, column one, under regression analysis.

A. Correct. **[137]**

ATTORNEY BARHAM: I'm going to show you what we will mark as Exhibit-23, this is Tab 102.

(Whereupon, Exhibit-23, Article by Kuper, et al., was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is an article by Kuper, et al. published in 2020, entitled Body Dissatisfaction and Mental Health Outcomes of Youth on Gender Affirming Hormone Therapy. On page six --- let me rephrase that for the record. You cited this article in footnote 14 of your report. Is that correct?

A. That is correct.

Q. According to Table 2 on page six none of the results for those receiving puberty suppression were statistically significant. Correct?

A. I need a few minutes.

Q. Take your time.

A. As I read the bottom of that table, there are a number of analyses that reached statistical significance.

Q. But if you look at the lines for each one under **[138]** each of the scores, body dissatisfaction, depressive symptoms, depressive symptoms QIDS, anxiety symptoms, panic symptoms, generalized anxiety symptoms, social anxiety symptoms, separation anxiety symptoms, school avoidance symptoms, the lines marked puberty suppression have no superscript on them. Is that correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: That is correct.

BY ATTORNEY BARHAM:

Q. So none of those --- none of the specific findings regarding individuals on puberty suppression only were statistically significant. Is that correct?

A. None of them were statistically significant as measured by their reports.

ATTORNEY BARHAM: I'm going to show you what we will mark as Exhibit-24. This will be Tab 103.

(Whereupon, Exhibit-24, Article by van der Miesen, et al., marked for identification.)

BY ATTORNEY BARHAM: **[139]**

Q. This is an article by van der Miesen, et al., published in 2020 entitled Psychological Functioning in Transgender Adolescents Before and After Gender Affirmative Care Compared with Cisgender General Population of Peers. You cited this article in footnote 14 of your report. Is that correct?

A. That is correct.

Q. The authors on page five, in column two, the authors of this study ---.

A. What page?

Q. Page five.

A. I have that in the 700s.

Q. Oh 703, sorry. 703. The fifth page, but it's paginated 703. The authors of this study indicate that, quote, due to its cross-sectional design, the present study cannot provide evidence about the direct benefits of puberty suppression over time and long-term mental health outcomes? Correct?

A. I don't see where that is.

Q. Next to the last paragraph in the second column. The third and most important --- skipping the cross-sectional design of this study different **[140]** participants in the groups before and after puberty suppression may potentially limit the results?

A. Yes, I see that.

Q. The present study can therefore not provide evidence about the direct benefits of puberty suppression over time and the long-term mental health outcomes. Is that correct?

A. That is correct.

Q. So the authors of this study indicate that conclusions about the long-term benefits of puberty suppression should thus be made with extreme caution, meaning prospective long-term follow-up studies with repeated measured design of individuals being followed over time to confirm. Is that correct?

A. That is correct.

ATTORNEY BARHAM: I'm going to show you what we will mark as Exhibit-25. This will be Tab 104.

(Whereupon, Exhibit-25, Article by de Vries, was marked for identification.)

BY ATTORNEY BARHAM: **[141]**

Q. This is an article by van der Miesen --- or I mean De Vries, et al --- excuse me, De Vries, et al., 2014, Young Adult Psychosocial Outcome After Puberty Suppression and Gender Reassignment. This is the last article you cite in footnote 14 of your report. Is that correct?

A. That is correct.

Q. At the Dutch clinic patients who receive puberty blockers also receive psychotherapy. Is that correct?

A. That is correct.

Q. So again, there is no way to determine how much of the improvement reflected in this study is due to the puberty blockers and how much is due to the psychotherapy. Correct?

ATTORNEY BLOCK: Objection to the form.

THE WITNESS: Let me restate my response to the previous question. The Dutch clinic always recommends participation in therapy. I'm not a 100 percent certain that every participant participated in the therapy as directed.

BY ATTORNEY BARHAM:

Q. For the most part, the Dutch model combined **[142]** psychotherapy with puberty blockers. Correct?

ATTORNEY BLOCK: Objection.

THE WITNESS: That is correct. And may I state that I think that is part of the reason that the van der Miesen study is quite important because it does start

to look at the impact of being on the wait list and the impacts of just getting psychotherapy alone versus access to puberty suppression and/or hormones.

ATTORNEY BARHAM: I'm going to show you what we're going to mark as Exhibit-26. Tab 105.

(Whereupon, Exhibit-26, Article, was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is an article by Michael Biggs published in 2020, Gender Dysphoria and Psychological Functioning in Adolescents Treated with GnRHa. Are you familiar with this study?

ATTORNEY BLOCK: Objection, mischaracterizes the document.

BY ATTORNEY BARHAM:

Q. Are you familiar with this letter to the editor? **[143]**

A. I have not read this letter to the editor.

Q. If you look at bottom of page one continuing onto page two, the author writes an additional complication with this treatment is that the Dutch model combines GnRHa with psychological support so the two effects are inevitably conflated. Do agree with that statement?

A. I do not.

Q. Why?

A. Use of GnRH logs for this kind of intervention were first used in 1999. So every --- every transgender person prior to 1999 had no access to this kind of treatment. Between 1999 and probably about 2014 these medications were not widely available and so unavailable for use for most people. So we have the clinical experience of adults,

talking retrospectively, about their experiences as well as the patients that we have treated that did versus did not have access to these interventions. So we have both clinical experience and some retrospective data that looks at this question specifically.

Q. Can retrospective data demonstrate causation?

A. In some cases it can.

Q. But retrospective data is subject to recall by **[144]** us in other drawbacks that undermind its reliability. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: It depends upon the type of data that is being calculated.

BY ATTORNEY BARHAM:

Q. Why do you mean by that?

A. If it is qualitative interview data, yes, there is retrospective data that reviews contemporary documentation and charts, lab results, imaging results, et cetera. That is less confounded by that kind of bias.

Q. When we are talking about people recalling their experiences before hormone therapy was available that would be the qualitative type of data. Correct?

A. Correct. And when analyzing that data you have to take that into account.

Q. So that still doesn't help me understand why you disagree with that statement because the Dutch model combines hormones with psychosocial --- psychological support, the two effects are inevitably conflated?

A. We have a long history of people receiving psychological support alone. And with the addition of

[145] these interventions and this model of care, outcomes improve with specific measures around gender dysphoria.

Q. Over that time the psychological support would have evolved as more understanding was gained. Correct?

A. One would hope, yes.

ATTORNEY BLOCK: Objection to form.

BY ATTORNEY BARNHAM:

Q. But for the individuals who receive treatment under the Dutch model, receiving both the hormones and the psychological support, it's impossible to determine how much improvement was due to the psychological support and how much was due to the hormones. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: There has not been a study that has sought to identify the specific percentage of impact of those two.

ATTORNEY BARHAM: All right. I'm going to show you what we will mark as Exhibit 27.

(Whereupon, Exhibit 27, Article, was marked for identification.) **[146]**

BY ATTORNEY BARHAM:

Q. Tab 106. This is an article by Costa, et al. In 2015 Psychological Support, Puberty Expression and Psychosocial Functioning in Adolescents with Gender Dysphoria. Is that correct?

A. That is correct.

Q. You cite this article in footnote 14 of your report. Is that correct?

A. That's correct.

Q. Now, in this study there were two groups of adolescents, those who receive both puberty --- I mean, both therapy and puberty blockers at the outset and those who received just therapy at the outset. Correct?

A. I'll need a minute to refresh myself.

Q. Sure. And I'm referencing pages 228, the second column over to 229, the top of the first column.

A. That's correct.

Q. And on page 2211 going over to 2212, the author's note that the difference between the immediately eligible group and the delayed eligible **[147]** group failed to reach significance. Correct?

A. So as I read this, immediately eligible group who had a higher in psychosocial functioning did not show any significant improvement after 12 months, but after 12 months there was a statistical difference.

Q. Then it says finally, even if the end or follow-up study, plan three, immediately eligible group had a five point higher CGAS score than the delayed eligible group, this difference failed to reach significance. Correct?

A. That's correct. What I have to point out there, is CGAS is the children's global assessment scale, and not a measure of gender dysphoria or quality of life or distress in body.

Q. Is it a measure of a child's mental health?

ATTORNEY BLOCK: Objection.

THE WITNESS: It is a rough and very precise measure of general functioning.

BY ATTORNEY BARHAM:

Q. But it is the scale that this study was using. Correct?

A. That is correct. **[148]**

ATTORNEY BARHAM: Let's go to tab 28.

(Whereupon, Exhibit 28, Article by Edwards-Leeper, was marked for identification.)

THE WITNESS: And to clarify the CGAS is something that is clinician rated of remedy objective criteria.

BY ATTORNEY BARHAM:

Q. Do you want to take a break?

A. In a few minutes if that's okay.

Q. Are you aware of Dr. Edwards-Leeper's reputation in the field?

A. I am.

Q. Are you personally acquainted with Dr. Edwards - Leeper?

A. I am.

Q. Have the two of you worked together in the American Psychiatric Academics Association?

A. We have not worked together through the American Psychiatric Association. Dr. Edwards-Leeper is a psychologist.

Q. She served as a member of the task force to **[149]** develop practice guidelines for working with transgender individuals? Have you served in a similar capacity with the American Psychiatric Association?

A. I have. And we both worked together on the WPATH standards of care provision.

Q. You anticipated my next question. So you would agree that Dr. Edwards-Leeper is considered an international expert in this area. Correct?

A. Yes. Dr. Edwards-Leeper is a complicated figure right now, but yes, she has a lot of expertise.

ATTORNEY BARHAM: I want to show you what we will mark as Exhibit 29. This is Tab 29.

(Whereupon, Exhibit 29, Article by Edwards-Leeper, was marked for identification.)

ATTORNEY BLOCK: I imagine you have a lot of questions about this next document, and I just want to make sure the witness has a chance to have a bathroom break if it's going to go on for ten minutes or more.

ATTORNEY BARHAM: I have no objection to that. **[150]**

THE WITNESS: Five minutes.

ATTORNEY BARHAM: We will take five minutes.

VIDEOGRAPHER: Going off the record. The time is 12:12 p.m.

OFF VIDEO

(WHEREUPON, A SHORT BREAK WAS TAKEN.)

ON VIDEO

VIDEOGRAPHER: We are back on the record the current time reads 12:21 p.m.

BY ATTORNEY BARHAM:

Q. A moment ago we were discussing Dr. Edwards-Leeper and you commented that she is a complicated individual. What did you mean by that?

A. What I mean is that she has published some things in popular press that have led me to be talking about her here.

Q. And would one of those be the document before you Exhibit 29?

A. That is correct.

Q. This is an article published in the Washington **[151]** Post by Dr. Edwards-Leeper and Dr. Anderson. Is that correct?

A. That is correct.

Q. What is it --- are there any other publications that Dr. Edwards-Leeper has written recently that caused you to describe her as a complicated figure?

A. No, no.

Q. So just this one article. Is that correct?

A. Yes.

Q. Are you familiar with Dr. Anderson?

A. I am.

Q. She is a clinical psychiatrist?

A. She is a psychologist.

Q. A psychologist. And Dr. Anderson has been working with transgender youth for a long time.

Is that correct?

A. I'm not a hundred percent familiar with Dr. Anderson's history, I don't know.

Q. Was she in the field before you?

A. I don't know.

Q. Dr. Anderson is also a transgender. Is that correct?

A. That is correct. **[152]**

Q. Dr. Anderson is a member of the American Psychological Association Committee tasked with writing guidelines and working with transgender individuals. Is that correct?

A. I do not know.

Q. Dr. Anderson is a former president of the U.S. Professional Association for Transgender Health. Is that correct?

A. That is correct.

Q. Dr. Anderson is a former board member for the World Professional Association for Transgender Health. Correct?

A. I'm not sure.

Q. Beyond the committee assignments listed on page two of your CV have you held any committee assignments for the USPATH or WPATH Organizations?

A. Not additional committee assignments than WPATH or USPATH, no.

Q. In this copy published in the Washington Post Dr. Edwards-Leeper and Dr. Anderson summarizes a situation of a 13-year old natal girl with no prior history of gender dysphoria. Some issues of sexual assault and depression and then an abrupt announcement of this child of transgender identity. **[153]** Does that summarize the scenario they outline?

A. That is the scenario they outlined.

ATTORNEY BLOCK: Objection to form.

BY ATTORNEY BARNHAM:

Q. What percent of your patients first present as a team without a prior gender dysphoria diagnosis?

A. Well, first I just want to address the scenario with Patricia, this is a popular press article, so I have no idea if Patricia is a real person or an amalgam.

Q. Understood.

A. I hope it's an amalgam, because it would be unethical to not have consent to publish this story. Whether or not a child has a diagnosis of gender dysphoria before they come to see me is dependent upon if they've had previous evaluations, so it's dependent. I don't have a specific number for you.

Q. In general, how many of your patients first present as a team versus first presenting as a child?

A. That is very different, depending upon which cite that I was practicing at. So in New York I saw more prepubertal youth than I do in Chicago.

Q. So in New York, what percent of your patients first presented as adolescents versus children?

A. I think I answered that question earlier. If I **[154]** remember it was 25 percent of the 75 percent.

Q. And in Chicago how many --- what percentage of your patients present as adolescents versus as teen?

A. Probably 90 percent during adolescence.

Q. And are those all adolescents who first presented as adolescents or did they first present with gender dysphoria as a child?

A. It's a combination of both.

Q. So of your adolescent patients how many presented first as an adolescent, and how many presented as a child?

A. I don't have that information in front of me.

Q. Do you have a general ballpark idea?

A. No, I mean, the question --- I guess what I'm struggling with is that there are a lot of adolescents who I see who presented the first as adolescent, but have clear symptoms of gender dysphoria going back to childhood. So I'm not sure how to characterize those children in your question.

Q. What percent of the patients that present themselves to you first as an adolescent are natal female?

ATTORNEY BLOCK: Objection to terminology. **[155]**

THE WITNESS: I would say in the clinic where I'm practicing, currently certainly over half of the children presenting in adolescence for the first time are assigned female at birth.

BY ATTORNEY BARHAM:

Q. And in New York, what percent of the patients that presented to you first as an adolescent or natal female?

A. In New York it was more even split between those assigned female and those assigned male at birth.

Q. And here when you say it's more than 50 percent are we talking 75 percent, we're talking 80 percent, 90 percent?

A. I don't have that information in front of me, so I couldn't tell you specifically. It would be a guess.

Q. Do you have a range?

A. I don't. I don't. More than 50 is the closest that I can get right now.

Q. More than 75 percent?

A. Probably not, no.

Q. So somewhere between 50 and 75?

A. That's a good guess.

Q. What proportion of teen girls presenting at your clinic have suffered sexual assault or abuse of any **[156]** sort?

A. So if we're talking assigned females at birth, is that what you mean?

Q. Yes. Natal females.

A. Between one out four and one out of eight assigned females at birth who do not identify as transgender have exposure to sexual assault and trauma of some kind. What we know from the literature is that rates of sexual assault and sexual abuse of transgender youth is higher than that and my patients are relatively similar to that, so probably in the order of 25 to 30 percent.

Q. What policies do you have in place to ensure adequate counseling and therapy for that trauma before making any decisions regarding hormones?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Assessing co-occurring psychiatric disorders or stressors or traumas is an inherent part of any assessment.

BY ATTORNEY BARHAM:

Q. Beyond just it being an inherent part of any assessment, do you have any other policies or standards that you use to ensure that the trauma is addressed before making decisions regarding hormones? **[157]**

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I mean, I don't have a written down policy. Incorporating understanding of trauma is always going to be an important part of any informed assessment prior to moving forward with an intervention.

BY ATTORNEY BARHAM:

Q. Do you agree or disagree that before prescribing hormones to a teen girl who has suffered sexual abuse or depression, medical professionals have a responsibility to confirm that the patient has received a thorough mental health assessment, including investigating how other mental health issues and any other changes in her life might be contributing to her desire are perceived transgender identification?

ATTORNEY BLOCK: Objection to form and terminology.

THE WITNESS: So for any child regardless of gender, who we are recommending a medical or surgical intervention, we are assessing for the presence of gender dysphoria, the presence of co-occurring psychiatric disorders and their impact on that diagnosis or the capacity to consent to treatment, and a clear understanding of the risks, benefits and alternatives of **[158]** whatever that intervention may be.

BY ATTORNEY BARHAM:

Q. So then --- and that would include investigating how other mental health issues and other changes in her life might be contributing to her desire or perceived transgender identification?

A. That is correct.

ATTORNEY BLOCK: Objection to terminology and pronouns.

BY ATTORNEY BARHAM:

Q. Do you agree or disagree that the standards of care recommend mental support and comprehensive assessment for all dysphoric youth before starting medical interventions?

A. I would agree that the current recommendations, which are in the process of being updated recommend that a mental health assessment be in place. And it's not a mandate that psychotherapy is a requirement prior to initiation of medical care for gender dysphoria, and it is not indicated for every patient.

Q. And that's partly because the standards of care are guidelines not mandates. Correct?

A. It's mostly because of the indications for the **[159]** patient's best interest that psychotherapy is not a requirement for folks who are otherwise doing well.

Q. But it's also true that the standards of care are guidelines not mandates. Correct?

A. That is correct. They are guidelines.

Q. On page two of this article the author is --and by this article I'm referring to tab 29. The author has indicated that a study of ten pediatric gender clinics in Canada found that half do not require psychological assessment before initiating puberty blockers or hormones. Is that your policy?

A. Where is this in the article? I don't see it.

Q. The bottom of page two?

A. What I want to emphasize is this is an opt ed and a popular press outlet and not a study. So I have no idea where they gathered their information about this or the

accuracy of the statement, nor do I know what the authors meant by a psychological assessment.

Q. I understand. I did not mean to imply that this article Exhibit --- tap 29 is a study. I was merely quoting the authors, that a study of ten pediatric gender clinics found that half do not require **[160]** psychological assessment before initiating puberty blockers or hormones. My question to you is, is that your policy?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Again, I can't speak to the accuracy of Dr. Edwards-Leeper and Dr. Anderson's description of a study that I haven't seen.

BY ATTORNEY BARHAM:

Q. I'm not asking you to. I'm asking do you have --- is it your policy at your clinic that you do not require psychological assessments before initiating puberty blockers for hormones?

A. We require psychological assessments prior to initiation, yes.

ATTORNEY TRYON: Travis, it's Dave Tryon. You referred to this as Tab 29, I believe you mean Exhibit 29. Is that right?

ATTORNEY BARHAM: It's both Exhibit 29 and Tab 29.

BY ATTORNEY BARHAM:

Q. When patients come to you referred by a pediatrician or counselor with no expertise in gender dysphoria assessment or diagnosis, what policies do you have to ensure that the patients receive full and **[161]** adequate course of mental healthcare before prescribing life altering hormones?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: As a mental health professional I'm not the person who is prescribing those treatments.

BY ATTORNEY BARHAM:

Q. Before you recommend someone for eligibility for life-altering hormones?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Prior to making a recommendation of hormone initiation I'm doing my own assessment and ensuring that those standards are met.

BY ATTORNEY BARHAM:

Q. So beyond your own assessments do you have any policies that guide that process?

A. Our clinic has its own policies dependent upon clinical practice or whether or not patients are enrolled in a particular trial, but it is the standard of care as laid out by both Endocrine Society and WPATH that adolescent patients have a psychological assessment. There's a lot of latitude for what that actually means.

Q. And on page three of this document, Exhibit 29, **[162]** the bottom of the first paragraph the authors write as a result we may be harming some of the young people we strive to support, people who may not be prepared for the gender transitions they are being rushed into. Do you share the concern of these authors?

A. I don't have numbers on my end. Which --- where is it?

Q. (Indicating).

A. Got it. Can you repeat the question? Sorry.

Q. The authors express concern that we may be --- quote, we may be harming some of the young people we strive to support, people who may not be prepared for the gender transitions they are being rushed into.

Do you share the author's concern?

A. I do not. These are tested hypotheses that can be researched, and this is not what this is.

Q. You said you have no concern that people are being rushed into gender transitions?

A. This is a supposition by these two authors that people are being rushed into gender transition. I'm not sure what that means, and that has not been the clinical experience that I've had nor what the guidelines recommend.

Q. So you were not aware of people being rushed **[163]** into transitions that they are not ready for?

A. That has not been my experience, no.

Q. On page four towards the bottom of the page, the authors reference a recent study of 100 detransitioners, 38 percent of whom reported that they believe their original dysphoria had been caused by something specific such as trauma, abuse or mental health condition. Fifty-five (55) percent of whom said they did not receive adequate evaluation from a Dr. Or mental health professional before starting transition. Are you aware of that study that authors reference here?

ATTORNEY BLOCK: Object to form.

THE WITNESS: I am --- I'm assuming because I think they have a footnote in here somewhere, but it is not in this particular article, but they are receiving to the recent 2021 Littman study detransitioners.

BY ATTORNEY BARHAM:

Q. Do you share the concern that some have been misdiagnosed as transgender when their gender dysphoria was, in fact, not innate, but cause by something specific, such as trauma, abuse or mental health condition? **[164]**

A. I really don't mean to parse this, but I don't know what Dr. Edwards-Leeper or Dr. Anderson's concerns are, but the evidence that we have from the literature and from our clinical experience is that this is not a broad experience of most children.

Q. And what literature, are you referencing when you say we referenced the literature?

A. I'm referencing the literature that I cited in my report.

Q. And which specific portions of your report are you referencing?

A. Let me just take a moment. What I'm referencing is the longitudinal studies in particular that have followed these kids over time.

Q. And which ones would those be in your report?

A. Really anything from the Dutch clinic is going to have a longitudinal focus to them, but I think what's more important is that in all of these studies, which include some of the Dutch studies both in childhood and adults that have looked at regret rates or detransition have shown that this is a very infrequent occurrence, and there has been nothing I've read within the scientific literature that in, any way, tries to operationalize this idea of children being forced into **[165]** or pressured into transition.

Q. What steps do you take to ensure that gender dysphoria, the child's --- the child's or teen's gender dysphoria was not caused by something specific such as trauma, abuse or mental health condition before recommending someone for puberty blocking or cross sex hormones?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I perform a thorough evaluation.

BY ATTORNEY BARHAM:

Q. Anything beyond the thorough evaluation?

A. A very thorough evaluation. It involves multiple steps as I described earlier.

Q. So this comprehensive --- the authors actually talk about a comprehensive assessment on page three of their article. And they indicate that comprehensive assessment and gender exploratory therapy helps --quote, helps a young person peel back the layers of their developing adolescent identity and examines factors that contribute to their dysphoria. And those include --- so what steps did you take to identify the factors that may contribute to a child's or teen's sense of dysphoria? **[166]**

ATTORNEY BLOCK: Objection to form.

THE WITNESS: It is a thorough assessment and there are multiple factors within that assessment that speak to those concerns specifically.

BY ATTORNEY BARHAM:

Q. And what are those multiple factors?

A. Understanding developmental history, getting multiple performance, doing the diagnostic assessment of

any co-occurring mental health conditions and ensuring that those are adequately explored and understood.

Q. What factors in a transgender identity do you identify as most often contributing to gender dysphoria?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think it's complicated to answer that in a short way, because not every child who identifies as transgender would meet diagnostic criteria for gender dysphoria. And specifically, if we agreed with the premise that the gender dysphoria is being caused by trauma that's specifically a rule out of the diagnosis of gender dysphoria. So that is part of what we're doing in an assessment is to understand the role of other potential factors in helping a kid explore and understand their identity.

BY ATTORNEY BARHAM: **[167]**

Q. Then allow me to clarify the question. What factors other than an innate transgender identity do you identify as most often contributing to a child's transgender identification?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: The children that I have treated over my years of doing this work that describe a gender identity that is inconsistent who don't ultimately meet the criteria for gender dysphoria are often children who have been subjected to multiple types of trauma. That would be one of the factors.

BY ATTORNEY BARHAM:

Q. What other ones would you identify?

A. The other factors are around parental conflicts. That's probably the other large cohort of kids when

exploration is the full come around which parents, particularly divorcing parents, are acting in conflict.

Q. So by that you mean, for example one parent supporting an affirmation approach and the other raising concerns about proceeding in that direction?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: That's not an infrequent occurrence and this is a very rare outcome to that, but in that cohort of patients who desist, I would say in **[168]** their identities that is a shared characteristic of some of the patients that I have seen.

BY ATTORNEY BARHAM:

Q. So you have not only two factors that could contribute to a child's transgender identification, other than ---?

A. Can I stop you, sir? I'm not identifying that as a cause or a causal factor in a core gender identity. It is the understanding and expression of that identity that often changes.

Q. Okay. And that is why I was trying to talk about transgender identification more broadly. But you've identified two factors that contribute to that not necessarily causal but contribute. Are there any others that you have identified as most often contributing as ---?

A. Not that I have seen.

Q. The authors on page three express a concern about other influences that patients can be subjected to, so as in these assessments patients reflect on the duration of the dysphoria they feel they continue a gender --- the intersection of sexual orientation, et cetera, social media, internet and peer influences. **[169]** Do you share concerns

that teens maybe misled by TikTok or other social media to self diagnose as transgender when, in fact, other factors have driven their gender dysphoria or their transgender identification?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: To clarify transgender isn't a diagnosis, so I'm not concerned about that specifically. And I think that's the study of all phenomenon, whether or not this is occurring, but again, as a part of a comprehensive gender assessment, we are looking at multiple factors beyond a child's self-report.

BY ATTORNEY BARHAM:

Q. So do you share concerns that teens may be misled by social media to self declare as transgender when, in fact, other factors have driven their gender dysphoria?

ATTORNEY BLOCK: Objection.

THE WITNESS: I would not characterize it in that way.

BY ATTORNEY BARHAM:

Q. How would you characterize it?

A. I would characterize it by taking exploration of **[170]** an identity via TikTok for what it is, as a normal process of adolescent development and having a child who self identifies as transgender as a result of seeing a video on TikTok is not going to be the child who meets the typical phenomenology that we would see with gender dysphoria. That is part of the assessment that we are evaluating.

Q. Okay. So then in general, you don't agree with the concerns that the authors raise regarding the influence of social media, internet and peer influences. Correct?

A. I would say it's a matter of degree. I don't think social media has been a particularly healthy thing for kids in general, and understanding how it impacts kids is something that we all need to be learning more about.

Q. In the last paragraph on page three, the authors talk about how the WPATH recommends collaborative approach that involves parents and take into account the complexities of adolescents. Do you see that?

A. Yes.

Q. Do you understand the WPATH standards of care **[171]** for adolescents to call for a collaborative approach that involves both parents whenever possible?

A. There is not a specific call out within the standards of care for my recollection that say both parents need be involved, but that's certainly implied and is the general practice to include all parents or all family members who are involved in the child's life whomever is going to need to be in the room in order to both get a clear understanding of what's going on as well as make sure the child gets the adequate support to be able to thrive.

Q. So is it your understanding that the WPATH standards of care would allow treatment to proceed based on the consent of one parent?

A. As we talked about earlier, these are guidelines and not mandates. In practice within the United States almost all consent processes for puberty suppression and hormones go through a two parent consent process whenever possible, even though that is not a requirement of the law.

Q. What I'm trying to get to is what is the requirements of the guidelines, recognizing that the

guidelines are not mandatory, but do the guidelines allow for treatment based on the consent of one parent? **[172]**

A. I think one of the limitations of an international document is that there is not going to be that level of specificity because consent laws are going to be different from state to state, not to mention country to country.

Q. Okay. On page two --- I'm sorry, on page three --let me clarify again. I'm sorry I confused myself. On page two the authors write that after exploring who she was --- after a year of exploring who she was, Patricia no longer felt she was a boy, she decided to stop binding her breasts and wearing boys clothes. What proportion of those who present at your clinic change their minds and decided to remain with or return to the gender identity of their natal sex before undergoing any hormonal treatments?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I'm one practitioner in my clinic, so I don't have the data on everybody. And I think a lot of that is going to depend upon the population that you are seeing.

BY ATTORNEY BARHAM:

Q. What proportion of your patients then changed their mind and decide to remain or return to the gender **[173]** identity of their natal sex before undergoing any hormonal treatments?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I would say a minority of patients.

BY ATTORNEY BARHAM:

Q. Do you have a range?

A. I don't. I think when you were asking those questions at the beginning about my 500 transgender patients in that cohort, and I think 75 percent pursued some things, but being that 25 percent that didn't. Somewhere in there.

Q. On page five of this document, the last page the authors report a rising a number of detransitioners that clinicians report seeing. Are you aware of this rising number of detransitioners?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I'm aware that these two authors are raising that it's a possibility. It is not something that I've seen published in the literature.

BY ATTORNEY BARHAM:

Q. Have you seen a rising number of detransitioners at your clinic?

A. I think the question is whether or not the **[174]** percentage is changing and that's not an answer we know. I think by definition the more people you see the more folks --- the detransition you're going to see. And the difference of children who had access to gender care now compared to a decade ago is just orders of magnitude different. But I don't know or there has not been any evidence that I've seen that the percentage of kids who detransition is any different now than it was a decade ago.

Q. A few paragraphs above what we were just looking at, it says only a quarter of these individuals told their doctors they had reversed their transitions making this population especially hard to track. Would you agree that this population is difficult to track?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Again, this is not a study and so it's hard to kind of make a pronouncement about a population without a defined understanding of what that population actually is. Our folks who don't talk to their medical professionals about dissatisfaction in their care, a difficult population to treat, I think, probably by definition that is true.

BY ATTORNEY BARHAM:

Q. And to be clear, I wasn't asking if they're **[175]** difficult to treat, I was just asking would you agree they're difficult to track?

A. I think by definition, yes, if they are not reaching out to their providers or dropping out of studies, yes.

Q. The next to last paragraph of this article begins by saying the pressure by activists, medical and mental health providers along with a national LGBT organizations to silence the voices of detransitioners and sabotage the discussion around what is occurring in the field is unconscionable. Do you agree that it is concerning that certain organizations are seeking to silence the voice of detransitioners?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: It is not my experience that organizations are seeking to silence the voices of folks who identify as detransitioners, no.

BY ATTORNEY BARHAM:

Q. If they were would you agree that that is unconscionable?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: My job as a psychiatrist and a child psychiatrist in particular is to understand the kid who is

sitting in front of me in that very **[176]** moment. I want to understand how to best meet their needs. So anything that is going to interfere with me being able to understand that is going to be a problem for me.

ATTORNEY BARHAM: I'm going to show you what we will mark as Exhibit-30. This is also Tab 30.

(Whereupon, Exhibit-30, Interview by Lisa Selin Davis, was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is an interview written up by Lisa Selin Davis of Quillette entitled Trans Pioneer Explains her Resignation from the U.S. Professional Association for Transgender Health, published at the beginning of 2022. Are you familiar with this article?

A. I am not.

Q. I'm going to direct your attention to page three. This is an interview with Dr. Anderson, the same individual who is a co-author of the Washington Post article we were just discussing. Correct?

A. That is correct. **[177]**

Q. On page three Dr. Anderson states, the data are very clear that adolescent girls are coming to gender clinics in greater proportion than adolescent boys and this is a change in the last couple of years and it's an open question, what do we make of that. We really don't know what's going on and we should be concerned about it. Does her experience match your experience?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think it's consistent in the literature that we've seen more assigned females at birth presenting for care than in the past.

BY ATTORNEY BARHAM:

Q. And have you seen this change in balance since approximately 2015?

A. I don't know if I would say --- I could point to one specific year, but with each year it seems like that's --- I think probably that's when the data came out that that demonstrated it.

Q. When do you recall beginning to see this trend develop?

A. I think one of the challenges is that the scope of the literature is limited to a few very specific subsets of where clinical care is practiced, and so we have to just be careful not to completely generalize. **[178]** So in these specific clinics what we have seen is a preponderance and an increase of assigned females at birth. I can't speak to this being a national phenomenon, but the literature probably certainly all points in that direction. I think personally for me I just started to see more assigned females at birth presenting in adolescence I think in the mid 2010s is not unreasonable.

Q. Is there any test in scientific understanding as to why this trend in the literature is developing?

A. There is not.

Q. Do you agree that this is something that practitioners should be very concerned about before agreeing to administer sterilizing cross sex hormones to teen girls?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: The thing that's important is what are the specific factors of the child in the family that is sitting in front of you and how to ensure that that child has

gotten appropriate care and that we're making a recommendation based upon the best interest of that individual child that is irrespective of population-based changes that are happening.

BY ATTORNEY BARHAM: **[179]**

Q. Don't you need to assess though whether the individual in front of you is exemplar of that national --- of that trend in the literature?

A. That's where --- that's where an assessment comes in.

Q. So you would agree then that practitioners should be concerned about this trend before deciding to administer hormones. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: What I'm stating is that the guidelines for what's involved in assessment have been relatively clear and that we want to make the decisions based upon what's in the best interest and understanding of the patient and family that we are seeing. We should always be concerned. We should always be building up our understanding of the field, as well as some of the epidemiology of the field. But that doesn't change the individual experiences of the patient and the family that we're meeting with.

BY ATTORNEY BARHAM:

Q. Okay. At the bottom of page four Dr. Anderson says that she is, quote, worried that there is a new group of **[180]** adolescents who have preexisting mental health problems and are looking for an explanation about who they are. And there's a bit of I would say fantasy about seeking to form an identity that may then explain their distress. You would agree that the adolescent years can be

distressing for many teens, whether they are transgender or not. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I would wholly agree with that, yes.

BY ATTORNEY BARHAM:

Q. Do you share the concern that some teens who present at clinics are indulging in a fantasy about what a transgender identity will do for them and their distress?

A. I would not put it in that way, no.

Q. As part of your assessment do you have to --- as part of your thorough assessment do you have to assess whether the teen is incorrectly assessing what a transgender identity would do for them and their distress?

A. A part of any formed --- informed consent process is assessing the understanding of the child and **[181]** the family's understanding of the risks, benefits and alternatives of that specific intervention. That would include an unrealistic belief about what the potential benefits may be.

Q. All right. I want to go to page five of this document. Dr. Anderson indicates earlier today I talked to some parents who brought their child to a health professional. The child is seen three times by a therapist and then recommended for hormones. The therapist never talked to the parents. Do you share her concern that three sessions with a mental health providers is far less than required before a competent diagnosis of a durable transgender identity can be made?

ATTORNEY BLOCK: Objection to the form.

THE WITNESS: I would not. The objection as I read it in this article that you've put in front of me with the

interview with Dr. Anderson, her concern seems to be more about not having spoken to the parents prior to the recommendation. And I can't take her word for it that this was true. We hear a lot of things from parents who express frustration with care that is ultimately found not to be accurate.

BY ATTORNEY BARHAM: **[182]**

Q. Would you share the concern that prescribing hormones if one parent is strongly opposed to it is creating a likelihood of family conflict that is going to likely be destabilizing and harmful to the child?

ATTORNEY BLOCK: Objection to the form. Are you referencing something in the article or is this your own question?

ATTORNEY BARHAM: I am referencing page six, where Dr. Anderson says you don't want to rush ahead with a kid, giving them encouragement that they're going to get hormones until we bring their parents along. Battling the parents is a no win proposition.

BY ATTORNEY BARHAM:

Q. So just to be clear about the question do you share the concern that prescribing hormones if one parent is strongly opposed is likely creating the likelihood of family conflict that may be separately destabilizing and harmful to the child?

ATTORNEY BLOCK: Objection to the form and foundation.

THE WITNESS: What I hear Dr. Anderson's concern from this is that battling with parents is a no-win proposition. I think that's different from recommending a treatment that not all parents agree to. **[183]** I think it's about the work of psychotherapy, which involves

understanding and hearing parents' experiences and objections.

BY ATTORNEY BARHAM:

Q. Do you think that prescribing hormones if one parent is strongly opposed is likely creating family conflict that may be separately destabilizing and harmful to the child?

A. I can't answer that question without a specific family scenario in front of me. I have seen the opposite be the case where the conflict is the creation of the lack of consensus as opposed to the other way around. And I've seen kids in my experience treating kids who had parents who have opted out of any decisional capacity and the kid's medical care but nevertheless do much better when given access to this care.

Q. But it is also possible that prescribing hormones over the objection of one parent can create conflict within the family. Correct?

ATTORNEY BLOCK: Objection to the form.

THE WITNESS: Understanding the impact of any intervention is a part of that consent process. **[184]**

BY ATTORNEY BARHAM:

Q. I'm just asking if that's a possible outcome?

A. Yes.

Q. All right. Is it your opinion that it's unreasonable to exclude from female teams biological males, and by that I mean people with XY chromosomes, who have gained a physiological advantage as a result of undergoing male puberty?

A. This is outside of the scope of what I was providing my testimony on.

Q. Well, in paragraph 52 of your report you say no reasonable mental health professional could think the act in question is anything but harmful to the mental health of transgender youth and that preventing transgender youth from participating in the same activities as their peers undermines their ability to socially transition and prevents transgender youth from accessing important educational and social benefits. So I'm asking you is it your opinion that it's unreasonable to exclude from female teams biological males who have gained a physiological advantage as a result of undergoing male puberty?

ATTORNEY BLOCK: Objection to form and **[185]** scope.

THE WITNESS: Again, I can testify to the mental health aspects of exclusion. I can't testify to the endocrinologic changes of the physiologic changes in sports specifically.

BY ATTORNEY BARHAM:

Q. I'm not asking you to testify to the endocrinology aspects of this. I'm just asking is it your opinion that if we assume that an individual has gained physiological advantage as a result of undergoing male puberty that it is still unfair to --- or unreasonable to exclude them from competing on a women's team?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: That is not an assumption I feel comfortable making.

BY ATTORNEY BARHAM:

Q. Well, if you say that it is no reasonable mental health professional can say that this Act is anything but harmful to the mental health of transgender youth that doesn't depend upon whether the child has undergone male puberty or not. Is that correct? **[186]**

A. That is correct.

Q. So even if the child --- even if the individual has undergone male puberty you're saying that no reasonable mental health professional could think that the Act is anything but harmful, barring them from competing on the women's team is anything but harmful. Is that correct?

A. I would say exclusion and isolation from access to same aged peer activities is likely to be harmful from a mental health perspective.

Q. To what extent can puberty blockers started late, such as age 14, unring the bell by reversing physical changes in male puberty?

ATTORNEY BLOCK: Sorry, I can't hear the questions.

BY ATTORNEY BARHAM:

Q. To what extent do puberty blockers started late, for example age 14, unring the bell by reversing the physical changes of male puberty?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: It is a complicated question that is best left to an endocrinologist to answer. **[187]**

BY ATTORNEY BARHAM:

Q. Can puberty blockers reverse the physical changes of male puberty to the genitals?

ATTORNEY BLOCK: Objection to form and scope?

THE WITNESS: It's the same answer. I would defer to an endocrinologist on that response.

BY ATTORNEY BARHAM:

Q. Can puberty blockers reverse the physical changes to the hair?

ATTORNEY BLOCK: Same objections.

THE WITNESS: Again, I would defer to an endocrinologist.

BY ATTORNEY BARHAM:

Q. Can they reverse the physical changes to the voice or the muscles?

ATTORNEY BLOCK: Same objections.

THE WITNESS: Same answer.

BY ATTORNEY BARHAM:

Q. Can they reverse the effect --- the physical changes of male puberty to the heart or lung size?

ATTORNEY BLOCK: Same objection.

THE WITNESS: Same answer.

BY ATTORNEY BARNHAM: **[188]**

Q. Isn't it true that puberty blockers just stop further typical male development?

ATTORNEY BLOCK: Same objections.

THE WITNESS: I would --- I would give two responses. One, I would want an endocrinologist to weigh in on the specifics, but clearly puberty blockers are also prescribed to folks assigned females at birth as well.

There's more than just impacts on testosterone as a result of these medications.

BY ATTORNEY BARHAM:

Q. I understand, but you make recommendations for whether people are eligible to receive puberty blocking hormones. Is that correct?

A. That is correct.

Q. So you have to have some understanding of the effects of these medications. Is that correct?

A. That is correct.

Q. So isn't it true that puberty blockers administered to natal males should stop further typical male development?

ATTORNEY BLOCK: Objection to form and scope. **[189]**

THE WITNESS: I'd have the same answer, and they do more than that.

BY ATTORNEY BARNHAM:

Q. What else do they do?

A. Again, I would defer to the endocrinologist for the specific pathophysiology of how GnRH analogs affect a complicated physiology of the body.

Q. But what is your understanding of how they affect because you said they also do other things?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: I think I answered it. In the GnRH analogs are given an anatomic manner compared to the pulsatile way in which GnRH is released during the

puberty, which is what causes the suppression of other hormones more than just testosterone and estrogen.

BY ATTORNEY BARNHAM:

Q. If puberty blocking hormones are administered to a natal male, do they cause that individual to undergo typically female pubertal development?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: They do not.

BY ATTORNEY BARHAM: **[190]**

Q. So they just stop further male development. Correct?

ATTORNEY BLOCK: Same objections.

THE WITNESS: As kind of a Gestalt pithy response, yes, they cause puberty for assigned females at birth and assigned males at birth who are given these medications.

BY ATTORNEY BARNHAM:

Q. When does puberty typically begin in biological males?

ATTORNEY BLOCK: Same objections.

THE WITNESS: Those are very known data that an endocrinologist could tell you.

BY ATTORNEY BARHAM:

Q. I'm sure, though, that as a psychiatrist you have a general understanding of what ages puberty typically begins in biological males?

ATTORNEY BLOCK: Same objections.

THE WITNESS: I do, however, I am assessing individuals who come through my office. And regardless

of what the population says about when puberty is typical, it's going to depend upon who that individual child is and when they develop puberty.

BY ATTORNEY BARHAM: **[191]**

Q. I understand, but my question isn't about an individual. My question is when does it typically begin in biological males.

ATTORNEY BLOCK: Same objections.

THE WITNESS: Again, this is a very knowable fact-based answer in a population level. It's not information I have in front of me.

BY ATTORNEY BARHAM:

Q. So you have no --- is it your testimony that you have no information as to when puberty typically begins in biological females?

ATTORNEY BLOCK: Can I just give a standing objection to questions asking the witness about the effects --- the endocrinology effects of blockers and hormones, so I don't have to make an objection each time?

ATTORNEY BARHAM: Yes.

THE WITNESS: My testimony is I don't want to give an imprecise answer for a question that there is a specific answer to.

BY ATTORNEY BARHAM:

Q. What is your understanding, as you sit here today, as to when puberty typically begins in males?

A. The range for typical puberty in males tends to **[192]** be around the 12ish mark. But there is a broad variability. And again, there is an answer that exists for this question that I don't have in front of me.

Q. Are you familiar with Tanner stages of puberty?

A. I am.

Q. What are the different Tanner stages of puberty?

A. Tanner stages one through five are the different Tanner stages.

Q. So what is Tanner stage one in biological males?

A. It depends upon if we're talking about genitalia or chest development, but it's no pubertal changes, so ---.

Q. And what is two?

A. Two is at the initial stages of pubertal changes that you start to see. The specifics of the Tanner staging is something that you need to be trained on. I would not claim myself as an expert in being able to accurately access the Tanner stage of a child.

Q. Do you know when --- at what ages Tanner Stage 2 typically initiates in biological males?

A. Again, it's going to be an individualized experience and that's why we do assessments.

Q. Do you have a range, an age range as to when it typically begins? **[193]**

A. When we talk about the onset of puberty, we're talking about Tanner stage two typically.

Q. And at what age do those typically arise?

A. For assigned males at birth or assigned females?

Q. For biological males.

ATTORNEY BLOCK: Objection to terminology.

THE WITNESS: So for folks assigned male at birth, again, we're going to see it in that 12-ish range.

BY ATTORNEY BARHAM:

Q. And Tanner Stage 3, what is that?

A. Further development. There's tables and charts you would have to look at. I'm not going to be able to use language to describe it in an accurate way.

Q. And when --- approximately when, what age range does Tanner Stage 3 begin in biological males?

A. That's not an answer that I can give you.

Q. And what is Tanner Stage 4?

A. The same answer is further progression of pubertal changes.

Q. And do you know what age range that typically begins in biological males?

A. Same answer as before. That's not an answer I **[194]** have here.

Q. And would the same answers hold true for Tanner Stage 5? Is that a yes?

A. That's a yes. I forgot that nodding ---.

Q. Yes. You've been pretty good today. I've been impressed. Doesn't the position that allowing biological males to play on a girls team if they blocked puberty before it begins create pressure for parents and children to make puberty blocking decision at a young age?

ATTORNEY BLOCK: Objection to form.

BY ATTORNEY BARHAM:

Q. Sort of put them in a now or never situation?

A. Of those 500 patients that I have seen, that has never come up as a concern.

Q. The athletic issue has never come up as a concern?

A. It has not.

Q. Do you think it would --- as a practitioner in the field do you think it would even be ethical for the State of West Virginia to structure its law in a way that puts now or never pressure on parents and children who are dealing with gender dysphoria to decide at an **[195]** early age whether to stop the natural development of puberty?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: As a child psychiatrist in this field we're doing individual-based assessments with the children and families that are in front of us. And what that means in the context of this question is that we are assessing all of their different activities, interests and working with all the systems that we can to ensure a safe and appropriate set of decisions that are going to lead to the best outcomes for this individual child and not a medical emphasis that is outside of the scope that I can answer.

BY ATTORNEY BARHAM:

Q. But you're familiar with the ethical standards of your field. Is that correct?

A. I am, yes.

Q. Under those ethical standards would it be ethical for the State to structure its law in a way that puts this kind of now or never pressure on parents and children?

ATTORNEY BLOCK: Objection to form. Also the witness is in shadow. I can't really see him for **[196]** the camera.

THE WITNESS: Is that better?

ATTORNEY BLOCK: Yes.

THE WITNESS: Can you repeat the question? I'm sorry.

BY ATTORNEY BARHAM:

Q. As someone familiar with the ethical standards of psychiatry, do you think it would be ethical for the State of West Virginia to structure its law in a way that puts now or never pressure on parents and children who are dealing with gender dysphoria to decide at an early age whether to stop the natural development of puberty?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I mean that's a question that has a testable hypothesis. Does X intervention lead to this kind of pressure? That's not a study that I've ever seen nor has it been my clinical experience that it's been the case.

BY ATTORNEY BARHAM:

Q. Would it be ethical to put that kind of pressure on someone under the ethical standards of the field of psychiatry?

ATTORNEY BLOCK: Objection to form and **[197]** foundation?

THE WITNESS: It is a very theoretical question that really doesn't enter into it when we are one on one with these kids and their families.

BY ATTORNEY BARHAM:

Q. I'm not asking about one on one interactions with kids and families. I'm asking in general in theory is it ethical to put that kind of pressure on someone?

ATTORNEY BLOCK: Objection to form and foundation.

THE WITNESS: I'm sorry I can't give a better answer, but ensuring that a child is making a decision without coercion is a part of the informed consent process.

BY ATTORNEY BARHAM:

Q. Is it your opinion that it is unreasonable to exclude from female teams biological males who begin undergoing male puberty but are now on puberty blockers?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: Can you repeat the question?

BY ATTORNEY BARHAM:

Q. Is it your opinion that it is unreasonable to **[198]** exclude from female teams biological males who begin undergoing male puberty but are now on puberty blockers?

A. Is it unethical is the question?

Q. Unreasonable.

A. Unreasonable. I would defer to kind of our physiology and endocrinology experts and our medical ethics experts in rendering an opinion on that specifically.

Q. Is it your opinion that it is harmful to youth's mental health to be excluded from female teams biological males who begin undergoing male puberty but are now on puberty blockers?

A. What I would say is that exclusion as well as specific legal exclusion from activities of same-aged peers is likely to be harmful for a kid's mental health.

Q. Now, the Act in question does not prevent a biological male who has gender dysphoria from competing on the boys team. Is that correct?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: I'd need to know specifics.

I don't know what you're referring to. I think lots of people have different policies around how this actually **[199]** works.

BY ATTORNEY BARHAM:

Q. I'm asking your understanding of the statute upon which you're opining.

A. Can you repeat the question, please?

Q. The Act in question does not prevent a biological male who is experiencing gender dysphoria from competing on the boys team.

Correct?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: So one, I don't know what biological male necessarily means.

BY ATTORNEY BARHAM:

Q. An individual with XY chromosomes, natal male?

A. So assigned male at birth can have a number of reasons why they might not be able to play on the boys team, including intensity of gender dysphoria.

Q. But the law does not prevent them from playing on the boys team. Correct?

A. From my read of the law it does not prevent them from playing on the boys team. Again, from a mental health perspective, their gender dysphoria may. **[200]**

Q. So is it harmful to the mental health of a biological male who is experiencing gender dysphoria to be excluded from the women's team even if he is on puberty blockers?

ATTORNEY BLOCK: Objection to form and terminology.

THE WITNESS: Any potential exclusions from a peer-appropriate activity has the potential to have negative consequences on the mental health of that girl. And again, that's going to be something that on an individual basis we are assessing.

BY ATTORNEY BARHAM:

Q. And that would be irrespective of whether the individual is on puberty blockers, begins to undergo male puberty or not. Correct?

A. An individual assessment is going to be inherently tailored to wherever an individual is.

ATTORNEY BARHAM: Why don't we pause for lunch?

ATTORNEY BLOCK: Let's go off the record.

VIDEOGRAPHER: Going off the record. The current time reads 1:24 p.m.

OFF VIDEOTAPE **[201]**

(WHEREUPON, A SHORT BREAK WAS TAKEN.)

ON VIDEOTAPE

VIDEOGRAPHER: Back on the record. The current time reads 1:53 p.m.

BY ATTORNEY BROOKS:

Q. What does puberty suppression or puberty blockers do?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: I think I answered that question before. So they suppress the endogenous release of

testosterone and estrogen as well as some other hormones.

BY ATTORNEY BARHAM:

Q. How does puberty suppression differ from cross sex hormones?

ATTORNEY BLOCK: Same objection.

THE WITNESS: Totally different medication. One suppress hormones and the other is a direct hormone itself.

BY ATTORNEY BARHAM:

Q. So cross sex hormones are given with the **[202]** intention of causing development typical to the other sex. Correct?

A. It depends upon the context in which hormones are used. And again, I would defer for my endocrinology colleagues on the specifics.

Q. So if cross sex hormones are given to a natal male as part of treatment for gender dysphoria, what is the intention?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: As I understand it, if an assigned male at birth is given cross sex hormones that is estrogen in order to provide the effects of estrogen on the body.

BY ATTORNEY BARHAM:

Q. And the effects of estrogen on the body are what natal females would naturally experience as a result of puberty. Correct?

A. I mean, that is correct, yes.

Q. And so if a natal female is given cross sex hormones, she's being given testosterone to create the effects that natal males would naturally experience through puberty. **[203]** Correct?

A. Typically speaking, an assigned female at birth is going to be receiving testosterone and will have the subsequent effects as a result of having testosterone in the bloodstream.

Q. Maybe I was confused, a natal male who is given cross sex hormones?

A. You were right.

Q. I was right, okay. At what Tanner stage do you recommend that a patient begin puberty blocker hormones?

A. Again, that's going to depend upon an individualized assessment with the family, but never before Tanner Stage 2 of puberty.

Q. And in what age does Tanner Stage 2 begin again?

ATTORNEY BLOCK: Asked and answered.

THE WITNESS: I think I answered that question. It really depends upon the person.

BY ATTORNEY BARHAM:

Q. And typically ---.

A. And for an assigned male at birth we're talking 12-ish, but again I would refer to my endocrinology colleagues on the specific dates.

Q. And through what Tanner stage do you recommend that a patient remain on puberty blockers? **[204]**

A. That's not a question I can speak to. That's a question for the physician or provider who's prescribing that specific medication.

Q. So after you recommend that a patient receive puberty blocking hormones, what is your continuing involvement in the puberty blocking process?

A. My continuing involvement really depends upon the individual child and family for the sake of a mental health assessment. For the initiation of puberty suppression it's an assessment for the initiation of puberty suppression. The involvement thereafter is really dependent upon what the individual needs of that child are.

Q. Do you play any role in continuing to advise whether the patient can continue to receive puberty blocking hormones or come off of them?

A. It really depends upon the context. If the child is seeking to come off of puberty suppression because of a shift in their understanding of their identity, certainly that's a conversation that I would be involved in. If they are coming off of puberty suppression because they have a sufficient amount of testosterone or estrogen in their system that they are no longer requiring that from a medical purpose, that's **[205]** not a discussion that I'm privy to.

Q. When you are discussing puberty blockers with patients and their parents do you describe them as placing a pause on puberty?

A. That's not specific language that I use.

Q. Do you describe them as being reversible?

A. Again, that's not a language that I use. I'm much more specific in my discussions.

Q. So on the issue of whether puberty blocking hormones are reversible, what do you tell parents and patients?

A. I would say, by and large, most of the effects of puberty suppression are reversible.

Q. And when you say by and large what effects are you referencing?

A. What I'm referencing is that the literature is still an open book and we are constantly seeking and learning new information. We want to understand what those potential new data tell us about the efficacy, safety, et cetera, of these interventions.

Q. So when you say they are by and large the effects are reversible, which effects are you referencing are the by and large?

A. When I say by and large, it's really a caveat to **[206]** allow for the things that we don't yet know.

Q. So which effects are reversible?

A. Virtually all of the effects that we're aware of are reversible.

Q. When you're discussing puberty blockers with patients and their parents do you describe them as safe?

A. Safe isn't a binary concept in my world. There is no such thing as anything that is completely safe or unsafe. So we talk about gradations of risk with any intervention.

Q. So for puberty blockers what are the --- what's the gradation of risk?

A. It is individualized to the specific needs of the child and the family.

Q. In general, what is your understanding of the gradations of risk across the board?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I don't have a better answer for you because that's the whole process of doing an informed consent process, is understanding what are the specific risks and benefits and alternatives for that individual child.

BY ATTORNEY BARHAM:

Q. Are you aware of the literature regarding any **[207]** testing of puberty blocking hormones and the gradations of risks presented in those tests?

A. I'm not sure what you mean by tests.

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I'm not sure what you mean by testing.

BY ATTORNEY BARHAM:

Q. Don't medications undergo testing before they can be used?

A. There's a wide variety of processes by which medications are approved or not approved for certain indications.

ATTORNEY BARHAM: Let's go to Tab 5. I believe that's Exhibit-2.

LAW CLERK WILKINSON: Exhibit-2.

BY ATTORNEY BARHAM:

Q. It's the Endocrine Society Guidelines from 2017.

THE WITNESS: Yes.

BY ATTORNEY BARHAM:

Q. On page 3880 the Endocrine Society states we suggest that clinicians begin pubertal hormone suppression therapy --- pubertal hormone suppression after girls and boys first exhibit physical changes of puberty, Tanner stages G-2/B-2. Is that consistent with **[208]** your practice?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: This is --- the document, as I read it, is a set of guidelines for the practice of care that should be individually applied to each child and family. My practice takes these recommendations and individually applies them to the specific risks, benefits and alternatives for the child sitting in front of me.

BY ATTORNEY BARHAM:

Q. On the prior page in number 1.4 the Endocrine Society recommends against puberty blocking and gender affirming hormone treatment in prepubertal children. Do you approve the use of puberty blockers before puberty?

A. I do not.

Q. You didn't recommend or prescribe any puberty blockers for BPJ. Is that correct?

A. I have not.

Q. You did not evaluate BPJ before he started taking puberty blockers. Is that correct?

A. I have not evaluated her or seen her, these materials. **[209]**

Q. Is it your opinion that no responsible clinics begin puberty blocking before puberty begins?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: There's no indication to start puberty blocking agents until Tanner Stage 2.

BY ATTORNEY BARHAM:

Q. Isn't it true that there have been no Phase I clinical trials to test the safety of GnRH inhibitors for this age group?

A. That is my understanding, but I would have to specifically review the literature with that question in mind. I'm not familiar --- completely familiar with the phased nomenclature in this context.

Q. Isn't it true that there have been no Phase I clinical trials to test the safety of GnRH inhibitors for this duration?

A. Again I would need to find a definition of what you are referring to by Phase I specifically.

Q. Isn't it true there have been no clinical trials per FDA rules for this use of puberty blockers?

A. I don't know what is meant by per FDA rules.

Q. Food and Drug Administration rules?

A. Yeah. I'm not familiar with what their rules **[210]** are. There have been clinical trials of these medications for this purpose.

Q. Which clinical trials are you referencing?

A. There are clinical trials through the Dutch clinic. There is also an ongoing clinical trial here in the U.S., a multi-phase study.

Q. That study is still ongoing. Correct.

A. That is correct.

Q. So there are no completed clinical trials in the United States under FDA rules. Correct?

A. I am not ---.

ATTORNEY BLOCK: Objection to the form.

THE WITNESS: I can't say that I'm familiar with all clinical trials that have ever happened, so that's not a statement I can answer.

BY ATTORNEY BARHAM:

Q. You're not aware of any, though?

A. I don't know what is meant by Phase I and what specifically is registered with the FDA for their purposes versus the copious numbers of clinical trials that have happened.

Q. Are you aware of any clinical trials in the **[211]** United States that have been completed regarding the safety of using puberty blockers for gender dysphoria?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Yeah, I'm not sure how I can answer that because I'm not aware of all of the trials that have occurred.

ATTORNEY BLOCK: Counsel, can we have a discussion about the scope of this deposition? I'm happy to have it off the record. I don't want it to influence the witness at all, but this is a rebuttal witness addressing specific issues and it seems that, you know, there are a lot of questions that are just really far outside the scope. So I'd love to have a discussion.

ATTORNEY BARHAM: I'm happy to go off the record.

VIDEOGRAPHER: Going off the record. The current time reads 2:07 p.m.

OFF VIDEOTAPE

(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

ON VIDEOTAPE

VIDEOGRAPHER: Back on the record. The **[212]** current time reads 2:17 p.m.

BY ATTORNEY BARHAM:

Q. We were looking at Tab 5, which is Exhibit-2, page 3874. About three-quarters down the first column the Endocrine Society indicates, quote, in the future we need more rigorous evaluations of the effectiveness and safety of endocrine and surgical protocols and specifically highlight the need to include a careful assessment of the effect of prolonged delay of puberty in adolescence on bone health, gonadal function and the brain. Do you see that?

A. I see that, yes.

Q. Do you agree that more rigorous evaluations of the safety of endocrine and surgical protocols are needed?

A. I would agree that that's an important goal for all treatments, yes.

Q. Do you agree that because, as the Endocrine Society indicated here, that these evaluations are needed in the future, that this --- that they have not been done yet?

A. Well, this is published in 2017. There are ongoing trials that are happening now, and some that **[213]** have had at least preliminary data presented at various meetings that have looked at some of these.

Q. So the issue here is the prolong delay of puberty. You would agree that it's quite different from treating individuals with precocious puberty.

Correct?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: As a non-endocrinologist I wouldn't hazard an opinion on that.

BY ATTORNEY BARHAM:

Q. Do you treat individuals for precocious puberty?

A. I do not.

Q. Do you agree with the Endocrine Society that there have not yet been a study of how the prolonged delay of puberty affects bone health?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: I don't know if I can answer that in the most accurate way. I know I've seen preliminary data presented at various meetings about impacts on bone health, but I'm not as familiar with the endocrine literature as I am with the mental health literature. **[214]**

BY ATTORNEY BARHAM:

Q. Do you agree that there has not yet been a study on the prolonged effect of --- the prolonged delay of puberty affecting gonadal function?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: Same answer as to the last one.

BY ATTORNEY BARNHAM:

Q. And that is the same as fertility? Correct?

A. There has been more study fertility in those populations.

Q. Do you agree there has not yet been a study on how the prolonged delay of puberty affects the brain?

A. There are ongoing studies.

Q. None complete yet?

A. None that have published thus far that I'm aware of again.

Q. And when you say there are ongoing studies of bone health, none have published so far that you're aware of. Correct?

A. I know I have seen data published at various **[215]** national and international meetings, so I could not answer that question accurately. I think things have been published on bone health, but I'm not familiar with --- I'm not as familiar with the endocrinologic literature as I am the mental health literature.

Q. Are you aware of any studies that have been completed regarding the prolonged delay of puberty affecting the cognitive, emotional, social and sexual development?

A. Can you repeat the question?

Q. Are you aware of any studies that have been completed regarding the prolonged delay --- of how the prolonged delay of puberty affects the cognitive, emotional, social and sexual development?

A. There have been a number of studies including studies that we have referenced here that have looked at long-term psychosocial outcomes for these kids. So certainly some of those items have been looked at quite

extensively. Some have not yet or have studies that are ongoing.

Q. If the Endocrine Society is indicating that all of this is needed research, why are you --- what do you tell parents about the relative safety of puberty blocking hormones? **[216]**

A. What I would say this was published in 2017, and so we would want to update since then about any literature since then on these potential risks. What I want to do is make sure that the endocrinologist or the adolescent medicine specialist, whoever it is that is prescribing the specific treatment knows how to have those discussions based on the psychiatric needs of the patients that I'm seeing.

Q. Let's turn to 3872 in this document. The Endocrine Society indicates that the task force followed the approach recommended by the grading of recommendations and assessments, development and evaluation group. The international group with expertise in the development and implementation of evidence based guidelines. Do you see that in the second column?

A. Yes.

Q. And in this document they indicate that the use of the phrase we recommend and the number one are strong recommendations --- use the phrase we recommend --- recommendations use the phrase of we suggest in number two. Is that correct?

A. Correct. **[217]**

Q. So the recommendations regarding the use of puberty blockers are based on low quality evidence. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: What I can state is how this particular working group within the Endocrine Society characterized it using the assessment tool and using this assessment tool that is how it was graded for the sake of this set of guidelines.

BY ATTORNEY BARHAM:

Q. Were you aware of this when you drafted your report?

A. Yes.

Q. Do you agree or disagree with this assessment of the quality of the evidence?

A. Based upon how they did it, I would agree. In the world of child psychiatry this is very common.

There is very little that we have in terms of very mainstream standard of care treatments that has anything other than poor quality of evidence based upon using these standards.

ATTORNEY BARHAM: I'm going to hand you what we will mark as Exhibit 31, and that will be Tab 76? **[218]**

THE WITNESS: Thanks.

LAW CLERK WILKINSON: You're welcome.

(Whereupon, Exhibit 31, Label of Lupron, was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is the label of Lupron, pharmaceutical label for Lupron. Right at the top of page one, this label indicates that Lupron is approved for puberty blocking or delay for precocious puberty. Correct?

A. That is correct.

Q. And precocious puberty is a hormonal imbalance. Correct?

A. I think there's a precise terminology for precocious puberty that involves more than just a hormonal imbalance.

Q. But it's a malfunction of hormonal controls in the brain?

ATTORNEY BLOCK: Objection to the form.

THE WITNESS: My understanding as a non-endocrinologist is that's initiation of puberty much earlier than anticipated or expected based upon the **[219]** history of the family.

BY ATTORNEY BARHAM:

Q. So Lupron is inspected and approved by the FDA for safety and efficacy for precocious puberty not for all other possible uses. Correct?

A. Correct.

Q. And Lupron was tested only for delaying puberty up until the normal age of puberty. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I'm not familiar with the literature that was used for gaining the FDA approval for this indication.

BY ATTORNEY BARHAM:

Q. If you turn to section 14.1, 14.1 you'll see that it says that this --- Lupron was tested for monthly administration on 6 males and 49 females. Is that correct?

A. That is correct.

Q. And on the next page you'll see it was tested for three months administration on 8 males and 76 females. Is that correct? **[220]**

A. I do not see where it says that.

Q. 14.2?

A. Yes.

Q. Do you know why the test was weighted towards girls?

ATTORNEY BLOCK: Objection to form and scope and foundation.

THE WITNESS: It would be a mere supposition on my end.

BY ATTORNEY BARHAM:

Q. Is it because precocious puberty is more common in girls?

A. I would defer to an endocrinologist on this epidemiology of that.

Q. But the goal of using Lupron in this context is to help steer the body into healthy and normal development. Correct?

ATTORNEY BLOCK: Objection to form, scope.

THE WITNESS: Generally speaking I would agree with that.

BY ATTORNEY BARHAM:

Q. Prescribing Lupron or other GnRH for gender **[221]** dysphoria disrupts hormones and developments at an early stage. Correct?

ATTORNEY BLOCK: Objection to the form and scope.

THE WITNESS: Again, as a mental health professional, this would be outside of my area of expertise to comment on that.

BY ATTORNEY BARHAM:

Q. Would you agree that normal pubertal development includes bone growth, such as height?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: Yes, I would.

BY ATTORNEY BARHAM:

Q. Would you agree that normal pubertal development can include bone strengthening?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: Specifics of that question are really outside of my scope of understanding in the practice that I have.

BY ATTORNEY BARHAM:

Q. But in general, you would agree that bones get **[222]** stronger during puberty, especially for men?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: My understanding is that the process of bone health is a quite dynamic, not static nor binary process, so it's more complicated than I feel that I can answer that question to.

BY ATTORNEY BARHAM:

Q. But do bones generally get stronger as puberty progresses?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: Again, I think it's a more complicated answer than a yes or a no but I'm not ---.

BY ATTORNEY BARHAM:

Q. Would you agree that normal pubertal development includes brain development?

A. Yes.

Q. Each of these things have stopped or decreased by the administration of puberty blockers. Correct?

A. I don't think we can say that it's been stopped or decreased. There's not a term decreasing brain development that has been studied or referred to in the **[223]** literature as I'm aware of it.

Q. Slower brain development?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Slower isn't a word that I've used, seen in the literature either.

ATTORNEY TRYON: Travis, can you speak up just a little bit more, please?

ATTORNEY BARHAM: Certainly.

BY ATTORNEY BARHAM:

Q. Would you agree that normal pubertal development also includes psychosocial development of an adult identity as a sexual being contemporaneous with ones peers?

A. I would say I would agree with that as an adolescent developmental process, not necessarily as a pubertal developmental process.

Q. What's the --- what's your distinction between an adolescent pubertal development --- excuse me, an

adolescent developmental process and a pubertal developmental process?

A. As an example, folks who have delayed puberty, so 16-year olds who I have seen that have yet to undergo all stages of puberty nevertheless develop a sense of identity independent of the fact that their puberty has **[224]** been delayed.

Q. But their development in that regard is not contemporaneous with their peers. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: In my specific hypothetical some of their development is going to be contemporaneous with their peers. Some of it will not be.

ATTORNEY BARHAM: I'm going to show you what we will mark as Exhibit 32. This will be Tab 73.

(Whereupon, Exhibit 32, Puberty Blockers Document, marked for identification.)

THE WITNESS: Can I ask a clarifying question, it is 2:32 east coast time, not central.

ATTORNEY SWAMINATHAN: Yes.

LAW CLERK WILKINSON: Tab 73.

BY ATTORNEY BARHAM:

Q. This document is a hand out --- or it's from the --- I'm going to butcher the name, Doernbecher Children's Hospital at OHSU from their gender clinic and about puberty blockers document. At the bottom of page three, this document indicates that researchers have not **[225]** finished studying how safe puberty blockers are in the long-term. Do you agree with that?

A. Yeah, I would agree with that.

Q. On the next page this document says that because puberty block --- because blocking puberty hormones can weaken your bones, it is best to just take them for just two or three years. Do you agree or disagree?

A. That is outside of my scope of expertise. Again, this is a public facing the most like website. I can't be quite certain what the context of this is, but the individualized discussions you're having with patients and families is always going to be more complex than one or two sentences.

Q. Do you expect to offer any opinion in this case that puberty blockers administered according to your guidelines are safe and reversible?

A. I don't --- I guess I don't understand the question. I provided my expert testimony and my testimony is focused on the mental health effects of various interventions.

Q. Okay. Do you anticipate saying anything about the **[226]** reversibility of puberty blockers?

A. Other than what I have already discussed, I don't think so.

Q. Let's go to tab 5, I think that's Exhibit 2. And on page 3874, again, about two-thirds down the first column, the Endocrine Society says we still need to study the effects of puberty blocking hormones on gonadal function.

Correct?

A. Yes.

Q. That refers to hormone secretion. Correct?

A. Hormone secretion?

Q. Uh-huh (yes).

A. I'm not sure what you mean by that.

Q. Gonadal function refers to the achievement of the production by the gonads of fertile ova or sperm. Correct?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: I can't speak to the author's intent for how they used that language. It's broader in scope from my perspective than that.

BY ATTORNEY BARHAM: **[227]**

Q. Does it include the achievement of production of fertile ova or sperm?

A. That is a component, yes.

Q. What other components do you have in mind for that term?

A. For gonadal development includes size, shape, sexual functioning.

Q. On page 31, I want to go to --- have we done Tab 6 yet?

ATTORNEY BARHAM: I want to introduce what will be marked as Exhibit 33, this will be Tab 6.

These are Endocrine Society guidelines from 2009.

LAW CLERK WILKINSON: I don't think I have that.

ATTORNEY BARHAM: Maybe we do.

LAW CLERK WILKINSON: Six?

ATTORNEY BARHAM: Uh-huh (yes).

LAW CLERK WILKINSON: Uh-uh (no).

BY ATTORNEY BARHAM:

Q. We will go back to Tab 5 then, Exhibit 2. Would you agree that if the administration for puberty blockers for gender dysphoria has irreversible effects on brain development, that would be a serious safety problem? **[228]**

ATTORNEY BLOCK: Objection to form.

THE WITNESS: All risks are graded risk an benefits as well as alternatives for each individual child.

BY ATTORNEY BARHAM:

Q. But if it had an irreversible affect on brain development that would still be a serious concern, regardless of the gradations that we would have to consider and address it?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: There are a number of interventions that lead to irreversible changes that are beneficial and are not of concern to safety.

ATTORNEY BARHAM: All right. Do we have Tab 32?

LAW CLERK WILKINSON: That one I have.

ATTORNEY BARHAM: This will be Exhibit 33, Tab 32 just to make it conducive.

(Whereupon, Exhibit 33, Endocrine Society's Guidelines, was marked for identification.)

BY ATTORNEY BARHAM: **[229]**

Q. And if you look on --- at the end of the document where it says for more information, it stated this is a document from the National Institute of Mental Health. Correct?

ATTORNEY BLOCK: Objection to form, foundation.

THE WITNESS: I have no idea of what the context of this website is or what this is from.

BY ATTORNEY BARHAM:

Q. But it gives the National Institute of Mental Health's website. Is that correct?

A. It does.

Q. And it says for more information you can e-mail the National Institute of Mental Health e-mail address. Correct?

A. That is correct.

Q. And that's a part of the National Institute. Right?

A. It is.

Q. And the citations it's drawing from articles in 1999 and 2000. Correct? **[230]**

A. That is correct.

Q. On page one in the middle column, the article describes gray matter at the thinking part of the brain. Do you agree with that description?

A. I would describe it as a gross mischaracterization of the complexity of the brain.

Q. What is your understanding of the function of the gray matter?

A. That is one element of it. I think it is a lot of nuance, I guess is the word that I'm looking for. It's not characterized by that much of a pithy phrase, not of a neuropathologist.

Q. The article talks about a second wave of production in gray matter that peaks around age 11 in girls and 12 in boys. And the article refers to that as just prior to puberty.

In terms of Tanner stages that would be around Tanner 2 for most boys and girls, would it not?

A. That would be Tanner Stage 1.

Q. That would be Tanner Stage 1. But by 11 or 12 you have already --- by age 12-ish in boys, it's typical for puberty blockers to have been administered. Correct?

A. To use the language of this article, the **[231]** differences in Tanner stages is caused by the, quote, surging sex hormones not the other way around. So it's not about age, but it's the exposure to hormones that causes the Tanner stages to develop.

Q. Have you made a study yourself about the timing of brain gray matter development and the puberty hormones in causing that development?

A. I have not.

Q. Do you have any reason to doubt the timing and nature of development as set out in this National Institute of Health publication?

ATTORNEY BLOCK: Objection to form and foundation.

THE WITNESS: I only have the context of this article that you've put in front of me for the first time and in this article they describe the brain changes just happening prior to puberty, which is prior to when we would be initiating any interventions medically.

BY ATTORNEY BARHAM:

Q. And it says though that it is possibly the thickening peaks around 11 or 12, depending on girls and boys and that's possibly related to the influence of surging sex hormones. **[232]** Correct?

A. If that's what it says, yes.

Q. Do you know --- have you conducted any studies to determine the effect of administering puberty blockers during the ordinary years of puberty and how that would impact the ordinary development of brain matter in the brain of a child?

A. I have not, but it kind of sounds like that is conflating this as a study, which is definitely not.

Q. No, I'm just asking if you had conducted any such studies?

A. I have not.

Q. Are you aware of any such studies?

A. There are studies that are ongoing now.

Q. That are ongoing.

ATTORNEY BARHAM: Okay.

I'm going to show you what we marked as Exhibit 34, this will be Tab 33.

(Whereupon, Exhibit 34, Article by Blakemore, et al., was marked for identification.)

BY ATTORNEY BARHAM: **[233]**

Q. This is an article by Blakemore, et al., published in 2010, The Role of Puberty in the Developing Adolescent Brain. On page 929, the article states the ages at which these peaks in gray matter volume were observed correspond to the sexually dimorphic ages gonadarche, I'm mispronouncing that, onset which suggests possible interactions between puberty hormones and gray matter development. Do you agree or disagree with that statement?

A. I'm not seeing where you're referring to this.

Q. On page 929, first column right above the role of puberty in gray matter development?

A. As stated in this study, the changes were observed to correspond to the ages which suggest possible interactions. I have no objection to the idea that there are possible interactions between puberty hormones and gray matter development, but again, outside the field of my expertise.

Q. Okay. It also refers to other MRI studies showing a gradual emergence of sexual dimorphisms across puberty. Do you know what sexual dimorphism of the brain means?

A. I do.

Q. What does it mean? **[234]**

A. Differences that are measurable between folks assigned female and folks assigned male at birth is typically how that is described.

Q. On the first page of this document it says throughout adolescence there are changes in the structure and function of the brain, sexual dimorphism in many of these changes suggest possible relationships to puberty. This article is saying that the available evidence suggests sex links puberty hormones to play a role in stimulating brain development; do you agree?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Certainly I agree that exposure to sex hormone is a part of brain development for all people. We know less about the developing brain for transgender youth.

BY ATTORNEY BARHAM:

Q. Do you agree this includes a aspects of brain development that differ between healthy males and healthy females?

ATTORNEY BLOCK: Objection as to form.

THE WITNESS: I don't. I haven't seen any literature that speaks to that specific question.

BY ATTORNEY BARHAM: **[235]**

Q. Okay. Let's go back to Exhibit 2, page 3882?

ATTORNEY BLOCK: What page was that, Counsel?

ATTORNEY BARHAM: 3882.

BY ATTORNEY BARHAM:

Q. Under the heading side effects, the article indicates that the primary risk of pubertal suppression in GD, gender incongruent adolescents may include, ellipses, unknown effects on brain development, do you see that?

A. I see that.

Q. And in the first column of 3883 indicates that animal data suggests there may be effects of GnRH analogs on cognitive function. Do you see that?

A. I see that.

Q. Cognitive function means the ability to think. Correct?

A. That is one aspect of cognitive functioning.

Q. Do you tell parents and patients that the Endocrine Society has indicated that there are unknown effects on brain development related to the use of puberty blocking hormones? **[236]**

A. I typically use language that is more similar to how they actually described it in this article which is to say that it may have unknown effects on brain development.

Q. Okay.

ATTORNEY BARHAM: Let's go to Tab 32, which we have already looked at and that is Exhibit.

LAW CLERK WILKINSON: Exhibit 33.

BY ATTORNEY BARHAM:

Q. Exhibit 33?

ATTORNEY GREEN: Travis, this is Roberta Green. I'm sorry to interrupt. I wondered if you wouldn't mind keeping your voice up I'm just having trouble hearing. No doubt it's me but it'd be great. Thank you.

ATTORNEY BARHAM: It may also be where I'm located in the room, but I'm getting it from enough people, so I appreciate the reminder.

VIDEOGRAPHER: Counsel, did you say Exhibit 33.

ATTORNEY BARHAM: Exhibit 33.

BY ATTORNEY BARHAM:

Q. Page two at the top refers to the gray matter --- or the white matter and how research purports a wave **[237]** of white matter growth that begins at the front of the brain in early childhood, moves to the side after puberty, striking growth spurts can be seen from age 6 to 13 in areas connecting brain regions specialized for language and understanding special relationships. Ages 11, 12 and 13 are sort of the heart and center of puberty. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: It depends upon the child.

BY ATTORNEY BARHAM:

Q. In general?

ATTORNEY BLOCK: Same objection.

THE WITNESS: I don't want it to be like I'm parsing this out, but it's really important. We can't apply population based data onto an individual and make conclusions about it.

BY ATTORNEY BARHAM:

Q. But we can assess population-based data as to when puberty is generally occurring and generally it's occurring around the ages of 11 to 13?

A. I would agree with the statement that puberty is generally occurring within those age ranges, yes.

Q. And that is also approximately when puberty [238] blocking hormones are being prescribed. Is that true?

A. It depends upon the individual.

Q. But generally around age 12 is what you indicated earlier. Correct?

A. It really depends upon the individual. To clarify, it's based upon Tanner stage as one element, age has one element, psychosocial functioning has another, family choices. It's a calculus of the risks, benefits and alternatives that guide when we decide to intervene if we decide to intervene.

Q. So you would agree that a teenage brain and cognitive development across puberty is a very complicated area and one that's not easily understood. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Yes, adolescent brain development is a complicated phenomenon for sure. I have no objection to that.

BY ATTORNEY BARHAM:

Q. Is that an area of your professional research and investigation?

A. Specifically on neuroscience with regard to **[239]** adolescent development, no, it is not.

ATTORNEY BARHAM: Let's go to Tab 8.

THE WITNESS: I need to take another bathroom break.

ATTORNEY BARHAM: Let's just take a break now. Let's go off the record.

VIDEOGRAPHER: Going off the record. The current time reads 2:53 p.m.

OFF VIDEOTAPE

(WHEREUPON, A SHORT BREAK WAS TAKEN.)

ON VIDEOTAPE

VIDEOGRAPHER: Back on the record. The current time reads 3:00 p.m.

BY ATTORNEY BARHAM:

Q. Are you an expert on suicide and suicidality?

A. I guess I don't know exactly how to qualify that response. I know more than most people about suicide and suicidality, yes.

Q. Have you made any systematic study of suicide among the thousands treated at the NYU Gender and Sexuality Service?

A. I have not. **[240]**

Q. Have you made any systematic studies of suicide among the thousands treated at the Lurie Children's Hospital here in Chicago?

A. I have a study ongoing.

Q. Has that study generated any preliminary results yet?

A. It has not.

Q. Have you made any systemic studies of suicide among the thousands you've treated at the Gender Variant Youth and Family Network?

A. That is not a clinical service.

Q. Are you aware that suicide for any reason is extremely rare among children younger than 15?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I would disagree with that as a statement. It's among one of the top causes of death for children of ages 10 to 15.

BY ATTORNEY BARHAM:

Q. And what's your basis for saying that?

A. The CDC data.

Q. Did you cite that data in your report?

A. I did not.

Q. You're not offering an opinion that BPJ faced a high suicide risk unless put on puberty blockers. **[241]** Correct?

A. I am not.

Q. Has any responsible health authority or organization made a claim that the use of puberty

blockers relate to suicide?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I mean, that's a big list.

I don't think any that I'm aware of have made the claim, especially when it comes to causation.

BY ATTORNEY BARHAM:

Q. In paragraph 19 of your report you refer to gender-affirming hormone therapy and you make similar statements in paragraphs 39, 40, 41 and 42. What do you mean by gender affirming hormone therapy?

A. Typically speaking when I'm referring to gender-affirming hormone therapy, these are hormones that are aligned with the gender identity.

Q. So that means the administration of cross sex hormones. Is that correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Yeah. I mean, I think I would call them gender-affirming hormones. That is how typically they are referred to in the literature. **[242]**

BY ATTORNEY BARHAM:

Q. So this means that you would administer testosterone to natal females. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I personally would not, but ---.

BY ATTORNEY BARHAM:

Q. Cross sex hormones or gender-affirming hormones refers to the administration of testosterone to natal females. Correct?

A. Or assigned females at birth, yes, that's correct.

Q. And it means the administration of testosterone suppression of estrogen for natal males.

Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Assigned male at birth, yes.

BY ATTORNEY BARHAM:

Q. You mean assigned males at birth?

A. Yes. Is that what I not said? Sorry.

Q. What is your role in the administration of cross **[243]** sex hormones?

A. It depends on the child and the family, but my role is most often as a mental health professional who is either doing the assessment or providing care for the co-occurring psychiatric disorders that are present in that individual child.

Q. Cross sex hormones prevent rather than enable an adolescent from becoming capable of reproducing sexually. Correct?

ATTORNEY BLOCK: Objection to the form.

THE WITNESS: That's not something that I can answer. That's out of the scope of my expertise.

BY ATTORNEY BARHAM:

Q. You lack an understanding of the effects of administering cross sex hormones?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I would disagree with that statement.

BY ATTORNEY BARHAM:

Q. So my question is what is the effect of administering cross sex hormones on an adolescent's ability to develop and become capable of reproducing sexually? **[244]**

A. It's a highly complicated question that depends upon a lot of factors that are above the scope of my testimony here. As an example, there are many adult transgender men who become pregnant despite being on testosterone for many years.

Q. And what studies are you referencing that support that statement?

A. I'm not referencing any studies to this. I'm referencing personal experiences.

Q. Okay.

Cross sex hormones cannot cause an adolescent to develop the genitalia associated with his or her --- his or her desired transgender identity. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: That's correct.

BY ATTORNEY BARHAM:

Q. Cross sex hormones also cannot achieve male height in a natal female. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I would defer to my endocrine colleagues on that answer.

BY ATTORNEY BARHAM: **[245]**

Q. Can cross sex hormones change the hip and leg configuration in a natal male to match that of a natal female?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I would defer to my endocrine colleagues on that question.

ATTORNEY BARHAM: Let's go to Tab 77. This is probably new.

LAW CLERK WILKINSON: Yes.

ATTORNEY BARHAM: This is an article by Guss, et al. in 2015, entitled Transgender and Gender Non-Conforming Adolescent Care. This will be Exhibit 35.

(Whereupon, Exhibit-35, Article by Guss, et al., was marked for identification.)

BY ATTORNEY BARHAM:

Q. Are you familiar with the authors?

LAW CLERK WILKINSON: I'm sorry. I gave you the wrong one. Here is the right one.

THE WITNESS: I know Dr. Shumer. And we read something by Katz-Wise earlier. I don't know Carly Guss. **[246]**

BY ATTORNEY BARHAM:

Q. Page four of this document indicates that if a patient is on cross sex hormones it's important to remind them that the side effects may be infertility. Is that correct?

A. Where are you pointing to?

Q. The top of page four.

A. Yes.

Q. Do you agree with that statement?

A. I agree.

Q. Do you know of any long-term studies that will change to what extent infertility caused by taking cross sex hormones can be reversed later in life?

A. There are ongoing studies now, but I'm not aware of any that have published anything.

Q. Have you studied the literature regarding mental health problems in adults resulting from sterility?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I don't know what you mean by studied. I don't think probably more than any cursory manner.

BY ATTORNEY BARHAM:

Q. The use of cross sex hormones to affirm a transgender identity is an off-label use. **[247]** Correct?

ATTORNEY BLOCK: Objection to terminology.

THE WITNESS: If by off label you mean off label for the FDA?

BY ATTORNEY BARHAM:

Q. Yes.

A. Yeah, as far as I know. Again, I'm not prescribing these medications as a psychiatrist.

Q. Earlier you mentioned that some of your patients, some trans --- some women --- natal females who identify as male have been able to become pregnant. Do you recall that testimony?

A. I did not say anything about my patients, I said those were personal experiences.

Q. Personal experiences. I'm sorry. I assumed it was patients, so thank you for that correction. I would like to

show you Tab 81. This is going to be an article by Moseson, et al. in 2020, entitled Pregnancy Intentions and Outcomes, tab 81 for those at home and Exhibit 36 for the record.

(Whereupon, Exhibit-36, Article by Moseson, et al., was marked for **[248]** identification.)

BY ATTORNEY BARHAM:

Q. Are you familiar with this study?

A. Certainly not the details of it. This is the first time I'm recalling looking at it.

Q. Are you aware of any other studies regarding the ability of individuals taking cross sex hormones to become pregnant?

A. There are a number of ongoing studies that are looking into those questions, yes.

Q. If you look at Table 3 on page number 36, this table indicates there were 79 pregnancies among the respondents who have ever used testosterone.

Do you see that?

A. Yes.

Q. And there were 342 among those who have never used testosterone. Do you see that?

A. I see that.

Q. But only 15 of these pregnancies occurred after initiating testosterone. Is that correct? And I'm referencing page 33 when I say that, at the bottom of page 33. **[249]**

ATTORNEY BLOCK: Where is this on page 33?

ATTORNEY BARHAM: The very last line on page 33 extending over onto page 35.

THE WITNESS: I see on Table 2 the number of pregnancies after initiating testosterone was 15.

BY ATTORNEY BARHAM:

Q. So the other 337 of the pregnancies tell us nothing about the impact of testosterone on female fertility and the possible impact of birth defects. Correct?

A. Well, the question about fertility certainly doesn't speak to us being able to understand it more based upon the data points. And without reading the article I don't know if the author said anything about birth defects.

Q. On page 35 it indicates that 2 of the 15 --- or 4 of the 15 pregnancies that started while taking testosterone half of them ended in miscarriage.

Correct?

A. Yes.

Q. One ended in abortion and one was not reported. Correct?

A. I don't see where that is. **[250]**

Q. It's the same line. Two of these four pregnancies ended in miscarriage, parentheses, one ended in abortion in the outcome and testosterone duration for the other four were not reported?

A. Yes.

Q. Okay.

And there is no data given on the other outcome of the other 11 pregnancies. So this article does not document a single live birth to a natal female at any time after taking testosterone. Correct?

ATTORNEY BLOCK: Objection to form. And give him a chance to read, please.

THE WITNESS: I would really have to read the article quite closely to agree with that. I'm not seeing the text in this article to support that. In the Pregnancy Intentions and Outcomes, as I'm reading it, it discusses what the potential outcomes are, but it didn't parse those into who had testosterone before or after, so I'm not sure.

BY ATTORNEY BARHAM:

Q. Okay. Let me shift gears and turn to paragraph 37 of your report. There you indicate --- you state that **[251]** there is no evidence supporting Dr. Levine's speculation that allowing prepubertal children to sexually transition puts children on a conveyor belt to becoming transgender adolescents and adults. And you say evidence shows that prepubertal children who are likely to have a stable transgender identity into adolescence are the children who are most likely to articulate a strong and consistent need to socially transition. Do you see that?

A. I see that.

Q. And in footnote 11 you cite an article by Steensma published in 2013. Is that correct?

A. That's correct.

ATTORNEY BARHAM: I will show you what we're going to mark as Exhibit 37, Tab 120, and I will also show you Tab 121, which is Exhibit 38.

(Whereupon, Exhibit-37, Article by Steensma, was marked for identification.)

(Whereupon, Exhibit-38, Analysis, was marked for identification.)

BY ATTORNEY BARHAM:

Q. Tab 120, Exhibit 37, is the Steensma article that you cited in footnote 11 of your report. Is that correct?

A. That is correct.

Q. Let's look at Table 1 on page 584. And it gives --- in the first four columns it gives numbers on persistence and desistance among the study subjects. And about halfway down it delineates how many of the persisting boys and girls and desisting boys and girls had a childhood diagnosis of gender identity disorder. Correct?

A. Correct.

Q. And it also breaks down how many were subthreshold. I'm presuming that means for gender identity disorder. Correct?

A. That is correct.

Q. So according to Table 1, 91.3 of the 23 persisting boys had gender identity disorder. Correct?

A. Correct.

Q. So that means about 21 of the 23 persisting boys had that condition. **[253]** Correct.

A. Correct.

Q. And according to Table 1, 95.8 of the 24 persisting girls had the same diagnosis or 23 of the 24. Correct?

A. That's correct.

Q. And according to the same Table, 39.3 of the 56 desisting boys had that diagnosis. Correct?

A. That is correct.

Q. So that's 22 of the 56. Correct?

A. I'll take your word for the math.

Q. Well, you can see it on Exhibit-121 (sic). On Table 1, 58.3 of the 24 desisting girls had gender identity disorder or 14 of the 24. Correct?

A. Correct.

Q. Do you see any reason to dispute the figures set forth on Exhibit --- on Tab 121, Exhibit 39 ---

Exhibit 38?

A. No, I have no reason to ---.

ATTORNEY SWAMINATHAN: I think he is looking at the wrong document. **[254]**

BY ATTORNEY BARHAM:

Q. I'm talking about this.

A. Got it. So this is a transposition from Table 1?

Q. Correct.

A. I mean, I'm going to have ---.

ATTORNEY BLOCK: Just objection. I'm sorry, can we put on the record what this document is? Is it a reprint of what's in the Steensma or is it new analysis that ---?

ATTORNEY BARHAM: Exhibit 38 is an analysis of the Steensma 2013 article that is Exhibit 37.

ATTORNEY BLOCK: Thank you. And is there an author of the analysis?

ATTORNEY BARHAM: I'm sorry. Say that again.

ATTORNEY BLOCK: Is there an author of this analysis?

ATTORNEY BARHAM: Yes, it was me.

BY ATTORNEY BARHAM:

Q. So according to the figures that have been calculated from table one of the Steensma article, 80 children --- of the 80 children who had gender identity **[255]** disorder, 44 persisted and 36 desisted.

Is that correct?

ATTORNEY BLOCK: Objection to give the witness a chance to see it on his own what the figures are.

THE WITNESS: I'm not sure I understand what your question is.

BY ATTORNEY BARHAM:

Q. Of the children with the --- the 80 children who had a diagnosis of gender identity disorder, 44 persisted and 36 desisted. Is that correct?

A. I would have to do the math myself for me to say yes to that, but it's about right.

Q. So according to Steensma figures, of the children with the strongest transgender identity as children 55 percent persisted and 45 percent desisted. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Again, I would have to run those numbers myself in order to --- unless it's referred to already in the article, but that sounds about right.

BY ATTORNEY BARHAM: **[256]**

Q. In footnote 12 of your report, paragraph 37, you cite an article by Rae saying for the proposition that socially transitioning before puberty did not increase children's cross gender identification and deferring transgender did not decrease cross gender identification. Is that correct?

A. That is correct.

ATTORNEY BARHAM: All right. Let's turn to Tab 108. This will be Exhibit 39, and it will be an article by Rae, et al. published in 2019, Predicting Early Childhood Gender Transitions.

ATTORNEY BLOCK: It's 2:22 central time.

So the witness has to take a break at 2:30?

THE WITNESS: I can do 2:45.

(Whereupon, Exhibit 39, Article by Rae, et al., marked for identification.)

BY ATTORNEY BARHAM:

Q. Exhibit 39 is the article that you cited in footnote 12 of your report. Is that correct? **[257]**

A. That's correct.

Q. On page 679 the author indicates that replication of this affect is muted preferably from longitudinal study comparing a single group of children before and after transition. Correct?

A. That's correct.

Q. And the authors also indicate that they tested a sample skewed by race, class, parental that education and political affiliation that may or may not affect the children that are socially transitioning now or in the future. Correct?

A. That is correct.

Q. And they also indicate that follow-up occurred only two years after testing and some of the children who had not transitioned could transition in the future and some who had transitioned could not revert in the future. Correct?

A. Correct.

Q. And they indicated that there sample is likely an over estimate of how many gender conforming children in the general population will socially transition. **[258]** Correct?

A. Where is that in the article?

Q. Second column of page 679.

A. Yes.

Q. Same column they also indicate that they relied on a convenient sample of individuals recruited through lists and events serving transgender children and gender non-conforming children. Correct?

A. That is correct.

Q. Let's go back to Tab 5, which is Exhibit 2. Page 3879, the Endocrine Society indicates that if children have completely socially transitioned they have my greater difficulty returning to the original gender on entering puberty. Is that correct?

A. That's correct. It says it there, but that's based on supposition.

Q. Footnote 40 --- reference number 40 supposition --- reference number 40 is an article by Steensma, et al., published in 2011. Are you saying that that's a supposition?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: No, I'm saying that the **[259]** part of that article that refers to the theoretical risk is based not on any data that was collected by the researchers in that study.

BY ATTORNEY BARHAM:

Q. The Endocrine Society also indicates that the social transition has been found to contribute to the likelihood of persistence. Is that correct?

A. That is a misstating of Dr. Steensma.

Q. That is what the Endocrine Society has concluded. Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: That is what they have written here in the article you presented, yes.

ATTORNEY BARHAM: Let's go to Tab 97 number ---.

LAW CLERK WILKINSON: Exhibit 16.

BY ATTORNEY BARHAM:

Q. Exhibit Number 16, and we are going to be looking at the sixth page of this document. And Dr. D'Angelo, et al. article indicates that since almost all the children treated with puberty blockers proceeded to cross sex hormones concerns have been raised that **[260]** puberty blockers may consolidate gender dysphoria in young people putting them on a lifelong path of biomedical invention. Is that correct?

ATTORNEY BLOCK: Object is to form.

THE WITNESS: Can you show me where that is on this page?

BY ATTORNEY BARHAM:

Q. The first column on the second paragraph. The second column.

ATTORNEY TRYON: Jake, can you scroll down a bit?

THE WITNESS: I would not agree with how you asked that question, I guess. Can you repeat it or clarify?

BY ATTORNEY BARHAM:

Q. I just was reading what it said. They indicate in this section additionally since almost all of the children treated with puberty blockers proceed to cross sex hormones citing de Vries 2014, concerns have been raised at puberty blockers may consolidate gender dysphoria in young people, putting them on a lifelong path of biomedical interventions?

A. It's bit of a logical leap and also just **[261]** incorrect. The de Vries study specifically was looking at the children in the Amsterdam clinic, which is not broadly applicable to other gender clinics across the rest of the world.

Q. But you relied upon de Vries 2014 article in your report as well, didn't you?

A. I agree. Yeah.

Q. So there are professionals who have raised these concerns and hold the concerns that social transitioning cannot change the outcome for a child.

Is that correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think there's two different questions. The first question is, do I agree with this statement that almost all children treated with puberty blockers proceed to cross sex hormones? That is not data that we have nor does this article point to data other than the Dutch clinic that has a very specific protocol.

The question about whether social transition changes a child's trajectory is a different question. It is a question that the Dutch have raised as a possibility,

but has not, I have not seen any literature that provides evidence for that. **[262]**

BY ATTORNEY BARHAM:

Q. But you will recognize that there are some researchers in the field who have raised these concerns and do hold these concerns.

Correct?

A. There are researchers in the field who ask these questions, yes.

ATTORNEY BARHAM: Let's go to Tab 38.

ATTORNEY TRYON: How late are we going in this session; until 2:30 or 2:45?

ATTORNEY BARHAM: The witness has indicated he can go to 2:45.

ATTORNEY TRYON: Okay.

ATTORNEY BARHAM: Exhibit 40 is an article by Carmichael, et al. 2021, Short-term Outcomes of Pubertal Suppression in a Selected Cohort of 12 to 15 year old Young People. If you'll turn to page 12.

(Whereupon, Exhibit 40, Article by Carmichael, et al., was marked for identification.)

BY ATTORNEY BARHAM:

Q. Are you familiar with this paper? **[263]**

A. I have not read through this paper, yet.

Q. The lead authors are associated with the Tavistock?

A. That is correct.

Q. And that's part of the National Health Services of the UK.

Is that correct?

A. That is correct?

Q. And it's the leading and most respected clinic

in the UK. Correct?

A. That I can't answer.

Q. If you'll look at page 12, the authors indicate that one young person decided to stop GnRHa and did not start cross sex hormones due to continued uncertainty and concerns about the side effects of cross sex hormones, the remaining 43 or 98 percent elected to start cross sex hormones. Is that correct?

A. Correct.

Q. So the vast majority of these children who received puberty blockers went onto take cross sex hormones. Correct? **[264]**

A. That is correct.

Q. Would you agree that the majority of children who receive puberty blockers go on and take cross sex hormones?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: That is not a question that we have an answer to based upon the literature. A majority of patients with gender dysphoria that are prescribe puberty blockers are not involved in clinical care at either the Tavistock clinic or the Amsterdam clinic.

BY ATTORNEY BARHAM:

Q. Is it --- in your practice, do the majority of children who receive puberty blockers for gender dysphoria go on to take cross sex hormones?

A. Based upon the demographic of the patients that I'm seeing, particularly in Chicago, yes, but I'm not seeing the younger kids as much as I did in New York.

Q. So as a practical and ethical matter the decision to put a child on puberty blockers must be considered as equivalent of a decision to put the children on cross sex hormones with all of the considerations and full consent obligations listed in that decision. **[265]** Correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: No.

BY ATTORNEY BARHAM:

Q. Why do you say --- why do you disagree?

A. Inherent in the informed consent process is a specific discussion of the risk benefits and alternatives of a specific intervention. Hormones are not puberty blockers, it's a separate discussion.

Q. Even though the vast majority according to the research and according to your testimony go onto take cross sex hormones?

ATTORNEY BLOCK: Objection to form and mischaracterizes testimony.

THE WITNESS: A description of the potential trajectories of development is a part of the discussion in an informed consent process for the engagement with puberty suppression agents. It's not the same as informed consent process discussion around the use of hormones at that time.

BY ATTORNEY BARHAM:

Q. So when you're having an informed consent discussion surrounding the decision to start puberty

blockers, do you discuss with parents and patients the **[266]** dangers associated with cross sex hormones?

A. This is going to be very individualized discussions that we have with families. It's a very momentous decision to make this kind of treatment choice. The potential trajectories are all discussed and there's risk to everything. I don't think it is useful to use the term dangers in the context of medical care but it's about weighing risks of interventions but also weighing the risks of non-intervening. And it's appropriate to have those discussions about what those potential outcomes may be with each individual kid.

Q. How do you get informed consent from a child?

A. You get assent from a child, but you get informed consent from a parent.

Q. How do you get --- how can a child even begin to understand the implications of starting puberty blockers and then potentially going to cross sex hormones, the effects that that may have on the fertility when the child is 12-ish?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Well, I have a skewed perspective here because of the work that I do, but there are 12-year-olds who are often much more capable of having that kind of informed decision than many **[267]** adults that I have encountered, which is to say it's an individualized assessment based upon multiple things, including the cognitive status of the child, their capacity to engage back and forth and have an open discussion and a realistic discussion about the potential benefits, risks and alternatives in specific intervention.

BY ATTORNEY BARHAM:

Q. Is it your position that most 12-year-olds have a better understanding or a better capability of making decisions about their long-term fertility than adults?

A. It is not my position and I will reflect that that was a statement meant in jest, but it does reflect some sense of reality in terms of the maturity level of 12-year-olds, not speaking to the maturity level of most 20-somethings in the world.

ATTORNEY BARHAM: I think this would be a good time to pause for your appointment and give you a few moments before that starts, so we'll go off the record.

VIDEOGRAPHER: Going off the record. The current time reads 3:37 p.m.

OFF VIDEOTAPE **[268]**

(WHEREUPON, A SHORT BREAK WAS TAKEN.)

ON VIDEOTAPE

VIDEOGRAPHER: Back on the record the current time reads 4:31 p.m.

ATTORNEY BARHAM: All right. Let's go to Tab 16, which will be Exhibit Number 41.

(Whereupon Exhibit 41, Washington Post Article, was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is will be a Washington Post article from January 10, 2022. Are you aware of the 2021/2022 season swimming events surrounding the University of Pennsylvania's swimmer Lia Thomas?

ATTORNEY BLOCK: Objection to scope.

THE WITNESS: I have not been following closely, but I've heard about it.

BY ATTORNEY BARHAM:

Q. Okay. On page three of Exhibit 41, the article references that Lia Thomas in her first year in the Women's Division after more than a year of testosterone **[269]** suppression set the Women's Division record in two events. Do you see that?

A. I see that, yes.

Q. And Lia Thomas beat the best time of women's Olympian Torri Huske in the 200 freestyle.

Do you see that?

A. I see that.

ATTORNEY BLOCK: I just want to note an objection to foundation, that there's no URL. This appears to be cut and pasted. So I'm just noting that for the record.

ATTORNEY BARHAM: And I would note For the record that there is an URL at the bottom of page --- at the bottom of each page.

ATTORNEY BLOCK: Thanks. It's not visible from what's on the screen.

ATTORNEY BARHAM: Okay. Just trying to be clear.

BY ATTORNEY BARHAM:

Q. Is it your position that it is fair for Lia Thomas to compete in the Women's Division of swimming?

ATTORNEY BLOCK: Objection to scope.

THE WITNESS: I don't have an opinion on **[270]** the fairness.

BY ATTORNEY BARHAM:

Q. Do you believe that it's beneficial to Lia Thomas' mental health to compete in the Women's Division?

A. I couldn't tell you that unless I had evaluated Lia Thomas herself.

Q. But it's your opinion as expressed in paragraph 52 of your report that no reasonable mental health professional could conclude that the Act is anything but harmful to the mental health of transgender youth. Is that correct?

A. I would say youth as a class, yes, that is correct, but the specific details of that impact are not going to be known and I wouldn't care to surmise on it for a specific individual that is not under my care.

Q. Okay.

But it's your position that allowing a transgender --- or allowing natal males to compete in the Women's Division if they are gender dysphoric is beneficial to their mental health, in general. Correct?

ATTORNEY BLOCK: Objection to terminology **[271]** and form.

THE WITNESS: In my report, excluding transgender youth can be harmful to their mental health.

BY ATTORNEY BARHAM:

Q. And when you say excluding them you mean excluding them from competition consistent with their gender identity. Is that correct?

A. That is correct.

ATTORNEY BARHAM: All right.

I want to show you Tab 17 now. This will be Exhibit-42.

(Whereupon, Exhibit 42, Out Sports Article, was marked for identification.)

BY ATTORNEY BARHAM:

Q. Have you read about Iszac Henig before today?

A. I have not.

Q. This is an article from Out Sports published on January 9th, 2022, by Karleigh Webb entitled Trans swimmers Lia Thomas and Iszac Henig went head-to-head in the pool, each getting wins. Are you aware that Iszac Henig is a biological female who identifies as male? **[272]**

A. I have not heard of Iszac Henig until today at least by name.

Q. Do you see on the first page of this article the article reads Henig, a trans man competing on the women's swimming team at Yale?

A. I see that, yes.

Q. So in this event a biological male identifies as female, Lia Thomas, competed against a biological female who identifies as male, Iszac Henig, in the women's competition?

ATTORNEY BLOCK: Objection can you give him a chance to read the article. He's never seen or heard of this before?

THE WITNESS: It seems that is what stipulated in the article.

BY ATTORNEY BARHAM:

Q. Okay. According to the terminology you prefer, do you consider Henig to be anything other than a man?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I will typically ask the individuals that I'm working with or engaging with how they choose

to define their own sense of labels. Not knowing Iszac I can't speak for him. **[273]**

BY ATTORNEY BARHAM:

Q. Okay.

But according to the terminology that you've

been using Iszac would be an individual assigned female sex at birth and identifying as male. Correct?

A. Again, I don't see ---

Q. Henig a trans man?

A. --- a description of his words to describe his identity, so I can't say how he identifies himself, but it appears through that that's how --- that is the implication of the article at least.

Q. In the article it uses masculine pronouns to refer to Henig. Correct?

A. Yes.

Q. Do you think it'd beneficial to Henig's mental health to compete on the women's team?

A. Again, I can't answer that unless I had evaluated Henig myself.

Q. In general, if you have a transgender individual who wants to compete on the team consistent his or her biological sex, do you think it's beneficial to his or her mental health to be allowed to do so? **[274]**

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Again, this is an individualized discussion that you have with patients. With the patients that I've had I have had patients who would be harmed by

having to compete with the cohort of kids who were aligned with their sex assigned at birth.

BY ATTORNEY BARHAM:

Q. I understand your position about kids who are forced to do something, what about kids who want to compete with that same cohort, do you think it's beneficial to allow them to compete as they see fit?

A. As a mental health professional working with kids and families, it really is an individualized discussion. There is not going to be a specific answer that's universal for all kids.

Q. Do you believe that if Henig were prevented from competing with the women's team as desired, that it could be harmful to Henig's mental health ---

ATTORNEY BLOCK: Objection to form.

BY ATTORNEY BARHAM:

Q. --- possibly?

A. I can't speak to the specifics about a person that I've never evaluated.

Q. If it is harmful to someone's mental health to **[275]** be prevented from participating in athletics on a team consistent with their gender identity, could it be harmful to their mental health to be prevented from competing on a team consistent with their biological sex if they so wanted to?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think there's a whole host of hypotheticals that could potentially be possible.

BY ATTORNEY BARHAM:

Q. And that is one of them?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: That's possible.

ATTORNEY BARHAM: Okay.

BY ATTORNEY BARHAM:

Q. In paragraph 34 of your report you write a recent study found people who reported experiencing those conversion efforts were more likely to report an attempted suicide, especially those who reported receiving such therapy in childhood.

Do you see that?

A. I see that.

Q. And there we are talking about conversion therapy. **[276]** Is that correct?

A. We're talking specifically about the study participants on perceptive perceptions of conversion therapy.

Q. But that's what's meant by those conversion efforts. Correct?

A. Correct.

Q. In footnote six you cite an article by Turban published in 2020. Is that correct?

A. That is correct.

ATTORNEY BARHAM: All right.

I'm going to show you Tab 113, which will be Exhibit 43.

(Whereupon, Exhibit 43, Article by Turban, et al., was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is an article published by Turban, et al. published in 2020, it's entitled Association Between Recalled Exposure to Gender Identity Conversion Efforts **[277]** and Psychological Distress and Suicide Attempts Among Transgender Adults. This is the article that you cited in your report.

Is that correct?

A. That is correct.

Q. And this is the article cited in footnote six as support for the proposition that studies that found that people who reported conversion efforts are more likely to have reported suicide.

Correct?

A. That's correct.

Q. On page two of this article the authors --- and by this article I'm referring to Exhibit 43. The authors note that they rely upon data from the National Center for Transgender Quality and its 2015 transgender survey. Correct?

A. That is correct.

Q. On page eight of this document, the authors admit that it is cross sectional study designed precludes determination of causation. Correct?

A. I don't have page numbers. Which one is that?

Q. It's the one with strengths and limitations at **[278]** the heading at the bottom.

A. Can you repeat the question?

Q. On page eight, the authors admit that the studies cross-sectional study design precludes determination of causation. Correct?

A. That is correct.

Q. The authors also admit that those with worse mental health or internalized transphobia may have been more likely to seek out conversion therapy rather than non GICE therapy suggesting conversion efforts itself were not causative of these poor mental health outcomes. Correct?

A. That is what is written, correct.

Q. Okay.

So this study does not establish a causal link between conversion therapy and suicidality. Correct?

A. That is correct.

Q. The authors also admit that they lack data regarding the degree to which GICE occurred. Correct?

A. That is correct.

Q. And they also admit that they lacked information **[279]** as to what specific modalities were used. Correct?

A. That is correct.

Q. Turban et al., in 2020 also admits that participants were not recruited via random sampling and thus the sample may not be nationally representative. Is that correct?

A. That is correct.

Q. In paragraph 37 you go on to say that conclusions further supported by extensive evidence that rejection of a young person's gender identity by family and peers is the strongest predictor for adverse mental health outcomes. Is that correct?

A. That is correct.

Q. And you cite in that article --- you cite in footnote seven an article by Ryan, et al. published in 2010. Is that correct?

A. I'm not seeing that.

Q. In footnote seven?

A. Oh, in footnote seven, yes.

ATTORNEY BARHAM: I'm going to show you what we will mark as Exhibit-44, which is Tab 114, an **[280]** article by Ryan, et al. published in 2010 entitled Family Acceptance in Adolescence and the Health of LGBT Young Adults.

(Whereupon, Exhibit-44, Article by Ryan, et al., was marked for identification.)

BY ATTORNEY BARHAM:

Q. This is the article that you cited in footnote seven of your report. Correct?

A. That is correct.

Q. On page 206, in the second column, the authors note that they relied on a sample of 245 people. Is that correct?

A. That is correct.

Q. Of that sample, only nine percent identified as transgender. Correct? That's on page 208.

A. Correct.

Q. That means we're talking about nine people. Correct? 245 times nine percent is 22.05.

A. I'll take your math.

Q. On page 210 the authors admit that they cannot **[281]** claim that this sample is representative of the general population of LGBT individuals. Is that correct?

A. That is correct.

Q. On page 210 to 211 the authors recognize that this is a retrospective study, which, quote, allows for the potential of recall bias in describing specific family reactions to their LGBT identity. Correct?

A. That is correct.

Q. And then in footnote seven of your report you also cite an article by Klein and Golub published in 2016. Correct?

A. That is correct.

Q. All right.

ATTORNEY BARHAM: I'm going to show you what we will mark as Exhibit 45, which is Tab 15.

(Whereupon, Exhibit-45, Article by Klein and Golub, was marked for identification.)

BY ATTORNEY BARHAM: **[282]**

Q. This is an article by Klein and Golub entitled Family Rejection as a Predictor of Suicide Attempts. This article simply says that family rejection is a predictor of suicide attempts and substance abuse among transgender and gender non-conforming adults. Correct?

ATTORNEY BLOCK: Objection. Can you point to where you are reading from?

ATTORNEY BARHAM: The title.

THE WITNESS: They identify as a predictor, yes.

BY ATTORNEY BARHAM:

Q. In fact, the word strongest does not even appear in this article. Is that correct?

ATTORNEY BLOCK: Objection.

THE WITNESS: I would have to read the whole article.

ATTORNEY BLOCK: Let him read it.

THE WITNESS: The authors note on page 195 on a multi-variant model moderate levels of family rejection were associated with almost twice the odds of attempted suicide and high levels of family rejection were associated with almost three and a half **[283]** times the odds of attempted suicide. While there is not any use of the word stronger, I don't see any additional risks that were highlighted in this specific study.

BY ATTORNEY BARHAM:

Q. Okay. On page 197 stemming over on to 198 the authors admit that they relied on data NTDS that use sampling techniques that were not random and included a homogenous study population that was largely white, educated and employed. Correct?

A. That is correct.

Q. Do you agree with them that this limits the generalizability of the article's findings?

A. I do.

Q. The authors also admit that the cross sectional nature of the data did not allow us to determine any causal relationship between family rejection and the negative health-related outcomes. Correct?

A. Correct.

Q. The authors also indicate that they did not have any information about the timeframe within which family rejection occurred, including what precipitated the **[284]** event, the severity of the rejection or whether this changed over time.

Correct?

A. Correct.

Q. Do you agree with them that these factors might have influenced their results?

A. Sure.

Q. All right. Let's go to Tab 97, which is Exhibit 16. This article we discussed before, but this reviews the Turban article that you cited in footnote seven of your report. Is that correct?

A. That is correct.

Q. Or footnote six of your report. Okay. And in your report you are using the Turban 2020 article to critique the use of what you describe as conversion therapy. Is that correct?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I'm just pulling this up where I have it. As I stated in my report, the Turban article found that people who reported experiencing those conversion efforts were more likely to have reported attempting suicide. **[285]**

BY ATTORNEY BARHAM:

Q. So you're using it to critique what you described as conversion therapy.

Is that fair?

A. I think that's fair.

Q. On page two of Dr. D'Angelo's letter to the editor he notes at the top of the first --- towards the top of the first column that Turban's analysis used data from the 2015 USTS survey of transgender identifying individuals, this survey is convenient sampling methodology which

generates lower quality data. Would you agree that convenient sampling generates low quality data?

A. Convenient sampling generates lower quality data. And then some other statistical method of study design. One of the ways that you want to counteract that potential for low quality of data is to have increased number of participants. The difference of 27,000 participants in this particular survey analysis versus say 100 in another, 40 in another does add a little bit more context to the applicability of these findings.

Q. Right below that Dr. D'Angelo, et al. notes that the participants were recruited through transgender **[286]** advocacy organizations and subjects were asked to pledge to promote survey among friends and family. This recruiting method yielded a large but highly skewed sample. Would you agree that the sample for this survey was highly skewed?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think we'd have to understand what specifically you mean by skewed and skewed in what way. It's hard to know.

BY ATTORNEY BARHAM:

Q. The authors go on in Table 1 to demonstrate what they mean by skewing of the data. Upon reviewing their information, would you agree that the sample was skewed?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Again, I'm not sure skewed in comparative --- comparison to what?

BY ATTORNEY BARHAM:

Q. The authors continue on page two by saying that a number of additional data irregularities in the USTS raise further questions about the quality of the data captured by the survey. They talk about how high number of survey participants had not transitioned medically or socially, significant number reported no intention to transition in the future. The information about **[287]** treatments does not appear to be accurate as a number of respondents reported the initiation of puberty blockers after the age 18, which is highly improbable. Further, the survey has developed special waiting due to unexpected high proportion of respondents who reported that they were exactly 18 years old. Do you agree that these irregularities raise serious questions about the reliability of the data?

A. I think these are all elements that you want to take into context as you're establishing validity of the data and the conclusions that could be drawn.

Q. The second column of page two, the authors note that the emphasis on the survey's goals to highlight the injustices suffered by transgender people during the recruitment stage in the introduction of the survey instrument itself made it eligible for reporting adverse experiences due to demand bias.

Do you agree that this demand bias likely skewed the responses?

A. I wouldn't agree that it likely, but that implies that we have data that we don't have. It's a possibility that these authors are raising.

Q. Now, the authors also note that the experience of detransitioners and the sisters were not included, as **[288]** they were disqualified from completing the survey. They note that this failure is a serious oversight. Do you agree with them that that's a serious oversight?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I would need to look at the specific survey instructions for the survey in question to understand the validity of that. I don't see how in the context of this that folks who detransitioned were specifically excluded, but---.

BY ATTORNEY BARHAM:

Q. Did you review ---?

A. Can you point to where that --- where in the original article or the study that those folks are excluded specifically. I may have missed it.

Q. I don't have the original survey on hand at the moment. If it proved that they were excluded, would you agree that that would be a serious oversight?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: It would really depend on how that was done and what the language was used. Without seeing it I can't make a comment otherwise.

BY ATTORNEY BARHAM:

Q. What if there was no language involved, it was [289] just those who indicated that they were either desisting or detransitioning or not included in the data set?

A. I would need to see the context of it in order to make a judgment on the validity of that structure.

Q. On page four of this document. The authors note that Turban's hypothesis is further weakened by a significant flaw in their data analysis failure to control for individuals pre-GICE exposure mental health exposure status, noting that this is a potential compound and may mask reverse causation.

Do you have any scientific basis for disputing that concern?

A. Let me review this part of the paper, please.

ATTORNEY BLOCK: Just objection. I don't think he read the full the sentence.

THE WITNESS: I have not seen any literature on specific risks or predictors for individuals who would be exposed to gender identity conversion efforts, and so the supposition inherent in this paragraph that the authors are making that an individual's underlying poor mental health led to their experience of gender identity conversion efforts is not supported by my understanding of the literature.

BY ATTORNEY BARHAM: **[290]**

Q. Do you have any reason to dispute a potential for a confound or the potential for masking reversed causation that the authors identify here?

A. As I described, I haven't seen any literature that speaks to this nor has that been my clinical experience.

Q. On page two of this document the authors note that Turban's conclusions rest on the assumption that they have a valid way of determining whether or not the respondent was exposed to the unethical practice of conversion therapy. Do you agree that this lack of context in detail renders the question incapable of differentiating between ethical non-affirming ---non-affirmative neutral and counters unethical conversion therapy?

A. I do not.

ATTORNEY BLOCK: Sorry, objection to form.

BY ATTORNEY BARHAM:

Q. Back on page four the authors note that the failure to control for the subjects' baseline mental health makes it impossible to determine whether the mental health or suicidality of a subject person stayed the same or potentially even improved after the **[291]** non-affirming encounter. Do you have any scientific basis for disputing this observation?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Again, if we wanted to go back to the Turban study itself and look more specifically at their methodology and their description that would be a more accurate way of getting a potential ups and downs side of this study other than this letter to the editor.

BY ATTORNEY BARHAM:

Q. But do you have any basis for -- any scientific basis for disputing that observation?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: This question gets to a very specific type of study designed methodology. That is something that typically is done by a data scientist, which is not where my level of expertise is. There are nuances in it. What I would say is in a population as large of a survey that having a denominator as high as they had helps to reduce the chances of confounders like the authors in this letter to the editor are describing as problematic.

BY ATTORNEY BARHAM:

Q. A little bit later on page five the authors **[292]** highlight the cross sectional design of the USTS and indicate that presenting a highly confounded association of causation is a serious error. Do you agree that presenting a confounded association as causation is a serious error?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I have not claimed nor do I understand my reading of the Turban, et al. article to claim causation when an association has been found, and in fact, they specifically called out that it was not causative or at least the analysis could not prove it was causative with a cross-sectional design.

BY ATTORNEY BARHAM:

Q. So when you wrote paragraph 34 of your report and said that a study found that people who reported experiencing these conversion efforts were more likely to have reported attempting suicide, especially those who reported receiving such therapy in childhood, were you suggesting that the conversion efforts caused the suicide attempts?

A. I believe in my testimony I am saying that there is a relationship between those who are exposed to conversion efforts and those who have described reporting attempting suicide. **[293]**

Q. And how would you describe that relationship?

A. As an association.

Q. Is association a synonym for correlation?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: It depends on the context, but generally in plain English association and correlation are relative synonyms for one another.

BY ATTORNEY BARHAM:

Q. In this specific context of your report, when you say that you are reporting an association, were you using association in correlation to synonyms?

A. As far as I know I was, yeah.

Q. Have you had patients impacted by not being allowed to play sports consistent with their gender identity?

A. On occasion, yes.

Q. Approximately how many such patients?

A. On the order of less than two or three.

Q. What sports were those patients participating in?

A. I do not recall the specific. These were --the two or three that I had were all in the order of between five, six and seven-year-olds.

Q. What was your follow-up with each patient? **[294]**

A. With those particular kids?

Q. Yes.

A. Without having their charts in front of me, it's hard to expound. My typical process would be understanding why it's happening, what they need and how to coordinate with whatever program to help make sure that the kid gets the support that is going to be most beneficial to them.

Q. Are you offering an opinion that the State of West Virginia does not have a strong interest in ensuring safe competition for women?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: My testimony is about the mental health impacts. I don't have an opinion on the state interests of West Virginia in this regard.

BY ATTORNEY BARHAM:

Q. Are you offering an opinion that the State of West Virginia does not have a strong interest in ensuring fair competition?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Same answer.

BY ATTORNEY BARHAM:

Q. Would you agree that ensuring fairness and safety is an important state interest. **[295]**

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: Same answer.

ATTORNEY BARHAM: All right. I believe those are all my questions for today. I will turn the floor over to Mr. Tryon.

ATTORNEY TRYON: Okay. Here I am.

EXAMINATION

BY ATTORNEY TRYON:

Q. My name's David Tryon. I am with the West Virginia Attorney General's Office and represent the State of West Virginia. So we've got about an hour left. Do you want to just keep on going and finish up or would you like to take a break for five minutes before we finish up?

A. I think let's keep going. If I have to take a break, I'll let you know. I appreciate it.

Q. Okay. You bet. Happy to help you out that way again. I just want to follow up, first of all, on a couple of questions about the Turban study, if I may, that we were **[296]** just

discussing. And Exhibit 16 I believe was the document that addressed that Turban study.

A. I see Exhibit 16 as the letter to the editor from D'Angelo, et al.

Q. And that's the one that we were just looking at addressing the Turban study. Right?

A. Correct.

Q. So let me just ask you, you did cite the Turban study in your report. Right?

A. Yes.

Q. Yeah, and that was to support your opinion. Right?

A. That is to support my opinion, yes.

Q. Now, before you used it did you do something to cite check it to see if there were any articles that either challenged it or critiqued it or criticized it?

A. I would say that a routine review of the literature is a part of my day-to-day practice. This particular article did not come up in that review.

Q. Okay. Is there a way to specifically search for it to see if --- to look at it and then do a search and see **[297]** what other articles are quoted or cited?

A. My guess is there probably is, I'm not aware of it.

Q. But I think you said you were not aware of the letter which is Exhibit 16 prior to issuing your expert report. Is that right?

A. That is correct.

Q. Would it have been helpful to have seen that ahead of time?

A. I think it would have been helpful for me to feel more prepared in this deposition. I don't think it would have changed any of my report.

Q. If you had that, would you have investigated those criticisms to see if they were failed criticisms?

A. The authors of the Turban study had raised most of those criticisms themselves in the context of their report.

Q. And did you independently look at it and determine if they were --- if that caused you some concerns?

A. Concerns wouldn't be the right word. It's about weighing the evidence and making sure that we understand context and applicability. There's nothing in this **[298]** letter to the editor that changes those demands from my reading of the Turban article.

Q. So you are saying that this letter in the Turban article --- I'm sorry, you're saying this letter to the editor does not raise any new issues at all than what the Turban study itself raised. Is that right?

A. I would have to read through this in a more detailed manner to say for certain that no single issue has been addressed. None of which we discussed today are elements that hadn't been addressed, either by myself reading the Turban article or by the Turban, et al. in the article itself.

Q. But you do not raise any of those concerns in your report, do you?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: No. No, not specifically.

BY ATTORNEY TRYON:

Q. Okay. Fair enough. If you can follow your report now, which I'm forgetting which exhibit that is, Exhibit 1. Thank you. So first of all, you said you were retained by Counsel for the Plaintiffs as an expert. Can you tell me when you were retained, please? **[299]**

A. I would have to pull up my invoice to give you the specific date, and I'm guessing Mr. Block might have that information at the ready.

Q. Unfortunately, I can't depose him. I would love to, but I don't think he would agree to that. So as best you can recall --- first of all, was it this year or last year?

A. It was this year to the best of my recollection.

Q. Okay.

Was it after the other expert reports came out or before?

A. I believe I was hired or retained. I don't know what the correct terminology is so forgive me, after the development of the additional expert reports. It was the rebuttal to those reports that led to my being retained to my recollection.

Q. I'm sorry?

A. From my recollection. And I'm terrible with dates, so I apologize for that.

Q. In paragraph four, you say --- you explain what you viewed and you mention the reports of Dr. Safer. Does that refer to Dr. Safer's original report that was filed with the Court and his rebuttal report --- strike that. **[300]** Does that --- so he filed something with the Court originally. Did you review that one?

A. It was the original report that I had reviewed.

Q. Okay. So let me just be clear. So he filed an original report back in --- last year and then issued a new report in February of this year and then issued a rebuttal report. So a total of three. Did you see all three of those?

A. I would have to see them ---.

ATTORNEY BLOCK: Object to form.

THE WITNESS: I would have to see them in front of me to know if it was something that I had read.

I don't know the terminology well enough to know if I was reading the original report or rebuttal report or the third type.

BY ATTORNEY TRYON:

Q. So one of them was expert report which was issued I believe in February of this year. I believe you saw that one.

A. Again, I would have to see the report in front of me to know if it was the one I saw.

Q. Okay. There was another one which was labeled as **[301]** rebuttal. Do you remember if you saw that one?

A. I would have to go back through my notes. I don't have it in front of me, so I apologize for not recalling.

Q. Well, let me ask you this question. Do you remember how many reports you saw from Dr. Safer?

A. All I can say is I remember seeing at least two.

Q. Very good. And Dr. Adkins, how many of her reports did you see?

A. I can't be certain, but I think I also saw two of hers.

Q. And I'll represent to you that each of them issued a rebuttal report. And did you read their rebuttal reports prior to preparing your rebuttal report?

A. I don't have the documentation in front of me in terms of when I was spending time on what piece of this process. That's a part of my notes that are not here today.

Q. Do you know why you were asked to issue a rebuttal report if Dr. Safer and Dr. Adkins were both issuing rebuttal reports?

ATTORNEY BLOCK: Objection. Just don't discuss any of the contents of your communications with **[302]** the attorneys.

ATTORNEY TRYON: Correct.

THE WITNESS: My understanding was to rebut the reports of Dr. Levine and Dr. Cantor.

BY ATTORNEY TRYON:

Q. Is your rebuttal different than the rebuttals of Dr. Adkins and Dr. Safer?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Yes.

BY ATTORNEY TRYON:

Q. Pardon me?

A. Yes.

Q. Does your rebuttal report have any opinions which are different from Dr. Safer and Dr. Adkins' reports?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think it's hard without the specific reports in front of me. I know they were long documents

and I was specifically rebutting the reports of Dr. Levine and Cantor.

BY ATTORNEY TRYON:

Q. Do you have any specific reports that are not rebutting Dr. Levine and Dr. Cantor?

A. The process of developing this rebuttal report **[303]** was for that specific intent.

Q. So you don't believe you have any original opinions to report; would that be a fair statement?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I'm not --- I guess I'm not sure what you mean by original opinions.

BY ATTORNEY TRYON:

Q. So let's move on. Do you recall the Costa study?

A. Yes, we had reviewed one Costa study earlier. Can you remind me of the exhibit number?

Q. I believe it's Exhibit 27?

A. All right. Okay.

Q. I believe that during that discussion you referred to the standards in there as being rough or imprecise measure and --- let me get this right, and not objective criteria. Do you remember that?

A. I had described the CGAS, the Children's Global Assessment Scale, as an imprecise measure of children's functioning.

Q. And you said not having any objective criteria; can you help with that?

A. Yes, it's a scale from zero to a hundred that is **[304]** very gestalt that the clinician uses to rate a child. It's not an instrument that I find clinically useful.

Q. Is it not clinically useful because it doesn't have objective criteria?

A. I wouldn't say it's fair to say that there are no objective criteria, but there are at times contradictory objective criteria within the CGAS. And again I would he have to see the CGAS in front of me to point out those specifics, but there are other functions, or other ways of measuring outcomes than the CGAS.

Q. What is an objective criteria? What does that term mean in other words?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I guess what would say is we would want a psychometrically valid approach for answering a question, ideally that is of clinical relevance.

BY ATTORNEY TRYON:

Q. Can you just repeat your answer for me? I didn't quite understand it.

A. Probably not the same language. A psychometrically valid tool that in an ideal world provides some kind of clinical relevance.**[305]**

Q. Okay. You said psychometrically valid tool. Did I get that right?

A. Psychometrically validated tool, yes.

Q. Validated?

A. Yes.

Q. What is that?

A. Essentially you want to understand that the measure you're using is measuring what it says to measure and is reliable across multiple domains. The CGAS has been widely used in research, it's just not my favorite tool because I don't find it to have that second domain of having that clinical utility.

Q. Let me ask you to take a look at paragraph 19 of your opinion?

A. I'm looking at it now.

Q. You say at one point it says contrary to the portrayal. Do you see that sentence?

A. I see that, yes.

Q. Contrary to the portrayal in Dr. Levine and Dr. Cantor's reports, gender-affirming treatment also requires a careful and thorough assessment of a patient's mental health, including co-occurring conditions, history of trauma, and substance abuse among **[306]** many other factors. My question for you is with respect to your language, a careful and thorough assessment, and I'd like to then know are there psychometrically validated tools used to do that?

A. There are on occasion, and particularly when we're looking at research outcomes for transgender youth there are a number of psychometrically validated screenings or outcome measures that are used.

Q. What are those?

A. These include most importantly the Utrecht Gender Dysphoria Scale, the Body Image Scale, historically what's in the Dutch data, the Toronto data, and the Costa data and The Tavistock Clinic, all of them were participatory in kind of the informal research group that

agreed to collect the same measures, so these included the Achenbach, CBCL, and they use self report.

Q. I'm sorry. What was the first one you said before Body Image Scale?

A. Utrecht Gender Dysphoria Scale.

Q. Utrecht Gender Dysphoria Scale?

A. Correct.

Q. What is that?

A. It's a measure of the degree and intensity of gender dysphoria.**[307]**

Q. How is it --- what does it look like? Does it have a series of scale one to ten on different issues or what is it?

A. It's a series of questions that I'd have to have in front of me to give a better job of describing, but it provides a rating of --- I can't remember what the range is, from zero to somewhere in the low dozens, that correlates with the intensity of gender dysphoria.

Q. Is that something that you use in your practice to diagnose gender dysphoria?

A. It is an element that I have used.

Q. Do you use that with every patient?

A. It is not something that I use with every patient. The contents of the Utrecht Gender Dysphoria Scale are generally pieces that I'm getting or gathering from every clinical encounter without necessarily utilizing the specific tool.

Q. This statement, a careful and thorough assessment, does that have a --- is there a source for that particular standard?

A. There are a number of sources for this particular standard. The general practice of children's mental health from my guild in child adolescence psychiatry, there are years of training and **[308]** certification in order for you to have demonstrated a careful and thorough assessment. In order to get Board Certified I had to do a careful and thorough assessment in front of a board of examiners, so this is inherent to the practice of mental health.

Q. Is there --- but there is no requirement that these various standardized tools that you mentioned to me, these psychometrically valid tools have to be used, is there?

A. There isn't, and there is not a clinical verification that they be used in every instance. For the sake of these kind of studies, it's important to have these validated tools so we're all speaking the same language and that outcomes can be tracked over time, but not necessarily in every clinical event is it going to be warranted.

Q. If you don't use them in every clinical event, then how can how can you adequately track something across patients if you wanted to do a study?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: As an example there are a number of psychometrically validated tools that cannot be administered at every clinical encounter, otherwise they would be rendered invalid. So there's a lot of **[309]** nuance in these specific tools and I think that level of nuance is really a clinical judgment based upon professional and prevailing standards.

BY ATTORNEY TRYON:

Q. Okay. So there's no objective measure of someone other than --- well, let me back up. So different

psychiatrists would come up with different conclusions. Is that right?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I don't think that's related to what I was speaking about. I think different psychiatrists would utilize different instruments to provide an assessment, and that's going to change from person to person. I can't speak to diagnostic reliability for a psychiatrist that I haven't met or trained.

BY ATTORNEY TRYON:

Q. Let me ask you how long you would normally spend with a child before --- or adolescent before prescribing puberty blockers?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: There is not going to be a single answer to that question. It really is dependent **[310]** on the requirements of the assessment, as well as the individual factors of that child and that family.

BY ATTORNEY TRYON:

Q. Could ten minutes be long enough?

A. Not in my opinion.

Q. What about 30 minutes?

A. Likely not.

Q. How about an hour?

A. It would be very atypical in my practice to spend that little time prior to making a recommendation for puberty suppression. I do a much more thorough assessment than an hour.

Q. So how long would a thorough assessment normally take?

ATTORNEY BLOCK: Objection to form.

BY ATTORNEY TRYON:

Q. You said more than an hour I think?

A. Correct. I would say more than an hour. I think maybe there's a ceiling, but not a roof. What I mean by that that is there are certain criteria required in order to make a recommendation for a treatment for gender dysphoria to be offered. Those include a diagnosis of gender dysphoria, a recognition of any co-occurring mental health issues and whether or not **[311]** they are adequately well controlled enough to be able to proceed with care. And a clear understanding of the risks, benefits and alternatives of that treatment. There's no specific timeframe on that as an assessment.

Q. How many visits would you expect to be adequate for a careful and thorough assessment?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: And I apologize, it's --- I'm not trying to be evasive. It really is going to depend upon each individual child.

BY ATTORNEY TRYON:

What about is one enough? Have you ever done it --- given a recommendation for puberty blocker after only one visit for an hour?

ATTORNEY BLOCK: Compound question.

THE WITNESS: I have never given a recommendation for puberty suppression after a one hour visit personally.

BY ATTORNEY TRYON:

Q. What's the minimum time that you think is adequate?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: As I said, I don't think it's based on time. It's based about the content. **[312]** There are circumstances in which patients have been followed for several years by therapists, that can provide a tremendous amount of collateral information including information provided by parents, family members, community providers, et cetera, that can allow more abbreviated assessment for some people.

BY ATTORNEY TRYON:

Q. Is someone as consistently spending only an hour with one patient, with each patient for recommending puberty blockers, that would look kind of like a rubber stamp recommendation wouldn't it?

ATTORNEY BLOCK: Objection.

BY ATTORNEY TRYON:

Q. Assuming that it's happening?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I would have to see the specifics in order to make any kind of comment.

BY ATTORNEY TRYON:

Q. Isn't it fair for Dr. Levine or Cantor to express concern that in actual practice that may be happening?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I have not seen anywhere in Dr. Cantor or Dr. Levine's report or within the **[313]** literature that this is a pervasive thing that is happening.

BY ATTORNEY TRYON:

Q. Well, it's not tracked at all so we wouldn't know, would we, one way or the other?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: It is a question that could be asked. I don't think it's for me to make suppositions, nor do I think it is for Dr. Cantor and Dr. Levine to make suppositions about the critical care of transgender youth in this context.

BY ATTORNEY TRYON:

Q. Is there any --- is there any place where you report any central location where you or your clinic report how much time and effort and what your thorough examination is so that it can be tracked?

A. The site where I'm at now is part of a four-site NIH trial that has published on the specific assessment processes that the kids who are involved in the study engage in.

Q. How many kids are in that trial?

A. I'm not a specific participant in the organization of that trial, so I don't have that information in front of me. **[314]**

Q. Does your clinic report to that trial?

A. My gender clinic, the gender clinic within the hospital that I work in, there are many patients who are enrolled in that trial, yes.

Q. But it's certainly not mandated, right?

A. No.

Q. When these careful and thorough assessments are done, what type of documentation should be used for that?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: That's a very contextual question. We have prevailing standards in terms of what should and shouldn't be documented through various professional organizations, but that's going to change from state to state, country to country.

BY ATTORNEY TRYON:

Q. And what about in the State of West Virginia?

A. I have no knowledge of documentation requirements in the State of West Virginia.

Q. How about in the United States in general?

A. As far as I'm aware, there are no universal recommendations in terms of specifics of how things are documented.

Q. Are there any organizations like the WPATH or **[315]** any other organizations that do give recommendations on what documentation to use in America?

A. WPATH has certainly provided some educational events in terms of best practices in documenting, but these aren't specific guidelines or recommendations. I think it is notable to say that the Dutch clinic in particular has been quite vigorous in their production of research and is quite well respected in the world in terms of how things are structured, and they actually don't even have a letter that their clinicians write and/or see initiation of puberty suppression for gender-affirming hormones.

ATTORNEY TRYON: Jake, if you could bring up the exhibit entitled Adolescent Medicine, Confidential Patient Questionnaire, which has been redacted?

VIDEOGRAPHER: Do you want that marked?

ATTORNEY TRYON: Yes, please, wherever we are at in the next number.

VIDEOGRAPHER: I believe we're at 44.

LAW CLERK WILKINSON: 46.

ATTORNEY SWAMINATHAN: 46.

(Whereupon, Exhibit-46, Form, was marked **[316]** for identification.)

ATTORNEY TRYON: If you could bring that up, Jake.

VIDEOGRAPHER: Yes. Give me one second.

I'm just marking that right now. We might have to mark this one physically. The program won't mark it because it's a redacted document.

ATTORNEY TRYON: Okay. Then we'll do that to bring that up. And then, if you could, Jake, just scroll down in this. I just have a couple questions about this form.

THE WITNESS: Okay.

ATTORNEY TRYON: Go onto the next page down.

BY ATTORNEY TRYON:

Q. Have you ever seen a form like this?

ATTORNEY BLOCK: Objection to form. No pun intended.

THE WITNESS: Could you be a little more specific? I mean, I've seen --- this is kind of very typical for a lot of

intake-type documents in mental health clinics or in medical clinics.

BY ATTORNEY TRYON: **[317]**

Q. So you would characterize this as a typical intake form?

ATTORNEY BLOCK: Objection.

THE WITNESS: I wouldn't characterize it in that way. I have seen typical intake forms that resemble this in some ways.

BY ATTORNEY TRYON:

Q. Would this be something that you would consider adequate to document a careful and thorough assessment?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Again, without knowing the context of the individual's practice, it's impossible for me to say.

BY ATTORNEY TRYON:

Q. Is this a form that you would use for careful and thorough assessment of a patient's mental health?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I don't use this form. I can't say whether or not I was in the context this provider was practicing that I wouldn't use this form as part of my assessment.

BY ATTORNEY TRYON:

Q. Fair enough. Do you use it as a part of your careful thought thorough assessment of the patient's **[318]** mental health, are there any other forms that you expect to see in the caregiver's file about that patient's mental health?

A. Not specifically.

Q. This would be adequate?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Again, I can't speak to the adequacy of it without understanding the context of the rest of the treatment.

BY ATTORNEY TRYON:

Q. Is there any certification that you think is necessary or appropriate for someone to diagnose gender dysphoria?

A. There is no universal certification process. What we have are guidelines and recommendations for ensuring that folks for the mental health prospective, again, medical professionals are able to diagnose gender dysphoria, but from the mental health prospective, it's recommended that we are licensed clinical professionals that have some, if not an expert level of understanding of gender identity issues and having continuing education in the field. These are ongoing recommendations. I wouldn't say it was the expertise, but knowledge about standard of care that's congruent **[319]** with how other disorders are also treated.

Q. Let me ask you about paragraph 16 of your report. Do you see the last sentence there?

A. Yes.

Q. It says HB-3293 does not affect elementary students --- elementary school students who are transgender boys?

A. Yes.

Q. So you previously testified that puberty is --- starts on the average about age 12 for males. Right?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Again, I would defer to our --- that's an answerable question based upon national data that I don't have in front of me, but 12-ish is, yes.

BY ATTORNEY TRYON:

Q. And the range would be --- from what I read, the range is generally between 8 and 14 years old.

Right?

A. Again, I would defer to my endocrine colleagues, but yes, that's --- that's pretty typical.

Q. And you're aware that boys go into Middle School **[320]** as early as 11 years old or sometimes even earlier. Right?

A. I can't say that I'm familiar with how each state organizes their primary and secondary education systems. I'm familiar with how it was in New York and Illinois, and that was occasionally the case.

Q. So if an 11-year-old who has not gone through puberty is in Middle School, then this would definitely apply to some pre-pubescent children.

Right?

ATTORNEY BLOCK: Objection to form.

BY ATTORNEY TRYON:

Q. I'm sorry, I didn't make that clear. So if there are prepubescent boys that are in middle school, then HB-3293 would affect them. Right?

A. I would have to put HB-3293 in front of me to --- to know specifically. I'd have to refamiliarize myself with it, the specifics of it.

Q. I'm sorry to interrupt you.

A. Yeah, I wouldn't want to comment on something I don't have in front of me right now.

Q. Okay. So just so you know I had to relocate from my **[321]** office to my home, and there's a poodle in here that you may hear. So forgive if you hear the interruption.

ATTORNEY BLOCK: Objection to the poodle.

ATTORNEY TRYON: Let me take one second. I will be right back.

THE WITNESS: Maybe now is a good time for bathroom break.

ATTORNEY BLOCK: Let's go off the record.

VIDEOGRAPHER: Going off the record the time reads 5:46 p.m.

OFF VIDEO

(WHEREUPON, A SHORT BREAK WAS TAKEN.)

ON VIDEO

ATTORNEY TRYON: Okay let's go back on the record.

VIDEOGRAPHER: Back on the record the current time reads 5:50 p.m.

BY ATTORNEY TRYON:

Q. Let me direct you to paragraph 26 of your report?

A. Yep. **[322]**

Q. So there's the --- let's see, starting with the word prepubertal children who he insists are children with non-conforming gender expression who realize at the onset of puberty that their gender identity is consistent with their sex assigned at birth. Their understanding of their gender identity changes at the onset of puberty, but their gender

identity does not. So that's really a circular argument unless there's some objective external way of proving what that child's gender identity actually is, wouldn't you agree?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I think that the research that we have on inherent gender identity is relatively recent and needs a little bit more robust follow-up. What we have are studies of cognition as well as some very limited brain imaging studies that point to some element of gender identity that has an objective criteria to it. These are not studies that are significant enough or have enough participants for us to draw any kind of significant conclusions, but it does speak when paired with clinical experiences of kids who have desisted that the way that they describe their identity is that it is not a fix or a change in their sense of self but more about the expression of their **[323]** behaviors and their understanding of how they fit into the world that has changed.

Q. So as you say it's too early to really know for

sure which of these things it is, right?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: What I would say is it's a preponderance of clinical experience and the studies that we do have point to this being much more likely.

BY ATTORNEY TRYON:

Q. Much more likely, is that your testimony?

A. Based on my clinical experiences, yes.

Q. But there's no way that anyone outside of --there's no objective measurement to make that determination, right?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: The way that I would describe it is that gender dysphoria as a diagnosis includes both identity-based criteria that are objective and are measured through the course of the scales that we talked about earlier, as well as measures of role and behavior and congruence with your body. These are things that are tracked over time in the studies that we have, and when a child desists from that diagnosis of gender dysphoria it is clear at that point that it was **[324]** primarily the gender role based behaviors that were leading to this diagnosis as opposed to a change in identity.

BY ATTORNEY TRYON:

Q. You were freezing up on me, so let me just see if I can understand this by looking at the transcription. If a child explains the reasons why he or she has a different gender identity, that his or her natal sex, the natal sex designation then later says the opposite, there is really no way of telling whether or not it's just the person's gender identity or the understanding of the identity has changed based on that child's or person's statements.

Right?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I would say to complicate matters even further, a number of the studies that are used to describe this desistance phenomenon were first carried out under the DSM-IV. On the DSM-IV the diagnosis was gender disorder in childhood. And in that nomenclature, an identity that is incongruent with sex assigned at birth was not one of the required elements. And so there are children who are described in the common parlance as transgender because they met criteria **[325]** for what was

then gender identity disorder, who nevertheless discussed any identity incongruent with their sex at birth. So that makes it hard to draw firm conclusions about data captured under the DSM-IV.

BY ATTORNEY TRYON:

Q. And you are familiar with that diagnostic and statistical manual of mental disorders. Right?

A. I am.

Q. And you cited it in your reports. Right?

A. Correct.

Q. That is a manual to assist in the diagnosis of mental disorders. Right?

A. That is correct.

Q. Is there a value of to classifying a condition as a mental disorders?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I don't know if I can offer an expert opinion on that. I have a biased --- talk about a selection bias as a psychiatrist and a mental health professional. I think it's important for us to destigmatize mental illness as much as possible, so **[326]** whatever is going to allow folks access to care, I'm relatively neutral on placing a value on whether or not something is a diagnosis or not.

BY ATTORNEY TRYON:

Q. A manual does not recommend any treatments, only tools for diagnosis. Is that right?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: The main goal of DSM for classifying diagnoses and ensuring stability or reliability of those diagnoses across practice locations.

BY ATTORNEY TRYON:

Q. That does not recommend or even provide any treatments.

Right?

A. The text of the DSM often recommends or describes treatments.

Q. Does it describe treatments for gender dysphoria?

A. The text was recently revised for gender dysphoria, and so I really want to see the text in front of me for me to talk about it.

Q. So in the DSM-V you don't know if it has any **[327]** recommendations for treatments in it for gender dysphoria?

A. I don't know in the revised text how much was changed without familiarizing myself with it. And I'm happy to look at it. It's a quick read, but primarily the DSM-V as it comes to gender dysphoria is a description of the phenomenology not a recommendation for treatments.

Q. And when was it revised?

A. It was just released about a week ago, maybe two.

Q. Let me ask you to take a look at your report, paragraph 51. You say to the contrary, as noted previously, stigma and discrimination have been shown to have a profoundly harmful impact on the mental health of transgender people and other minority groups. Now, when you say stigma and discrimination, you're not referring specifically to not allowing, as using your term, a

transgender girl to participate on a girls sports team to be that type of stigma or discrimination, are you?

ATTORNEY BLOCK: Objection to the form.

THE WITNESS: The reference that I referred to in my report I would want to look at, because they had an operational term for stigma and **[328]** discrimination. However, there has been literature, I can't remember the names of the authors or the date of the study, that look at specific laws that are enacted to discriminate against LGBT people and impact on both mental health and medical health, and so those kind of discrimination laws certainly do have real felt impact for transgender folks.

BY ATTORNEY TRYON:

Q. So are you saying that this sentence is referring to a law such as HB-3293 or not?

A. I think, as I stated, for the sake of this expert report, the Yhuto reference from 2015 is what I'm using to craft that statement.

Q. I'm sorry, the what from 2015?

A. Footnote number 21.

Q. What are those profound impacts of mental health that you are referring to?

A. Well, as I mentioned earlier in my report are correlation between many exposures that transgender individuals have and increased rates of suicide, self harm, substance use, exposure to trauma that have certainly profound negative impacts for the folks who are experiencing them.

Q. And of those harms that you have just mentioned **[329]** are you aware of any of them caused by --- to a child or person who was not --- who was a transgender female

not allowed to participate on a girls or woman's athletic team?

A. As I had testified to earlier, I think I said I've had two or three patients who are excluded from sports teams, one of which was a child who was assigned male at birth, who at age six was not allowed to participate in the sport. I can't remember what support it was. This was a child who was heckled and kicked out of the group of friends that were participating in that sport which led to negative mental health consequences for that individual child.

Q. What specific --- I presume that's thoughts of suicidality. Right?

A. Thankfully at that age they were not.

Q. How did that child adapt to the situation?

A. Well, we worked with the child, the family and the sports team, to understand what this child may need and ended up --- I think it was T ball, I think ended up joining the T ball team.

Q. So how much --- how much of a delay was there between wanting to join the T ball team and being **[330]** allowed to join the T ball team?

A. This was years ago, so I don't recall the specifics.

Q. Would it be your testimony that any delay at all between the time of identifying for a natal male identifying as a female and participating on a female team would be profoundly harmful?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I have not seen any studies that have asked that question or could speak to the duration of time between exclusion from an activity and the mental health impacts.

BY ATTORNEY TRYON:

Q. Is it your position that as soon as the child or person who is a natal male determines or identifies as a female, that that person should be immediately allowed to play on female teams?

ATTORNEY BLOCK: Objection to form and scope.

THE WITNESS: I'm not able to answer that question. I think that's out of the scope of my expertise.

BY ATTORNEY TRYON:

Q. Let me ask it differently because I didn't ask **[331]** it quite as artfully as I could have. You indicated profoundly harmful or have a profoundly harmful impact. So if a child or adolescent or adult, adult meaning anyone through collegiate age, were to be a natal male and identify as a female and is not allowed to immediately participate on female teams, would that be profoundly harmful, would it have a profoundly harmful impact on their mental health?

A. That would require an individualized assessment of that child or young adult in order to understand the potential impacts specific to that individual.

Q. What if they were required to wait a full year, would that be profoundly --- have a profoundly harmful impact on the mental health of that person?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Same answer.

BY ATTORNEY TRYON:

Q. Well as a general rule, do you have any opinion as a general rule?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: General rule of what? I'm not understanding the question.

BY ATTORNEY TRYON:

Q. Let me try again. So is there --- do you have a **[332]** general --- I mean you made a generalized statement here in the last sentence of paragraph 51. So my question is, as it pertains to this generalized statement, is there any delay that would not cause a profoundly harmful impact on the mental health of transgender people if they are denied the opportunity to immediately participate in the sports team of their gender identity?

ATTORNEY BLOCK: Objection to form and characterization.

THE WITNESS: It's a long sentence with a lot of clauses. I'm trying to --- I'm trying to parse them all out to make sure that I'm answering this accurately. As I testified to in my report, there's evidence of discrimination, stigma and bias leading to individual harms. The specific manifestation of those harms are highly individualized and require individual assessment of each child and family in order to know. Which is why you can't speak to the specific impacts for each individual child, but what we know are population-based data.

Q. Is it your view that if after a psychiatrist or psychologist or appropriate healthcare individual determines that there would be a profoundly harmful impact that healthcare professional should be the one to **[333]** determine whether or not the child should be allowed to participate on a girl's team?

A. I don't have a specific opinion about how sports administration vary from state to state. I know it's very different from state to state. What I would say is from a

mental health perspective my goal is to help our kids access spaces that are going to be health promoting and build resilience. I think it's important for health professionals to be involved in the decisions that are made, but I can't speak to the legislative process within the scope of my expertise.

Q. Is the mental health of the cisgender females who might be at a disadvantage of the participation of a transgender female on the team, is their mental health important?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I would say first that the mental health of cisgender children who have participated in sports is certainly attestable hypothesis to explore and it's not research that I have seen, nor that I'm aware that it exists. Beyond that, you know, my expertise does not extend to this population as you have asked this question.

BY ATTORNEY TRYON: **[334]**

Q. So then let me ask that specifically, have you treated any cisgender females that have been upset about transgender females participating on the girls team?

A. I have treated cisgender girls who have had transgender teammates. I have not treated anybody who has expressed any concern or harm from that.

Q. Do you acknowledge that there are those cisgender girls who are suffering from psychological harm from that?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I would not acknowledge that. That is not data that I have seen nor has been my personal

experience with patients that I have seen or other colleagues who have described this.

BY ATTORNEY TRYON:

Q. Are you aware that some of Lia Thomas' cisgender teammates are very upset about Lia Thomas participating on the female swimming team?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I haven't read much about Lia Thomas or her teammates prior to today, so I'm not aware of any specifics to that.

BY ATTORNEY TRYON:

Q. Have you read anything about that incident --- **[335]** excuse me, that situation?

A. Well, I've read something today.

Q. Prior to today?

A. Which did not mention about teammates being upset. I've heard about it, but I have not read it.

Q. So you're aware of it?

A. I'm vaguely aware of it, yes. I've not done any primary research into it.

ATTORNEY BLOCK: Could we get a time check?

VIDEOGRAPHER: It looks like I got about three minutes left.

ATTORNEY TRYON: I speak really fast.

BY ATTORNEY TRYON:

Q. Well, is there benefits in --- for example, you said that HB --- you've read HB-3293 and you're aware that it does require --- well, first of all, are you aware that HB-

3293 does not use the word transgender at all or trans woman or trans girl at all?

A. I would want to look at it specifically to double check that that's correct, but I would take your word for it.

Q. And so in HB-3293, it does require that all biological males must --- let me rephrase that, that **[336]** biological males may not compete on girls teams. Do you understand that?

A. I don't, because biological male as a term is certainly up for debate.

Q. Which word would you like to use?

A. I don't know if there's going to be an answer for that in the context of this particular bill. I think ---.

Q. How about natal male, does that work?

A. Sure. We can use that. I would typically use assigned male at birth, but yes.

Q. Okay. So natal males under this Bill are not allowed to participate on girls sports teams. Do you understand that?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: Yeah. And I apologize I really don't mean to be parsing, if the text of the Bill is biological males, what that just means is that that is a complex term that doesn't have a universal acceptance. But I understand that the goal of the Bill is for folks assigned male at birth, not to participate in women's sports teams, yes.

BY ATTORNEY TRYON: **[337]**

Q. If a --- to use your term, a person assigned male at birth is told that that person may not participate on girls sports, and as in so many other things in life, you are told

that's the rule and you have to live with it, is there value in learning coping skills to deal with rules that you don't agree with and abide by them?

ATTORNEY BLOCK: Objection to form.

THE WITNESS: I guess the way I would approach it is that if we look at the data, clinical experiences and from the testimonies of transgender individuals that they face enough on a daily basis stigma discrimination exclusion, that they all would benefit from a healthy development of coping skills. Nowhere in the field of psychiatry is it recommended that we expose people to traumatic events for them to develop coping skills to manage through.

BY ATTORNEY TRYON:

Q. Well, not to intentionally do so, but there's laws and rules that you made that said you have to live with those rules then it's your position that the rules need to be changed to comply with the wishes of that person?

ATTORNEY BLOCK: Objection to form. **[338]**

THE WITNESS: Again my expert testimony is rebutting the testimony of Dr. Levine and Cantor. I can't speak to the specific legislative processes in terms of the best way for states to approach a complex issue such as this.

ATTORNEY TRYON: I have no further questions. Thank you for your time I appreciate it.

THE WITNESS: Thank you. What is your poodle's name? Can I ask that off the record?

ATTORNEY BLOCK: We don't have any Redirect questions. Dr. Janssen will review the transcript.

ATTORNEY GREEN: This is Roberta Green on behalf of WVSSAC. No questions.

ATTORNEY MORGAN: This is Kelly Morgan on behalf of the West Virginia Board of Education and Superintendant Burch. I don't have any questions.

Thank you.

ATTORNEY DENIKER: Dr. Janssen, thank you for your time today, this is Susan Deniker. I have no questions.

THE WITNESS: Thank you, guys.

VIDEOGRAPHER: Going off the record. The current time reads 6:18 p.m. **[339]**

VIDEOTAPED DEPOSITION CONCLUDED AT 6:18 P.M.

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