

A P P E A R A N C E S

(All parties are appearing via videoconference.)

For the Plaintiffs: Chelsea Dunn
Simone Chriss
Southern Legal Counsel, Inc.
1229 N.W. 125th Avenue
Gainesville, FL 32601
(362)271-8890
chelsea.dunn@
southernlegal.org
simone.chriss@
southernlegal.org

and

Carl S. Charles
Lambda Legal Defense and
Education Fund, Inc.
1 West Court Square
Suite 105
Decatur, GA 30030
(404)897-1880
ccharles@lambdalegal.org

For the Defendants: Michael Beato
Holtzman Vogel
Barantorchinsky &
Josefiak PLLC
119 S. Monroe Street
Suite 500
Tallahassee, FL 32301
(850)270-5938
mbeato@holtzmanvogel.com

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

IT IS HEREBY STIPULATED AND AGREED by and among the attorneys for the respective parties hereto that the videoconference deposition of G. KEVIN DONOVAN, M.D., M.A., may be taken on behalf of the Plaintiffs, on MARCH 22, 2023, located in SAND SPRINGS, Oklahoma, by Jana C. Hazelbaker, Certified Shorthand Reporter within and for the State of Oklahoma, pursuant to Notice.

IT IS FURTHER STIPULATED AND AGREED by and among the attorneys for the respective parties hereto that all objections, except as to the form of the question, are reserved until the time of trial, at which time they may be made with the same force and effect as if made at the time of the taking of this deposition.

* * * * *

1 G. KEVIN DONOVAN, M.D., M.A.,
2 having been first duly sworn at 9:03 a.m. CST,
3 deposes and says in reply to the questions propounded
4 as follows, to wit:

5 DIRECT EXAMINATION

6 BY MS. DUNN:

7 Q So, good morning, Dr. Donovan. As I
8 mentioned before, my name is Chelsea Dunn. I'm an
9 attorney for the plaintiffs in the lawsuit Dekker,
10 et al. versus Weida. I will be deposing you today.
11 I work for an organization by the name of Southern
12 Legal Counsel.

13 If you don't mind just introducing yourself
14 and stating and spelling your name for the record, I
15 would appreciate it.

16 A Yes. My full name is Gerard Kevin Donovan.
17 G-e-r-a-r-d, K-e-v-i-n, D-o-n-o-v-a-n.

18 Q Thank you, Dr. Donovan. Just as an initial
19 question, have you ever been deposed before?

20 A Yes.

21 Q Okay. I'm going to go over a couple ground
22 rules, just so that we're on the same page for
23 expectations today and that there's no confusion.

24 The court reporter here is writing down
25 everything you say, so if you can respond to my

1 questions using verbal answers, for example, yes or
2 no instead of shaking your head or nodding, that
3 would be a lot -- it's a lot easier for her to
4 transcribe our conversation today.

5 We also -- I think in natural conversation
6 people have a tendency to start answering a question
7 sometimes before it's done, so if you can be careful
8 not to speak over me or to begin answering my
9 question until I finish it, I will try to do the same
10 and not talk over you as well. Is that fair?

11 A Yes, ma'am.

12 Q You're welcome, as we mentioned before, to
13 take a break at any time. Please just answer -- if
14 you'll finish answering the question that's on the
15 table before you request a break, that -- you know,
16 that -- we would ask that you finish answering the
17 question before we take a break.

18 You can also speak to your attorney at any
19 time, but, again, please finish answering my question
20 unless there is an issue of privilege.

21 You can also -- if you, later in the
22 deposition, realize that you gave an answer earlier
23 that wasn't full and complete, you're welcome to
24 supplement your testimony. Or if you realize that
25 you were mistaken, you can also correct your

1 testimony, please just let us know.

2 You can also ask for documents to refresh
3 your memory as to something. So if there's something
4 that would help your memory, please let us know what
5 that is.

6 Have you taken any medications today that
7 would affect your ability to answer my questions
8 truthfully and fully?

9 A No.

10 Q Are you ill or is there anything else going
11 on that would affect your testimony today?

12 A No.

13 Q The oath you've taken that the court
14 reporter provided is the same oath that you would
15 take in a court of law. So do you understand that
16 you are testifying today under penalty of perjury?

17 A Yes.

18 Q And your oath is to answer, not just
19 truthfully, but also the whole truth. So do you
20 understand that you're expected to give full and
21 complete answers today?

22 A Yes.

23 Q Thank you.

24 Before we begin, I just want to talk a
25 little bit about the topic of our deposition today.

1 So this case is about healthcare that is commonly
2 used to treat individuals -- I'm sorry, to treat
3 gender dysphoria for transgender people. We refer to
4 that sometimes as "gender-affirming care." Are you
5 comfortable with my use of that term?

6 A You can use any terminology that you want.

7 Q And if I refer to gender-affirming care, do
8 you understand that that means, for example, medical
9 treatment such as the administration of cross-sex
10 hormones, gender-confirming surgeries, or
11 puberty-blocking medications?

12 A I do.

13 Q Have you been retained as an expert witness
14 by the defense in this case?

15 A Yes.

16 Q And you understand that you -- your report
17 was submitted to the Court by the defendants as
18 expert testimony in order to advance their case
19 against the plaintiffs?

20 A Yes.

21 Q And what expert testimony were you
22 specifically asked to provide in this case?

23 A I was asked to testify as a medical
24 ethicist.

25 Q And what opinions were you asked to

1 provide?

2 A Opinions about the propriety of the
3 gender-affirming care.

4 Q And what are your opinions as to the
5 propriety of gender-affirming care?

6 A I think it's problematic.

7 Q And when you say "problematic," what do you
8 mean?

9 A I mean I think that there are some problems
10 regarding the approach, the diagnosis and treatment
11 approach.

12 Q Can you explain what problems you believe
13 there are with the diagnosis and treatment approach
14 for gender-affirming care?

15 A Well, geez, that's a lot, but then we have
16 hours, don't we?

17 I think that the -- that there are problems
18 in the concept.

19 I think there are problems in the
20 application of that concept to a diagnosis for
21 individuals.

22 And I am aware of problems that have been
23 identified by many others, in terms of the treatments
24 themselves and the justification for them.

25 Q When you say problems identified by

1 "others," who are those others?

2 A Oh, they're in the literature.

3 Q Your opinions are fully set forth in your
4 expert declaration that was signed on February 15th,
5 2023; is that correct?

6 A I believe so.

7 Q So I will pull up that document so that we
8 can both confirm.

9 (Document is displayed).

10 Can you see the document labeled "Expert
11 Declaration of Kevin Donovan, M.D., M.A."?

12 A Yes, I can.

13 Q Is this your expert report?

14 A Looks like it.

15 Q Do you need to review it to be sure?

16 A No, no. Let's just go ahead.

17 Q Okay. I'll just quickly scroll down to
18 where your signature is.

19 Can you confirm that you signed this
20 document?

21 A It looks like it. Thank you.

22 (Whereupon, Exhibit Number 1 was marked for
23 identification purposes and made a part of the
24 record.)

25 Q (By Ms. Dunn) So I would like to ask that

1 this be marked as Plaintiffs' Exhibit 1.

2 Did anyone besides you contribute to
3 writing this report?

4 A No.

5 Q Did anyone besides you edit this report?

6 A I don't recall. I know I submitted it to
7 the defense attorneys and I don't think that they --
8 they may have edited something on it for clarity.
9 I'm not sure.

10 Q And when you say you "submitted it to
11 defense attorneys," who did you submit it to?

12 A Well, I sent it in to -- to Gary Perko or
13 Michael Beato or somebody in that group.

14 (Whereupon, Exhibit Number 2 was marked for
15 identification purposes and made a part of the
16 record.)

17 Q (By Ms. Dunn) I'm going to stop sharing
18 this document and I'm going to show you a document
19 that was provided to us as your bibliography for your
20 report.

21 (Document is displayed).

22 Dr. Donovan, do you recognize this
23 document?

24 A It looks -- I think so, yeah.

25 Q And is this a document that you prepared?

1 A Yes.

2 Q And what -- what is it?

3 A I'm sorry?

4 Q What --

5 A It's a bibliography.

6 Q And it's a bibliography for -- for what?

7 A In reference to my previous paper.

8 Q And so this is a bibliography of the
9 sources you considered and relied upon in the expert
10 declaration that we marked as Plaintiffs' Exhibit 1?

11 A Yes.

12 Q And this is -- I'll -- this exhibit will be
13 marked as Plaintiffs' Exhibit 2.

14 This document was not originally sent along
15 with your report; is that right?

16 A Correct.

17 Q So this was provided upon request by
18 plaintiffs' counsel?

19 A Yes.

20 Q Are these all of the sources you relied
21 upon in preparing the report and expert declaration
22 that was marked as Plaintiffs' Exhibit 1?

23 A That would be difficult to say because so
24 many things I rely on are also part of my own
25 expertise. But in terms of articles, I think that's

1 a reasonable summation.

2 Q Are there any other sources you can
3 identify that you relied upon for your expert
4 declaration that is not listed in this bibliography?

5 A No, not at present.

6 Q When did you first become aware of this
7 case, Dr. Donovan?

8 A Some months ago.

9 Q Can you give us an estimate of perhaps the
10 time of year?

11 A I'm trying to think when I first was
12 contacted. It was -- it was probably -- I'd have to
13 go back and look. It was probably in the fall or
14 something. Or, no, it was probably the end of
15 summer.

16 Q End of summer.

17 And do you recall who contacted you?

18 A I believe I got an email from Gary Perko
19 asking if I would be willing to help them with the
20 case.

21 Q When were you formally engaged as an expert
22 witness in this matter?

23 A If I can -- I think I've got this handy.

24 MR. BEATO: Dr. Donovan, just from your
25 memory.

1 THE WITNESS: Oh. Sometime in the fall.

2 Q (By Ms. Dunn) Have you been contacted by
3 Holtzman Vogel previously to be an expert witness in
4 any other matter?

5 A No.

6 Q You also prepared a report to support the
7 Florida Medicaid rule prohibiting coverage for
8 gender-affirming medical treatments; is that right?

9 A Yes.

10 Q That report was an attachment to a, quote,
11 "generally accepted professional medical standards"
12 report prepared by the agency for healthcare
13 administration?

14 A I believe so.

15 Q All right. So a couple of those terms that
16 I just used are terms where we frequently use
17 abbreviations.

18 So when I refer to GAPMS, G-A-P-M-S, I'm
19 referring to Generally Accepted Professional Medical
20 Standards, which is a -- it's a standard employed by
21 the Agency for Healthcare Administration of Florida.

22 When I refer to AHCA, that's A-H-C-A, and
23 that stands for Agency for Healthcare Administration,
24 and that is the Florida Medicaid agency who is the
25 defendant -- one of the defendants in this case.

1 Do you understand that?

2 A Thank you. Yes.

3 Q And if you -- if you later in the
4 deposition can't recall what those acronyms mean,
5 please feel free to ask for clarification.

6 A It's almost certainly going to be needed.

7 Q Okay. Who contacted you to provide your
8 report in support of the AHCA GAPMS memo?

9 A Someone from -- I believe it was the health
10 department in Florida.

11 Q Do you remember the name of that
12 individual?

13 A No, I'm sorry, I don't.

14 Q I apologize. I have a sinus infection, so
15 I might cough occasionally.

16 Do you recall any -- the names of any other
17 individuals at AHCA that you worked with in providing
18 and submitting the report for the GAPMS memo?

19 A I think there was only, like, one or two
20 names. And, no, I'm sorry, I don't -- I don't have
21 those in my head.

22 Q You don't recall them. Okay.

23 Do you know how the agency got your name in
24 order to contact you about that report?

25 A It must have been suggested to them by

1 someone else, but I'm not sure.

2 Q What did you do to prepare for today's
3 deposition?

4 A I re-read some of the things that I had
5 submitted, as well as some other articles on the
6 topic.

7 Q And when you say you "re-read things you
8 had submitted," which things that you submitted did
9 you re-read?

10 A The two that you've just mentioned.
11 Perhaps I should be -- re-familiarize myself with
12 what I said.

13 Q And so that would include the expert
14 declaration that we marked as Plaintiffs' Exhibit 1?

15 A Yes, ma'am.

16 Q And that also includes the report you
17 submitted to the Agency for Healthcare Administration
18 in support of its GAPMS process?

19 A Yes.

20 Q You said you reviewed some other articles
21 in preparation for today. Which articles were those?

22 A Oh, about perhaps a dozen different
23 articles, including the one I just saw in the British
24 Medical Journal yesterday.

25 Q Can you please clarify what article that

1 was?

2 A Well, fortunately, that one I can tell you
3 because it's still sitting here.

4 It was entitled "BMJ Investigation: Gender
5 Dysphoria in Young People is Rising and so is
6 Professional Disagreement," by Jennifer Block.

7 Q All right. What other articles have you
8 reviewed?

9 A Well, certainly articles that I'd already
10 used to -- to compose my various expert witness and
11 expert opinion papers.

12 Q That --

13 A And other things -- and, quite frankly,
14 other things I just kind of peruse randomly, so I
15 didn't really make notes of which they were. I
16 probably have -- some of them were online and some of
17 them I actually have as printouts from an old file.
18 And I -- I couldn't tell you specifically.

19 I also was sent the -- some of the forms or
20 reports from the attorney's office, and of course I
21 reviewed those as well. But some of those --

22 Q What --

23 A -- were some of the things we've just been
24 talking about.

25 Well, the -- the expert witness

1 declarations from the people on the plaintiffs' side.

2 Q Which expert declarations from the
3 plaintiffs' side did you read?

4 A Karasic and Antonnaria.

5 Q Were there other expert declarations in
6 this case that you reviewed, including any of the
7 defendants' expert declarations?

8 A I'm sorry, there was a third one from the
9 plaintiffs' side, but it seemed to have so little to
10 do with what I had been talking about. I'd have to
11 go back and see who that was by.

12 And I actually didn't have a -- an
13 opportunity, because I got them so late, to look at
14 all the defendants' declarations.

15 Q Did you look at any of the defendants'
16 declarations?

17 A Not in depth, no.

18 Q Did you review even briefly any of the
19 defendants' declarations?

20 A Probably. Probably.

21 Q Do you recall --

22 A But because they were -- yeah, not -- I
23 cannot specifically recall because they just were
24 parallel to what I was focusing on and didn't overlap
25 that much.

1 Q Did you have any meetings with anyone in
2 order to prepare for today's deposition?

3 A We had about a 10- or 15-minute meeting
4 with the defense attorneys.

5 Q Which defense attorney?

6 A I think it was Gary Perko and one other in
7 the room.

8 Q Did you talk or speak with anyone else
9 about your deposition in preparation?

10 A My wife.

11 Q I'm sorry, I was getting some background
12 noise on my laptop I wanted to get rid of.

13 So you earlier mentioned that you had some
14 things right beside you that you had used to prepare
15 for today. What are those things?

16 A Oh, the -- I'm trying to make sure I have
17 the right -- my expert report.

18 The -- the "Ethicist's View of Transgender
19 Treatment for Children" that I had sent in.

20 And, actually, I was just looking at that
21 BMJ article because it had just come out.

22 Q Are those the only three things that you
23 have?

24 A Oh, I mean, no. Look at my study. I've
25 got a lot of things in my files, but not things that

1 I've been looking at this morning.

2 Q So when you say you have things right
3 beside you, it's merely your expert report, your
4 report that you submitted during the GAPMS process,
5 and the article from the British Medical Journal that
6 you referenced?

7 A That's -- yeah, that's a pretty fair
8 summary.

9 Q Is that --

10 A I mean, there are other things I could
11 find, but that's it.

12 Q But when you're -- I'm sorry. I'm speaking
13 about the things that you're referencing that are
14 right beside you that you said you could refer to.

15 Is there anything other than those three
16 documents that I just listed?

17 A Not currently, no, but I -- like I said, if
18 you need me to, I can find things. They're all close
19 by.

20 Q Well, so -- so I think what we're
21 experiencing right now is one of the limitations of a
22 virtual deposition, which it's obviously much more
23 convenient because we're all able to be in our own
24 respective locations.

25 But, generally, if someone were to come to

1 a deposition with paperwork, we would be entitled to
2 see what that paperwork is.

3 And so what I'm trying to understand is
4 what paperwork have you compiled in order to use in
5 this deposition? What is sitting beside you that you
6 intended to reference or that you brought with you
7 or -- or put together for the purposes of this
8 deposition?

9 A Okay. No, I think you've got it then.
10 That was it.

11 Q Okay. Thank you.

12 Have you been deposed -- I'm sorry, you
13 told me you've been deposed before, Dr. Donovan. Can
14 you explain to me the circumstances in which you've
15 been deposed before?

16 A Well, I've been an expert witness for both
17 sides in malpractice trials.

18 Q How many times have you been deposed
19 before?

20 A Maybe as many as half a dozen.

21 Q Is medical malpractice the only subject on
22 which you've been deposed in the past?

23 A There was one trial in which we were
24 discharging a faculty member with cause and so I
25 testified in that as well. "We" being the

1 university.

2 Q But that would be an employment dispute?

3 A Yes, I guess so.

4 Q And which university was that that you were
5 working for?

6 A That was the University of Oklahoma.

7 Q The malpractice cases that you were deposed
8 in, what types of care were at issue in those
9 approximately six cases?

10 A I'm not sure what you mean by "what types
11 of care." Medical care.

12 Q What type of medical treatment was at
13 issue?

14 A Oh, my background is in pediatric
15 gastroenterology, so those were all associated with
16 that type of care.

17 Q Okay. So they were all cases related to
18 pediatric gastroenterology treatments?

19 A Correct.

20 Q And have you testified at trial in any
21 matter?

22 A At one of those, yes.

23 Q Which --

24 A One of those malpractice cases.

25 Q So one of the medical malpractices?

1 A One of the medical malpractice cases went
2 to trial.

3 Q Were there any other cases that you have
4 testified at trial?

5 A Not that I recall.

6 Q Okay. Have you submitted written expert
7 reports in other cases?

8 A I actually don't recall doing that.

9 Q Have you -- is it fair to say that you have
10 never provided an expert report previously about the
11 treatment of gender dysphoria?

12 A Yes, that's fair.

13 Q Is it also fair to say that you've never
14 testified previously about the treatment of gender
15 dysphoria?

16 A That's correct.

17 Q Did you know any of the defendants' other
18 experts prior to this case?

19 A Personally, no.

20 Q Had you ever met any of the defendants'
21 other experts prior to this case?

22 A No.

23 Q Did you know any of the plaintiffs' experts
24 prior to this case?

25 A Not personally. I mean --

1 Q How did you -- did you know them in some
2 other capacity?

3 A I have seen people at meetings.

4 Q Has a court ever disqualified you as an
5 expert witness, to your knowledge?

6 A No.

7 Q Has a court ever limited the scope of your
8 testimony, to your knowledge?

9 A No.

10 Q Have you ever provided testimony in support
11 of the claims of a transgender person?

12 A No.

13 Q All right. I'm going to pull up another
14 document, if it will cooperate.

15 MR. BEATO: Take your time.

16 (Document is displayed).

17 Q (By Ms. Dunn) Do you recognize this
18 document, Dr. Donovan?

19 A Can I see this? Is that the question?

20 Q Do you recognize the document?

21 A Oh, yes.

22 Q And what is this document?

23 A This is my curriculum vitae that was
24 prepared for Georgetown University School of
25 Medicine.

1 Q And this is the curriculum vitae that was
2 provided to us, along with your expert report. Do
3 you recall providing it for that purpose?

4 A Yes.

5 Q Is this document a complete and accurate
6 depiction of your professional experiences, your
7 curriculum vitae?

8 A I believe so.

9 (Whereupon, Exhibit Number 3 was marked for
10 identification purposes and made a part of the
11 record.)

12 Q (By Ms. Dunn) And I would like to mark this
13 as Plaintiffs' Exhibit 3.

14 So I'm going to begin by asking you some
15 questions about your education. So you received your
16 medical education at the University of Oklahoma in
17 the years of 1970 to 1974?

18 A Correct.

19 Q And then you received your -- I'm sorry,
20 you completed a pediatrics residency at the Baylor
21 College of Medicine --

22 A Yes.

23 Q -- in -- 1974 through 1977?

24 A Correct.

25 Q Your fellowship was in pediatric

1 gastroenterology at the University of Oklahoma from
2 1977 to 1979; is that right?

3 A Yes.

4 Q And then you did an additional fellowship
5 at the National Institutes of Health in the neonatal
6 and pediatric medicine branch?

7 A Yes.

8 Q And that was in 1979 through 1980?

9 A Yes.

10 Q And then you additionally got your masters
11 in bioethics at the University of Oklahoma in 1994?

12 A Correct.

13 Q Why did you return to graduate school in
14 order to get your degree in bioethics?

15 A I had been asked to be the chair of the
16 ethics committee at our teaching hospital and I
17 thought that I should develop more expertise. And I
18 had a great interest in the topic.

19 Q And when you say "at the university" or
20 "medical school," are you speaking of the University
21 of Oklahoma?

22 A Well, I was at the University of Oklahoma,
23 but I took a sabbatical and went to study at
24 Georgetown with Edmund Pellegrino at that time.
25 That's when I began the masters and then completed it

1 at the University of Oklahoma.

2 Q But you said you had been asked to chair
3 the ethics committee at -- at where? At which
4 institution?

5 A At one of our teaching hospitals, Saint
6 Francis Hospital.

7 Q Okay. I see a hospital. Okay.
8 Have you received any other medical
9 education besides what we just discussed?

10 A Well, all physicians receive continuing
11 medical education, so quite a bit of that, but I
12 haven't acquired any other degrees.

13 Q All right. And you mentioned the
14 Pellegrino Center for Clinical Bioethics. I'm going
15 to scroll down to your reference to your position
16 there.

17 What is the Pellegrino Center for Clinical
18 Bioethics?

19 A It is probably best characterized as a
20 think tank in bioethics. It provides education,
21 provides for both students and trainees in medicine,
22 as well as for faculty. It provides ethics
23 consultation in the hospital and pursues scholarly
24 activities, including writing papers.

25 Q You were the director of that center from

1 2012 to 2020?

2 A Yes.

3 Q And what is that? What did being director
4 of that center entail for you specifically?

5 A Well, I basically helped with the -- the
6 planning and the activities of the center, as well as
7 the education -- educational activities and the
8 consultation activities in the hospital.

9 Q In this role, did you routinely work in a
10 hospital where you would evaluate patients for
11 medical conditions and refer and prescribe them for
12 treatment?

13 A That isn't a part of bioethics.

14 At the time I was still seeing patients in
15 my medical specialty and so I did consultations there
16 as well. But bioethicists do not directly treat
17 patients. They do respond to consultations from
18 treating physicians, nurses and families to help them
19 sort through ethical issues.

20 Q And as the director of the Pellegrino
21 Center, were you actively consulting on those types
22 of cases?

23 A Yes.

24 Q Did you engage in your clinical practice in
25 pediatric gastroenterology the entire eight years

1 that you were the director of the Pellegrino Center?

2 A No. I stopped around 2018. They were
3 short-handed when I arrived, but they acquired more
4 faculty, and I was fairly busy with my primary job.

5 Q Can you quantify how frequently you would
6 provide ethical consultations as the director of the
7 Pellegrino Center?

8 A We did it in rotation. We had a team that
9 did it. And I think we were getting maybe 150 or
10 more consults annually.

11 Q So the center would receive 150 consults
12 total annually?

13 A Uh-huh. Yes.

14 Q And how many -- it was on a rotation. How
15 many different individuals from the Pellegrino Center
16 were rotating through those consultations?

17 A Approximately, four.

18 Q So would it be fair to say that there were
19 approximately 35 to 40 consultations for each -- each
20 individual?

21 A Approximately. The problem with the math
22 is that we had a couple of people who didn't take
23 consults as frequently because of their other jobs
24 and others who did it more frequently. I was in the
25 "more frequently" category. But, overall, that's

1 close enough.

2 Q The Georgetown University -- I'm sorry, the
3 Pellegrino Center at Georgetown University was
4 established to "fill a unique need for bioethics
5 that's oriented towards clinical medicine and
6 strongly rooted in the Catholic and Jesuit
7 tradition."

8 Is that a fair description of its mission
9 or purpose?

10 A Yes.

11 Q Can you explain what it means to have a
12 program of bioethics that is strongly rooted in the
13 Catholic and Jesuit tradition?

14 A Well, Jesuits have a somewhat unique
15 approach to education, as you're probably aware.
16 They do like to focus on what they call
17 "cura personalis", or care of the whole person.

18 The particular approach that Edmund
19 Pellegrino used in the ethical sphere was called
20 "virtue ethics" as opposed to, say, the more -- other
21 approaches. Some would be casuistry, some would be
22 ideological, and some would be -- well, he was also
23 heavily philosophical, although he, himself, was not
24 a philosopher. Several of our members were and had
25 Ph.Ds in philosophy, as well as other things.

1 Q How does theology interact with ethical
2 challenges that arise in the care of particular
3 patients for ethicists at the Pellegrino Center?

4 A I'm sorry, could you repeat that? You kind
5 of flaked out a little bit.

6 Q Yeah, of course.

7 What role does theology play for the
8 consultants at the Pellegrino Center in assisting
9 with the ethical challenges that arise in the care of
10 patients?

11 A I wouldn't say that it plays a direct role
12 because, you know, it is theological principles just
13 like philosophical principles. And just ethical
14 principles are always there in the background, in
15 terms of how we assess and -- and work through
16 various cases.

17 Q Is Georgetown University Medical Center a
18 Catholic healthcare institution?

19 A Yes.

20 Q I want to share another document.

21 (Document is displayed).

22 Do you recognize this document,
23 Dr. Donovan?

24 A Yes.

25 Q What is this document?

1 A These are the Ethical and Religious
2 Directives for Catholic Healthcare Services, commonly
3 referred to as the "ERDs."

4 (Whereupon, Exhibit Number 4 was marked for
5 identification purposes and made a part of the
6 record.)

7 Q (By Ms. Dunn) ERDs.
8 I'd like to mark this document as
9 Plaintiffs' Exhibit 4.

10 Is Georgetown University Medical Center --
11 I'm sorry. Let me -- I'm going to restart that
12 question.

13 Are ethical consultations and advisements
14 at the Pellegrino Center for clinical bioethics
15 guided by these ethical and religious directives?

16 A Yes, they are.

17 Q And are your views as an ethicist guided by
18 this document?

19 A Yes.

20 Q Did you rely on this document during your
21 active work as an ethical consultant at the
22 Pellegrino Center?

23 A Yes.

24 Q I'm going to turn to Page 9 of the document
25 and zoom in on Directive Number 5.

1 This directive reads: "Catholic Healthcare
2 Services must adopt these directives as policy,
3 require adherence to them within the institution as a
4 condition for medical privileges and employment, and
5 provide appropriate instruction regarding the
6 directives for administration, medical, and nursing
7 staff, and other personnel."

8 Did you follow this directive during your
9 time as the director of the Pellegrino Center?

10 A Yes.

11 Q I'm now turning to Directive Number 9 which
12 states that, "Employees of a Catholic healthcare
13 institution must respect and uphold the religious
14 mission of the institution and adhere to these
15 directives. They should maintain professional
16 standards and promote the institution's commitment to
17 human dignity and the common good."

18 As director of the Pellegrino Center and an
19 employee of G Medical Center, are you bound to uphold
20 the religious mission of the institution?

21 A Yes.

22 Q And as the director of the Pellegrino
23 Center and an employee of the Georgetown University
24 Medical Center, you had to adhere to these directives
25 as well; is that correct?

1 A Yes.

2 Q And you have to adhere to these directives
3 without exception; is that correct?

4 A I don't know what that would mean.

5 Q Well, so it means that a doctor at a
6 Catholic hospital can't provide a patient with
7 medical care that is not aligned with the mission of
8 the institution; is that right?

9 A Yes, I can accept that.

10 Q So you can't even refer a patient for a
11 type of care that is not aligned with these
12 directives?

13 A That would depend on the circumstances of
14 the issue at hand.

15 Q So I'm going to stop sharing this document
16 and open one more.

17 (Document is displayed).

18 Do you recognize this article, Dr. Donovan?
19 I'm happy to scroll through it if that would help.

20 MR. BEATO: Oh, Dr. Donovan, I believe
21 you're muted. Happens to me all the time.

22 THE WITNESS: Yes, I was muted and also not
23 recognizing it, so it's a twofer.

24 Q (By Ms. Dunn) This is an article that was
25 published in 538. I'm going to scroll down to Page 6

1 of this article and I will show you -- here you are
2 quoted in this article.

3 Is that -- is this "Dr. G. Kevin Donovan, a
4 bioethicist at Georgetown University," is that you
5 that this article is referencing?

6 A It should be, yes.

7 Q And so you say here that, "Catholic
8 healthcare institutions need to be careful to ensure
9 that they're not perceived as offering or endorsing a
10 prohibited form of care."

11 Is that -- do you recall making that
12 statement?

13 A I don't recall. I must have been
14 interviewed over the phone, but I would agree with
15 that statement.

16 Q And so would referring a patient for a type
17 of care that is not aligned with a Catholic
18 healthcare institution be consid- -- or be
19 potentially perceived as offering or endorsing a
20 prohibited form of care?

21 A It would be -- depend on why it's not
22 aligned with the -- with the values you're talking
23 about.

24 Q Well, let's give an example. Would this
25 include a referral for contraceptives?

1 A For contraceptives, you really -- well, it
2 also depends on how you're using the term
3 "contraceptive" because, you know, birth control in
4 general is not prohibited, but certain forms are.

5 Q So it would include referring a patient for
6 a prohibited form of contraceptive?

7 A Yes.

8 Q In this article you're referred to as a
9 "Catholic ethicist." Is that something you would
10 label yourself as?

11 A I don't typically, no, although both words
12 are correct.

13 (Whereupon, Exhibit Number 5 was marked for
14 identification purposes and made a part of the
15 record.)

16 Q (By Ms. Dunn) And I don't think I asked
17 yet, but I would like to mark this exhibit as
18 Plaintiffs' Exhibit 5.

19 I'm now going to return to the -- what has
20 been marked as Plaintiffs' Exhibit 4, the Ethical and
21 Religious -- the ERDs, as you refer to them.

22 And we're going to look at Directive
23 Number 3, which is on Page -- and, I'm sorry, I'm
24 going to share my screen in just one moment.

25 (Document is displayed).

1 We're looking at Directive Number 3 which
2 is on Page 9.

3 So this lists certain people whose social
4 condition puts them at the margins of our society and
5 makes them particularly vulnerable to discrimination.

6 Are LGBTQ people included in this list of
7 people whose social conditions make them particularly
8 vulnerable to discrimination?

9 MR. BEATO: Object to form, but,
10 Dr. Donovan, you can answer that question.

11 THE WITNESS: Well, I was -- I was reading
12 the paragraph that she mentioned. And the -- the
13 answer would be they're not specifically listed.
14 They're certainly not eliminated. They would be
15 considered people vulnerable to discrimination.

16 Q (By Ms. Dunn) But they're not listed here
17 in this list of individuals that the Catholic
18 Healthcare Institution should distinguish itself by
19 service to an advocacy for?

20 A I don't see them in that particular
21 listing, no.

22 Q All right. Thank you. So we will move
23 away from this document for now.

24 I want to go back just briefly to a piece
25 of paper I can't find right now. Here we go.

1 (Document is displayed).

2 Are you currently the director of the
3 Pellegrino Center?

4 A No.

5 Q When did you leave?

6 A Just before -- well, during the pandemic.

7 Q Okay. And why did you leave?

8 A Well, because I had been doing it for
9 nearly ten years and had already found someone to
10 turn it over to.

11 Q And so you made the choice to leave that
12 institution?

13 A Yes.

14 Q Do you remain on faculty at the Pellegrino
15 Center?

16 A I am still working part time until the end
17 of this semester.

18 Q And what does that mean, to be working part
19 time?

20 A That means that I participate in
21 educational activities and meetings by Zoom
22 primarily, but also write papers with my colleagues
23 and such.

24 Q How many hours -- are you still currently
25 teaching classes at the Pellegrino Center?

1 A Not this semester.

2 Q How recently were you still teaching
3 classes there?

4 A I had been helping out last semester.

5 Q And did you teach a full course on your own
6 or would your role have been more of a guest
7 lecturer?

8 A More of a guest lecturer.

9 Q When you were the director of the
10 Pellegrino Center, did you teach classes?

11 A Oh, well, we had classes for medical
12 students, classes for residents, and classes in our
13 master's program, so, yes.

14 Q And would you be the professor of an entire
15 course or, again, would it be more of a guest
16 lecturer role?

17 A Both.

18 Q What classes did you primarily teach?

19 A For students, it was really just bioethics,
20 medical ethics. It was an ongoing course for medical
21 students throughout the year.

22 Q So it was just a general bioethics/medical
23 ethics course?

24 A Yes.

25 Q Did you do hospital rounds as a treating

1 doctor at the Georgetown Medical Center?

2 A I did that in pediatric gastroenterology
3 until I stopped, as I mentioned before.

4 Q And are you currently a clinical ethical
5 consultant at the center?

6 A No.

7 Q When did you stop doing ethical
8 consultations?

9 A When I was no longer in the vicinity.

10 Q So when you left in 2020, that would be
11 when your ethical consultation --

12 A Yes.

13 Q You also have listed on your resume -- and
14 I will quickly open it. I'm sorry, "resume." Your
15 CV. I'm using the lawyer term.

16 -- that you are a -- if I can pull it up.
17 Sorry.

18 (Document is displayed).

19 -- "senior clinical scholar at the Kennedy
20 Institute for Ethics."

21 How is that different from being the
22 director of the Pellegrino Center?

23 A The Kennedy Institute of Ethics is a
24 separate think tank at the other end of the campus
25 and they tend to focus more on philosophical issues

1 rather than patient care issues.

2 Q Were the ethics practiced at the Kennedy
3 Institute also aligned with the Catholic and Jesuit
4 tradition of Georgetown University?

5 A For some --

6 Q Were they --

7 A -- but not for all of the faculty, no.

8 Q Okay. Were they impacted at all by the
9 ethical and religious directives issued by the U.S.
10 Conference of Catholic Bishops that we referenced as
11 Plaintiffs' Exhibit 4?

12 A Those only apply to hospital practice.

13 Q All right. And then prior to your work at
14 Georgetown, you were the director of the Oklahoma
15 Bioethics Center?

16 A Yes.

17 Q What did this role entail?

18 A It was a very similar position to the
19 Kennedy Institute.

20 Q It was more philosophical rather than
21 patient care?

22 A No, excuse me, I'm sorry, to the Pellegrino
23 Center. No, it was not philosophical, it was
24 teaching students, it was working in the hospital, it
25 was writing papers.

1 Q So you provided ethical consultants (sic)
2 related to patient care?

3 A Yes, but not as the director of the
4 Bioethics Center. That was a separate issue for the
5 various hospitals in town, each of which had their
6 own --

7 Q Okay.

8 A -- arrangements.

9 Q So your role as the director of the
10 Oklahoma Bioethics Center was mostly teaching and
11 writing?

12 A Yes.

13 Q And any clinical ethical consultations you
14 were doing were in your role at various hospitals?

15 A Correct.

16 Q You're also -- later in your CV -- and
17 let's see how quickly I can get here.

18 (Document is displayed).

19 Here you list that you're part of the
20 "Dean's conference committee on medical ethics."

21 What was that?

22 A Oh, well, the -- the Dean was having us put
23 on little conferences for -- educational conferences
24 on ethics.

25 Q Okay. So that was just in order to plan

1 and arrange for educational conferences on ethics
2 issues?

3 A Right.

4 Q And you have listed your role as chairman.
5 Were you chairman for all 25 of those years?

6 A Yes, I believe I was.

7 Q All right. I'm going to stop sharing
8 temporarily.

9 So I'd like to talk a little bit about your
10 clinical experience as a pediatric
11 gastroenterologist. So we've -- you have said that
12 before your bioethics appointments your practice
13 primarily focused on pediatrics gastroenterology; is
14 that correct?

15 A Correct.

16 Q Can you just give kind of a broad overview
17 of what field of practice that is?

18 A It concerns itself with the digestive
19 disorders in childhood.

20 Q Your last position in pediatric
21 gastroenterology was when you were the chief of the
22 division of pediatric gastroenterology at the
23 University of Oklahoma?

24 A Yes.

25 Q And that ended in 2012?

1 A Yes. That's other than the work I -- I
2 also contributed at Georgetown.

3 Q Okay. So you did do -- I recall now. You
4 said that you did some pediatric gastroenterology
5 work while you were at Georgetown until 2018; is that
6 right?

7 A Yes.

8 Q Are you currently working as a pediatric
9 gastroenterologist?

10 A No.

11 Q Are you currently teaching any pediatric
12 gastroenterology courses?

13 A No.

14 Q Have you ever treated patients experiencing
15 gender dysphoria?

16 A Not to my recollection.

17 Q In your report on Page 3 -- so we'll look
18 back. Your report was marked as Plaintiffs'
19 Exhibit 1. So we'll look back at that document.

20 (Document is displayed).

21 On Page 3 you say that you "have never
22 prescribed medications nor referred for surgery any
23 patients that consider themselves transgender."

24 Is that an accurate statement?

25 A Yes.

1 Q Is that professional decision guided by the
2 ethical and religious directives of the Catholic
3 Healthcare Services?

4 A No.

5 Q You wouldn't -- as a routine matter, you
6 would not have been providing such treatment as a
7 pediatric gastroenterologist; is that right?

8 A That's correct.

9 Q And as a bioethicist, you do not typically
10 do routine evaluations of patients and refer them for
11 treatment; is that correct?

12 A That's correct.

13 Q So in your professional capacity, referring
14 or providing -- I'm sorry, providing gender-affirming
15 care or referring patients for gender-affirming care
16 would not be something you would have had routinely
17 done, even if you hadn't chosen, personally decided
18 not to do it; is that right?

19 A Correct.

20 Q Do you currently have an active license to
21 practice medicine in any state?

22 A In Oklahoma. I've given up the Washington
23 license.

24 Q So you no longer -- your license to
25 practice medicine in Washington has expired?

1 A Yes.

2 Q And when we say "Washington," we're
3 speaking about Washington, D.C., not the state of
4 Washington?

5 A Correct.

6 Q Your Oklahoma medical license, what type of
7 medical license is it?

8 A It's like an emeritus license. I use it
9 for my --

10 Q And what is that?

11 A I use it in my volunteer work here. I'm
12 not practicing as a clinician anymore.

13 Q And what does your volunteer work entail?

14 A I have worked for the Oklahoma emergency
15 response people and for various charities around
16 town.

17 Q And are you providing patient care in those
18 capacities?

19 A No, not directly.

20 Q So under this license, can you actively
21 practice medicine?

22 A No, I no longer am an active clinician.

23 Q Have any -- has any of your previous
24 medical licenses been suspended for any reason?

25 A No.

1 Q Have you ever received any formal
2 discipline by the Board of Medicine of any state or
3 jurisdiction?

4 A No.

5 Q Have you ever been the subject of a medical
6 malpractice lawsuit?

7 A Once.

8 Q Can you describe the circumstances of that
9 lawsuit?

10 A There was a complication in a -- after a
11 procedure, and the family filed suit and the defense
12 prevailed.

13 Q Was that one of the six cases that you
14 referenced being deposed in earlier or --

15 A Yes.

16 Q -- was that separate?

17 Have you ever been the defendant in a
18 lawsuit about discrimination in your medical
19 practice?

20 A No.

21 Q Okay. I would now like to talk a little
22 bit about the awards and professional associations
23 that you list in your curriculum vitae, so I'm going
24 to share my screen again. Let me first get to the
25 right place.

1 (Document is displayed).

2 So here we have -- let's see -- the section
3 of your CV that lists "Honors and Awards." And I'd
4 like to ask about the Knighthood that you have
5 received.

6 You list it as "Knight Grand Cross Vatican,
7 the Equestrian Order of the Holy" -- I'm not going to
8 say this properly, I'm sorry -- Equestrian Order of
9 the Holy -- what's that -- the word that starts with
10 "S"?

11 A Sepulchre.

12 Q -- "Sepulchre of Jerusalem." What is this
13 award -- or "Knighthood," what does that mean?

14 A Well, this was an organization founded by
15 Godfrey of Bouillon during the crusades, and they now
16 provide funds for the care and education of
17 Palestinians in the Holy Land.

18 Q What is the significance of this honor to
19 you specifically?

20 A It's -- yeah, I think it's a good thing to
21 do.

22 Q Why did you receive the honor? What did
23 you do to receive this honor?

24 A They never specifically told me.

25 Q Does it have any significance to your

1 career in medicine?

2 A I would assume it must. I didn't have to
3 slay any dragons.

4 Q I guess I'm wondering, like, why is it
5 important to list on your CV?

6 In what way is it relevant to your
7 professional experience?

8 A Well, it's -- it's an honor, much like the
9 other things that are listed.

10 You know, if I were British and the queen
11 had knighted me, I would probably list that, too, and
12 assume it had to do with something in my career.

13 Q So you assume that you received the
14 Knighthood because of your professional service?

15 A That's a fair guess, but I've never --
16 never been told.

17 Q Okay. Are there any requirements or
18 expectations of you as a result of receiving this
19 Knighthood?

20 A Yes. We are supposed to contribute
21 financially for the welfare of the people living in
22 Palestine and the Holy Land.

23 Q And those financial contributions are the
24 extent of the expectations?

25 A Yes.

1 Q I'm now going to scroll down to what you've
2 listed as "Public Service." So here you list your
3 position as the chairman of the board of directors of
4 Birthright, Incorporated, of Tulsa.

5 What is this organization?

6 A Oh, it's an organization to lend assistance
7 to pregnant women and their babies.

8 Q As chairman of the board of that
9 organization, what do you do?

10 A Well, I don't anymore. This thing needs
11 updating because I -- I stopped when we left the
12 Tulsa area.

13 But, basically, the organization looks for
14 ways to supply things like diapers and formula and
15 medical care, or direct them towards medical care,
16 things like that. And some educational things about
17 parenting.

18 Q When did your service to this organization
19 end?

20 A When I moved to Washington, D.C.

21 Q Okay. So that would have been in 2012?

22 A Correct.

23 Q Birthright, Incorporated, is not any sort
24 of medical association; is that right?

25 A Not -- I wouldn't characterize it as

1 "medical," no.

2 Q The next line you note that you have been
3 the medical ethics consultant to the Catholic Diocese
4 of Tulsa.

5 Is that still an active service that you're
6 providing?

7 A No. The problem -- and I'll explain it
8 now -- is that Georgetown required the CV to be
9 split, for whatever reason, rather than
10 chronological. So those things that were being done
11 while I was at the University of Oklahoma or in Tulsa
12 were separated, which also means that they didn't all
13 get updated.

14 Q So this would have also ended when you
15 moved to Georgetown in 2012?

16 A Yes.

17 Q And that also goes for your role as the
18 director of healthcare issues for the Catholic
19 Diocese?

20 A Everything. Everything that was listed in
21 Tulsa would have stopped when I was no longer in
22 Tulsa.

23 Q Under what circumstances does the Catholic
24 Diocese need advice regarding healthcare issues?

25 A Just from time to time for one issue or

1 another. I might be --

2 Q Can you -- oh, I'm sorry.

3 A -- called or -- pardon?

4 Q Do you recall any specific examples of why
5 you would be called on these issues?

6 A Issues such as -- you know, currently
7 there's a lot of concern about brain death, but
8 before that, things like salpingectomies and such.
9 Just -- no, I -- it's rather random and it didn't
10 come up very often, in terms of the Diocese itself.

11 Q What about your role as a medical ethics
12 consultant. What did that entail?

13 A Oh, well, you mean like for the various
14 hospital systems?

15 Q No, for the Catholic Diocese of Tulsa, this
16 position here.

17 A I assume that that was referring to what
18 we've just been talking about.

19 Q Are these two positions separate?

20 A Honestly, I don't remember the study
21 section for the community organization.

22 This terminology was apparently dictated by
23 Georgetown when my secretary re-did the resume, CV,
24 so I'm not quite sure how she abstracted that out of
25 my previous CV, which is a lot easier to read.

1 Q I see. So to your recollection you served
2 a single role with the Catholic Diocese of Tulsa and
3 not two distinct roles?

4 A Yes.

5 Q And the Catholic Diocese of Tulsa is a
6 religious institution?

7 A Yes.

8 Q Are you familiar with an organization by
9 the name of the Catholic Medical Association?

10 A Yes.

11 Q Are you a member of the Catholic Medical
12 Association?

13 A No.

14 Q Have you ever been a member of the Catholic
15 Medical Association?

16 A I was going to say no, but I think they
17 actually gave me an honorary membership, when I gave
18 them a talk once, for a year. So possibly, yes.

19 Q Do you recall when that was?

20 A I don't know. Ten years ago.

21 Q Give me just one moment of patience.

22 MR. BEATO: No problem. Take your time.
23 Technology is not my friend, I can say on the record,
24 so take your time.

25 THE WITNESS: And doctors are noteworthy

1 for their patience.

2 MR. BEATO: Very true.

3 MS. DUNN: I'm looking for a document.

4 It's not where I expected it to be, but I will be --

5 I will be able to find it quickly.

6 (Document is displayed).

7 Q (By Ms. Dunn) So I'm showing you a press

8 release that was issued by a Catholic Medical

9 Association that we obtained online.

10 Have you ever seen this document before?

11 A I -- no.

12 (Whereupon, Exhibit Number 6 was marked for

13 identification purposes and made a part of the

14 record.)

15 Q (By Ms. Dunn) I've marked this exhibit as

16 Plaintiffs' Exhibit 6, and I'm just going to zoom in

17 briefly.

18 Were you ever appointed to the Human Fetal

19 Tissue Research Advisory Board of the National

20 Institute of Health?

21 A I was.

22 Q Do you know why the Catholic Medical

23 Association would have issued a press release stating

24 that one of their members, you, was appointed to this

25 board?

1 A I don't know. Wishful thinking?

2 Q Are you familiar with the mission of the
3 Catholic Medical Association?

4 A In a general way, I suppose.

5 Q Are you familiar with resolutions that the
6 Catholic Medical Association has endorsed?

7 A I'm sorry, as I said, I'm not a member and
8 I don't keep up with what they're doing.

9 Q Are you familiar with the -- and I hope I'm
10 saying this right -- Lozier Institute?

11 A Yes.

12 Q Are you affiliated with the Lozier
13 Institute?

14 A Yes. They have asked me to speak on
15 various occasions.

16 Q They've listed you on your website as -- on
17 their website as an associate scholar. Is this an
18 accurate description of your affiliation?

19 A I believe so.

20 Q Okay. Is your affiliation with the Lozier
21 Institute active?

22 A I wouldn't say so, no.

23 Q When would you say that it ended?

24 A It was never particularly active. I mean,
25 they did list me as -- on their -- on their list of

1 associate scholars and I did go out and give a talk
2 on research ethics for them in Kansas at one point,
3 but it was never a very active relationship.

4 Q Did you provide them with a biography to
5 list on their website?

6 A I would assume so, yeah.

7 Q Other than the one talk you mentioned, what
8 other -- have you played any other roles with the
9 Lozier Institute?

10 A I believe they were the ones who suggested
11 that I be on the human fetal advisory committee.

12 Q And how did you get appointed to that?
13 Was that a position that you sought?

14 A No.

15 Q So how did the Lozier Institute -- how was
16 the Lozier Institute involved with that appointment?

17 A I think that they made a suggestion. I
18 actually don't know. People approach me at times and
19 say, "Will you serve? Would you be willing to help?"
20 And if I'm interested, I'll say, "Yes."

21 Q And who approached you about that
22 appointment? Was it someone from the Lozier
23 Institute?

24 A I think it was actually from HHS.

25 Q So I guess I'm just curious why you mention

1 that they were involved with that --

2 A Because I --

3 Q -- like, eventual appointment.

4 A I -- I believe they asked if I would be
5 interested if I were approached.

6 Q Okay. And then you were later approached?

7 A To the best of my knowledge.

8 Q Are you familiar with an organization known
9 as the American College of Pediatricians?

10 A Yes.

11 Q Are you a member of the American College of
12 Pediatricians?

13 A No.

14 Q Have you ever been a member of the American
15 College of Pediatricians?

16 A No, I don't believe so.

17 Q Are you at all familiar with the various
18 position statements of the American College of
19 Pediatricians?

20 A No, not really.

21 Q Okay. I'd like to move on to your
22 "Research Publications and Presentations."

23 So, first, with regard to your clinical
24 research, have you ever conducted primary research
25 involving patients?

1 A When you say "primary research," how are
2 you using the term?

3 Q I suppose I'm using it like -- so not like
4 a literature review, but an actual research study
5 that involves human subjects.

6 A Yes.

7 Q Can you describe what those research
8 studies were?

9 A We've been involved in research studies
10 that were multi-institutional on things -- on drugs,
11 and we've been involved in some smaller studies, if I
12 recall, you know, at the local level as well.

13 I'm struggling right now to remember what
14 would be --

15 Q Well, let's start --

16 A All of these were within the realm of
17 pediatric gastroenterology.

18 Q Okay. So, do you recall, were they during
19 your time with the University of Oklahoma?

20 A Yes.

21 Q All of them were during your time at the
22 University of Oklahoma?

23 A In terms of clinical research, yes.

24 Q And they were all related to -- the
25 research studies were all related to pediatric

1 gastroenterology?

2 A Yes, I believe so.

3 Q Have you ever conducted any sort of
4 research -- primary research on gender-affirming
5 medical treatments?

6 A No.

7 Q So you've not conducted primary research
8 on, for example, puberty blockers?

9 A No.

10 Q You haven't conducted primary research on
11 cross-sex hormones?

12 A No.

13 Q And you haven't conducted primary research
14 on gender-affirming surgeries?

15 A That's correct.

16 Q Have you ever been the principal
17 investigator of a publicly-funded research grant?

18 A I'm sorry that I'm blocking -- I'm trying
19 to remember if I was PI or not.

20 Q Well, would it --

21 A Yeah. But I've been involved in research
22 grants, yes.

23 Q So let's say either a co-investigator or a
24 principal investigator, have you --

25 A Yes.

1 Q -- ever been?

2 A Yes.

3 Q Do you recall what that research grant was
4 for?

5 A Not at present. I'm sorry.

6 Q That's okay. Were you ever an investigator
7 for a publicly-funded research grant for the study of
8 gender-affirming medical care?

9 A No.

10 Q And would that -- the research grants that
11 you are -- that you referenced where you may have
12 been an investigator, was that while you were at the
13 University of Oklahoma?

14 A Yes, it would have been. Well, there
15 was -- there were a couple of small grants that we
16 did in bioethics issues at Georgetown, but they
17 weren't clinical investigations.

18 Q Have you ever been an investigator on a
19 privately-funded research grant?

20 A Well, the Scholl Institute gave us some
21 money at Georgetown for the small thing I was talking
22 about. But, once again --

23 Q But it wasn't that one?

24 A -- it wasn't -- it wasn't a clinical thing.
25 We were looking at the -- it's been over ten years

1 ago, but we were -- I could look it up.

2 Q You say, "we," you mean yourself and other
3 individuals at the Pellegrino Center?

4 A Correct.

5 Q And you've never received a
6 privately-funded research grant to study any sort of
7 gender-affirming medical care?

8 A Correct.

9 Q And you've never received any grant that
10 involves the treatment of gender dysphoria?

11 A Correct.

12 Q Have you ever taught a course on gender
13 dysphoria?

14 A No.

15 Q Have you ever addressed gender dysphoria in
16 any of the courses you have taught?

17 A Yes.

18 Q Which -- can you describe in what context?

19 A Well, in the courses that we've had for
20 either medical students or -- actually, for graduate
21 students.

22 Q And can you explain what -- what the
23 curriculum was that addressed gender dysphoria?

24 A It would be a single class on that, not a
25 curriculum.

1 Q But what was being taught? What
2 specifically -- what was the subject that was being
3 discussed?

4 A Well, we'd be talking about basically
5 gender dysphoria and transgender individuals and
6 gender-affirming care.

7 Q And what perspectives were being discussed
8 or shared?

9 A Without recalling specific aspects of it,
10 they would be very compatible with what I've already
11 written in the reports you just referenced.

12 Q It would be consistent with the -- when you
13 say "reports," we're talking about the expert report
14 you submitted in this matter that's Plaintiffs'
15 Exhibit Number 1?

16 A And the -- and the other one, which was --

17 Q The GAPMS memo report?

18 A Yes, ma'am.

19 Q And when were you teaching these courses?

20 A In the past five years.

21 Q While at the Pellegrino Center?

22 A Yes.

23 Q And were these for medical students or
24 graduate students?

25 A To my knowledge, only for graduate

1 students.

2 Q And when you say "graduate students," that
3 would be -- was there a particular graduate school
4 that was receiving the course where this was
5 discussed?

6 A It was at Georgetown.

7 Q But -- I'm sorry, like a specialty. Like a
8 specialty of graduate school or was it a
9 cross-discipline course?

10 A It would have to be a cross-discipline
11 course from the way you describe it, yes.

12 Q I guess I'm just cur- -- you know, how do
13 I -- so, for example, my husband is a professor. He
14 teaches a type of physics. So he teaches primarily
15 students in the department of physics. They're
16 students of the University of Florida, but they're
17 graduate students in the department of physics.

18 So my question is, was there a particular
19 department that the students were graduate students
20 in, or was it -- was it a course that was available
21 to multiple disciplines?

22 A It -- it was a master's program at
23 Georgetown that's all done through their graduate
24 education office, but it would be open to a wide
25 variety of people who are interested.

1 Q Okay. And how many times would you say
2 that this topic was addressed in that course?

3 A In the course? Once.

4 Q So you only -- I'm sorry. How many courses
5 did you teach for that? So it was one day of a
6 course. How many times was that particular topic
7 addressed?

8 A Probably once or twice.

9 Q Okay. And what is the name of the course?

10 A It was -- the problem is I'm -- I'm
11 struggling because I didn't like the name of it, but
12 it was assigned. But it was basically an
13 introductory course in bioethics.

14 Q Okay. Is that the name that we would -- if
15 we were to look in the graduate school catalog, is
16 that the name it would be?

17 A No. I could go find it. They had an
18 abbreviation for it, CACE, but that didn't really
19 give me a good name for the course, either.

20 Q What did "CACE" stand for?

21 A I was afraid you were going to ask that. I
22 actually -- I -- it was, like, Advanced Clinical
23 Ethics or something like that. I don't recall
24 exactly. I'm sorry.

25 Q That's all right. Thank you for searching

1 your memory.

2 A And finding nothing.

3 Q All right. So a large part of your CV
4 includes presentations that you've given. And so in
5 order to make this a little more manageable, I'm
6 going to adhere to the different sections that you
7 have in your CV, which include a division of
8 presentations for -- you know, between those done
9 while you were working at Oklahoma and then those
10 done while you were at Georgetown, which begin later
11 in your CV.

12 Is that a fair way to kind of -- to try to
13 break it down?

14 A Sure.

15 Q So here we start on Page 11. And these are
16 lectures and workshops that you've listed that are
17 national pediatrics.

18 And that goes until this section -- I'm
19 sorry. There's "National Pediatrics" and then
20 "Regional Pediatrics." So these are all "Pediatrics:
21 Lectures and Workshops," and it goes until Page 25 of
22 your CV.

23 Were any of these presentations related to
24 the treatment of gender dysphoria in pediatric
25 patients?

1 A No.

2 Q And these are presentations, so it looks
3 like they may have started in 1982 and they go until
4 2004.

5 So is it fair to say that for that whole
6 period of time you didn't present on the topic of
7 gender-affirming medical care?

8 A That's true.

9 Q And then the next section, which starts on
10 Page 26, is about your bioethics presentations. And
11 this is a similar time period, appears to be from the
12 early 1980s until -- until maybe 2008 or 2009.

13 Were there any bioethics presentations
14 about the treatment of gender dysphoria in either
15 pediatric or adult patients?

16 A No.

17 Q All right. I'm just going to ask. So,
18 obviously, in some cases the title of the
19 presentation and the forum isn't totally clear to us
20 from what's listed, so I just have a couple questions
21 about specifically some of these presentations.

22 So here in 2009 you gave a presentation to
23 the Bioethics Dean's Conference at the Schusterman
24 Learning Center. That was called "The Faith Factor:
25 How does religion or spirituality affect medical

1 care?"

2 What was this presentation about?

3 A Dr. Meixel was talking about some of his
4 patients that -- where either religion or
5 spirituality had made some effect in how they were
6 approached and how we supported them.

7 Q How does religion affect medical care?

8 I guess, what is the takeaway?

9 A Well, it -- there was no single takeaway
10 because, of course, different people have different
11 approaches.

12 If you're a Jehovah's Witness, everybody
13 will know, you know, that you're supposed to be
14 avoiding blood products.

15 You know, if you are Muslim or if you are
16 Jewish, not only are there dietary requirements, but
17 if you're observant there may be some strict
18 requirements in terms of the approach to medicine,
19 brain death, transplantation, issues like that.

20 Q On a couple different pages -- so you list
21 presentations to St. Mary's Church in Tulsa.

22 Was that your church?

23 A Yes.

24 Q And so in -- I guess, in what capacity were
25 you giving presentations at your church?

1 A Because they asked me.

2 Q And were you presenting your views as a
3 doctor or your views as a Catholic in these
4 presentations?

5 A I don't know what presentations we're --

6 Q So here we have --

7 A -- talking about.

8 Q -- on one, "Life and Death Issues: The
9 Catholic Perspective."

10 A Again, I -- actually, that was 1997. I
11 really don't know what was discussed except I assume
12 it had both to do with life and death.

13 Q There's another presentation on the topic
14 "Catholic Morality."

15 Do you recall this presentation?

16 A No. That was 1993. Been a while.

17 Q You presented at Oral Roberts University in
18 1991. I know, obviously, it was quite some time ago,
19 but the title of the presentation was, "Is There a
20 Christian Medical Ethic?"

21 Do you recall what that presentation was?

22 A No, I don't.

23 Q All right. So I'm going to ask about just
24 a couple more presentations and then I think we're
25 due for a short break.

1 So I'm going to move to the presentations
2 that are listed later in your CV. We -- I mean, I
3 believe -- and you can correct me if I'm wrong --
4 that these would have been presentations that you
5 would have given since you went to Georgetown. I
6 think that's what this title indicates; is that
7 correct?

8 A Yes, I believe so. Once again, I'll have
9 to apologize. I didn't prepare this CV myself. This
10 was done by a couple of people trying to fit the
11 Georgetown format, but -- that's the way it looks
12 like it's divided.

13 Q So -- and that's -- you know, I think we
14 got the hang of it, but obviously if there's anything
15 that needs clarification, please let us know.

16 So were any of these presentations that you
17 gave while at Georgetown University specific to the
18 treatment of gender dysphoria?

19 A Not that I recall. It really wasn't
20 something people were requesting at that point.

21 Q You have never given any sort of lecture or
22 presentation on the treatment -- medical treatment of
23 gender dysphoria, aside from that course that we
24 talked about where you would do one session for your
25 students?

1 A I think that's correct.

2 Q And have you ever presented on or lectured
3 on providing informed consent for gender-affirming
4 care?

5 A Providing informed consent, quite a bit.
6 For gender-affirming care, no.

7 MS. DUNN: All right. I think that's all
8 of my questions about presentations, so I -- if we'll
9 just -- I think we'll take maybe a five-minute break.

10 (Recess taken from 10:31 a.m. to 10:37
11 a.m.)

12 Q (By Ms. Dunn) We're going to return to your
13 CV, Dr. Donovan, and I'm going to Page 60, which
14 lists your publications. And this is described as
15 "Original Papers in Refereed Journals."

16 Does the word -- does "refereed" mean the
17 name thing as "peer-reviewed"?

18 A Yes.

19 Q Okay. I will use the term "peer-reviewed"
20 today, but our understanding is those are
21 interchangeable?

22 A Yes.

23 Q So you have 17 papers listed under
24 "Bioethics" as "original papers and refereed
25 journals."

1 Of these 17 papers, which were original
2 articles that you were the primary author that
3 underwent a peer-review process?

4 A These are the papers, I think, before
5 Georgetown then. And if I'm the first author, my
6 name will appear first.

7 Q So on a number of these articles your name
8 doesn't appear at all.

9 A Then I'm the sole author in that case.

10 Q I'm sorry?

11 A Then I would be the sole author.

12 Q Well, so here I'm looking, for example,
13 Number 3, which is from the AAP Committee on
14 Bioethics titled "Professionalism in Pediatrics."

15 There are two other authors and the AAP
16 Committee on Bioethics, but your name is not listed
17 at all. What was your contribution to this article?

18 A Mary Fallat and Glover and I were all on
19 the Committee on Bioethics. And so she was the
20 primary author on this, but we all contributed and
21 discussed it.

22 Q Contribute to the actual text of the
23 article or just to discussions about the article?

24 A Both. Depends on the article, but, yes,
25 usually both.

1 Q For Number 5, again we have an author
2 DS Kiekema and the AAP Committee on Bioethics called
3 "Responding to Parental Refusals of Immunizations of
4 Children."

5 Is this also an article that you were an
6 author on?

7 A Yes, these all were while I was on the
8 Committee on Bioethics at American Academy of
9 Pediatrics.

10 And Doug Diekema, in that case, was the
11 primary author.

12 Q Is it common that someone who contributed
13 to an article isn't listed as an author?

14 A When you look at the paper itself, they
15 list all the members.

16 Q All right. Well, so let's look at one of
17 these then.

18 (Document is displayed).

19 All right. So this is a copy of the
20 article listed -- that we just talked about. I
21 believe it's listed as -- one quick second.

22 This article is listed as Number 3 in the
23 "Bioethics" section of "Original Papers and Refereed
24 Journals," and this is the article called
25 "Professionalism in Pediatrics."

1 And the listed authors are Mary Fallat,
2 Jacqueline Glover, and then it says the "Committee on
3 Bioethics."

4 So are you saying that because the
5 Committee on Bioethics is listed that every member of
6 that Committee on Bioethics is an author of this
7 document?

8 A Yes, we co-author it.

9 Q How many members would -- are on the
10 Committee for Bioethics -- or Committee of Bioethics?

11 A If you scroll down you should be able to
12 get all their names. There are about half a dozen
13 typically. It would sometimes vary.

14 Q So this is what you're referencing?

15 A Yeah.

16 Q Okay.

17 A That's me.

18 Q All right. So other than the publications
19 that were -- that you are a co-author on because you
20 are a member of the Committee on Bioethics, which --
21 let me -- I'm going to pull back up your -- oh,
22 that's the wrong -- I'm sorry. I'm pulling your CV
23 back up.

24 (Document is displayed).

25 Which of these articles -- and just let me

1 know if you need me to scroll further. So other than
2 the publications that were -- that you are a
3 co-author on because of your membership in the
4 Committee on Bioethics of the American Academy of
5 Pediatrics, which articles are peer-reviewed journal
6 articles?

7 A Well, everything listed in this list should
8 be a peer-reviewed journal article.

9 Q So let's start with this first article,
10 bio -- sorry, "The Disabled and Their Lives of
11 Purpose."

12 So this article, do you recognize this?

13 A Uh-huh. Yes.

14 Q And actually I'm just realizing, for the
15 court reporter's benefit, I probably need to note
16 that the exhibit we just looked at, which was the
17 "Professionalism in Pediatrics" article, is going to
18 be marked as Plaintiffs' Exhibit 7.

19 (Whereupon, Exhibit Number 7 was marked for
20 identification purposes and made a part of the
21 record.)

22 Q (By Ms. Dunn) This article -- did you write
23 this article, Dr. Donovan?

24 A Yes.

25 (Whereupon, Exhibit Number 8 was marked for

1 identification purposes and made a part of the
2 record.)

3 Q (By Ms. Dunn) I will mark this article as
4 Exhibit 8.

5 So this article was published in 2007; is
6 that correct?

7 A Yes.

8 Q And it is four pages long?

9 A Approximately.

10 Q Looks like maybe a little over four.

11 Did this article summarize any sort of
12 original research?

13 A It was all original. Typically, the
14 articles in bioethics may be empirical research or
15 they may be learned opinion, if you will, or
16 perspectives.

17 Q So how would you describe this particular
18 article? Was it --

19 A More like the latter.

20 Q The learned opinion?

21 A Uh-huh.

22 Q Okay. And where was this article
23 published?

24 A It says "The Linacre Quarterly."

25 Q Do you know anything about that journal?

1 A Yes. It's the journal published by -- I
2 believe that's CMA.

3 Q So The Linacre Quarterly is the official
4 publication of the Catholic Medical Association?

5 A Yes.

6 Q Do you know if the individuals who serve as
7 peer-reviewers for this journal are required to be
8 members of the Catholic Medical Association?

9 A You're not even supposed to know who the
10 peer-reviewers are in a refereed journal.

11 Q Yeah, I understand the concept of blind
12 review, but do individuals who have -- that's a
13 different question.

14 Do peer-reviewers have to be members of the
15 Catholic Medical Association?

16 A I don't know.

17 Q Now, do you recall what the peer-review
18 process for that article entailed?

19 A I don't remember it being any different
20 than the peer-review process for any other articles.
21 You submit it, they send it out to their
22 peer-reviewers. Peer-reviewers make suggestions
23 or -- or recommend that it be published or not be
24 published.

25 Q All right. So going back to your CV. So

1 this first article there was -- it did appear in a
2 peer-reviewed journal and that journal was the -- is
3 the official journal of the Catholic Medical
4 Association.

5 This article -- Number 2. This article --
6 was this article published in a peer-reviewed
7 journal?

8 A Oh, I had forgotten Mary and I did that.

9 Okay. I believe it was being
10 peer-reviewed, but that publication looks like was in
11 eMedicine and I don't know.

12 Q What is that publication?

13 A That's an online journal.

14 Q So we attempted to find this article using
15 that website and could not.

16 So this says "From WebMD" and we're -- I'm
17 just trying to figure out what that means. Is this a
18 Web -- is this an article that was published on
19 WebMD?

20 A Apparently, yes.

21 Q So -- but WebMD is not a peer-reviewed
22 medical journal.

23 A It shouldn't be, no, so I don't know why
24 that's there, but --

25 Q Okay. So, then, are --

1 A If, unless -- yeah, I don't know. I don't
2 know.

3 Q So is 2 -- we can say that's not an article
4 in a peer-reviewed medical journal?

5 A I would have to try and find it myself.

6 Q Okay.

7 A Once again, these things may have been
8 jumbled a little because they were all redone upon my
9 arrival at Georgetown.

10 Q Sure. Number 3, we already talked about,
11 that is a publication that you were a co-author on as
12 a member of the Committee of Bioethics.

13 A Uh-huh.

14 Q Number 4 is an article that was published
15 in a state medical journal?

16 A Uh-huh.

17 Q Is that -- that was a peer-reviewed medical
18 journal?

19 A I believe it was.

20 Q Do you know that for sure?

21 A I can't recall.

22 Q Number 5, again, it looks like this was --
23 oh, no, I'm sorry, this was also in a state medical
24 journal. Do you know if this was a peer-reviewed
25 medical journal?

1 A It was the same journal and I believe --
2 I'm not sure they're publishing that journal anymore,
3 but I believe they were reviewing it at a peer
4 review. I believe.

5 Q Do you know that for sure?

6 A I couldn't tell you.

7 Q Number 8 was another -- it's a clinical
8 report from the American Academy of Pediatrics.

9 Is that -- was that something that you were
10 a co-author on because of your position on the
11 Committee of Bioethics or was it a different type of
12 publication?

13 A Well, Mary and I were on the committee
14 together. She's a pediatric surgeon. I don't know
15 if that was done separately or through the committee
16 at the time.

17 Q Okay. Number 8 here, we have an article
18 titled "Ethical Issues with Genetic Testing in
19 Pediatrics."

20 This was also one that you are a co-author
21 on as a member of the AAP Committee on Bioethics?

22 A Yeah. It looks like all the rest on that
23 page fit in that same category.

24 Q Okay. So we -- we -- so 8 through -- well,
25 let's go down. Eight through 14, it looks like, were

1 all publications that you were a co-author on as a
2 member of the Committee on Bioethics?

3 A Looks like it.

4 Q And do you know if these -- that type of
5 publication is peer-reviewed?

6 A Well, it's peer-reviewed but not in the
7 usual fashion because it goes through the internal
8 workings of the American Academy of Pediatrics.

9 And I'm not sure the best way -- maybe
10 that's why they listed these as "refereed" rather
11 than "peer-reviewed." Although, I wouldn't have
12 thought there was a difference. But they are
13 reviewed and then sent back or accepted or not
14 accepted. So to that extent there's a similar
15 mechanism.

16 Q When you say "accepted" or "not accepted,"
17 do you mean --

18 A For publication.

19 Q -- accepted by the Academy of -- the
20 American Academy of Pediatrics at large?

21 A Well, no. No. The academy at large
22 doesn't peer-review. I mean, it would be -- or
23 referee. It would be through the mechanisms of the
24 various editorial boards and the hierarchy.

25 Q Okay. And these types of publications, the

1 clinical reports and the policy statements, are
2 these -- do you consider these types of publications
3 reliable?

4 A I'm not sure what you mean by "reliable."

5 Q Are they the type of materials that
6 physicians would routinely rely on in conducting a
7 clinical practice?

8 A Yes.

9 Q All right. The last three articles on this
10 page are numbered 15 through -- I'm sorry, not on
11 this page, in this section -- are numbered 15 through
12 17.

13 And so 15 was published in a journal by the
14 name of Christian Bioethics and it was titled
15 "Decisions at the End of Life: Catholic Tradition."

16 Was this a peer-reviewed article?

17 A Yes.

18 Q And are you familiar with the mission
19 statement of the Christian Bioethics Journal?

20 A No.

21 Q Is it -- are you -- are you aware that that
22 journal offers contributions and publications from
23 Christian perspectives?

24 A I would have assumed that by its name, yes.

25 Q 16, the article "Does Shooting Abortionists

1 Reveal a Lack of Faith?"

2 This is also a publication in Linacre
3 Quarterly; is that right?

4 A Yes.

5 Q And that Linacre Quarterly, again, is the
6 journal -- the official journal of the Catholic
7 Medical Association?

8 A I believe so, yes.

9 Q Do you recall if this article would be
10 considered empirical research versus a learned
11 opinion like the article we discussed before?

12 A No, that would be a learned opinion.

13 Q And I should have asked that for 15 as
14 well. Would that article have been empirical
15 research or a learned opinion?

16 A If I recall -- and remember, that was, you
17 know, a long time ago, about -- over 20 years ago,
18 but it would have combined a little bit of both
19 because it would have required some research, but not
20 empirical research. It wasn't -- you can do
21 bioethics articles that actually involve live people
22 sometimes, but this was not in that category.

23 Q Okay. And then 17, again, was published in
24 that state journal we previously discussed?

25 A Yes.

1 Q All right. And then this next section of
2 articles, these are all articles related to your
3 practice as a pediatric gastroenterologist?

4 A Yes.

5 Q All right. I'm going to now skip down to
6 the end of your CV where your publications from your
7 time at Georgetown are listed.

8 So I am flipping to what is Page 78 on your
9 CV. I guess there's no limitation here like in the
10 other section that notes that these are publications
11 in peer-reviewed or a refereed journal.

12 Do you know which of these articles
13 appeared in peer-reviewed or refereed journals?

14 A Well, the journal articles should have been
15 in peer-reviewed or refereed journals, but not
16 everything there is a -- a journal article, as you
17 can see. Some of them were chapters in books.

18 Q And your Number 1 is a chapter in a
19 book; is that right?

20 A Correct, in the geriatrics book.

21 Q Okay. Number 2 and 3 are pieces in the
22 Italian Encyclopedia of Bioethics?

23 A That's right.

24 Q All right. Number 4, is this a
25 peer-reviewed journal article?

1 A Yes, it is.

2 Q You're sure it's a peer-reviewed journal
3 article, not an editorial?

4 A On which one, Number 4?

5 Q Ebola, Epidemics, and --

6 A I think that was -- no, that was in an
7 online journal. I think that was just an article, I
8 believe.

9 Q Are you seeing this new document?

10 A Oh, it says "editorial." Okay. So that
11 must have been an editorial.

12 Q Okay. So this article was an editorial,
13 not a peer-reviewed research article -- or
14 peer-reviewed article?

15 A Correct.

16 Q Okay. The next -- oh, I should go back to
17 your -- let you see, too.

18 (Document is displayed).

19 The next article here, Number 5, also --
20 this is also an editorial by the name of "Doctors,
21 Documentation, and the Professional Obligation: Has
22 everything changed?"

23 A Okay.

24 Q That's an editorial; is that right?

25 A Yeah. That surprised me because they

1 decided to make it an editorial.

2 The next one was just a local publication
3 at Georgetown, though.

4 Q And this is like an online student
5 newspaper; is that right?

6 A Yeah.

7 Q This article here titled "Beneficence in
8 Utero, a Framework for Restricted Prenatal
9 Whole-Genome Sequencing to Respect and Enhance the
10 Well-Being of Children," that was an article in the
11 American Journal of Bioethics?

12 A Yes.

13 Q And this is -- was that article
14 peer-reviewed?

15 A Yes.

16 Q Do you -- are you aware of the difference
17 between an open peer commentary and a peer-reviewed
18 article?

19 A Well, this was AJOB commentary, as I
20 recall, but it's a peer-reviewed journal.

21 Q Well, it's a peer-reviewed journal but was
22 the article itself peer-reviewed?

23 A I don't know how AJOB does it, but seeing
24 as how they accepted the article, I would assume that
25 they had some peer review involved.

1 Q If you'll give me just one second, I'm
2 trying to pull up the article and I'm having trouble.
3 So I'm going to stop sharing and try to figure this
4 out.

5 MR. BEATO: No problem. Take your time.

6 Q (By Ms. Dunn) All right. I apologize. I
7 was having trouble opening the type of file.

8 (Document is displayed).

9 So this is a screenshot from the journal of
10 your publication. And this here -- it lists this
11 article as an open-peer commentary.

12 And so are you familiar with whether or not
13 an open-peer commentary is peer-reviewed?

14 A Well, we were invited to offer a
15 commentary, but I don't know that they're
16 automatically accepted. So the process for accepting
17 or not accepting, I would assume, involves some
18 mechanism of review.

19 (Whereupon, Exhibit Number 9 was marked for
20 identification purposes and made a part of the
21 record.)

22 Q (By Ms. Dunn) So I'm just going to share
23 another document.

24 I'm sorry. So if we could mark that last
25 exhibit, which is the article -- I'm sorry.

1 I realize I didn't mark the "Ebola,
2 Epidemics, and Ethics" article. That should be
3 Article -- or, I'm sorry, Exhibit 9.

4 (Whereupon, Exhibit Number 10 was marked
5 for identification purposes and made a part of the
6 record.)

7 Q (By Ms. Dunn) The "Beneficence in Utero,"
8 open-peer commentary, will be Exhibit 10.

9 (Whereupon, Exhibit Number 11 was marked
10 for identification purposes and made a part of the
11 record.)

12 Q (By Ms. Dunn) And I'm now showing you an
13 email which I'm going to mark as Exhibit 11.

14 So I will represent to you that this is an
15 email that we sent to the editors of the American
16 Journal of Bioethics. We asked them if open-peer
17 commentaries are subject of peer review.

18 And their response was that open-peer
19 commentaries are not peer-reviewed.

20 So can we agree that the open-peer
21 commentary you provided that was marked as Exhibit 10
22 was not a peer-reviewed journal article?

23 A There you go. It says "Reviewed by our
24 editorial team."

25 (Document is displayed).

1 Q All right. This article labeled as
2 Number 8, "Physician Assistant Suicide in the Medical
3 Profession," this was another Georgetown specific
4 publication. It looks like perhaps a blog.

5 A Okay.

6 Q Is that correct?

7 A I assume.

8 Q Do you recall writing this publication?

9 A The publication, I probably did. The
10 listing of these were all done by my secretary just
11 when everything -- anything would be published.

12 Q And then Number 9 --

13 A As I recall, she didn't even list --
14 differentiate on these between peer-reviewed and not
15 peer-reviewed, did she?

16 Q She didn't, so that's why we are asking
17 these questions because we were unable to fully
18 determine.

19 A Oh, okay.

20 Q And so Number 9, again, would be a blog
21 post. That would not be a peer-reviewed article?

22 A I can't actually read that, so --

23 Q I'm sorry. Number 9 says -- is "PAS:
24 Unwise, Uncontrollable, and Unnecessary," and then it
25 lists an HTTP that appears to be a blog.

1 A Okay.

2 Q So that would not be a peer-reviewed
3 article?

4 A I wouldn't think so.

5 Q And then Number 10 here, is this a book?

6 A Chapter.

7 Q A chapter in a book?

8 A Yes.

9 Q Do you recall what the name of the book?

10 Oh, I'm sorry, the book is "Palliative Care
11 in Catholic Healthcare - Two Millennia of Caring for
12 the Whole Person"; is that right?

13 A Right.

14 Q And this publication at Number 11 is
15 "PAS" -- and I'm assuming that PAS -- and you correct
16 me if I'm wrong -- is that the acronym for Physician
17 Assistant Suicide?

18 A Correct.

19 Q Okay. "PAS: How should Catholic
20 healthcare respond?"

21 And that article appeared in the Healthcare
22 Ethics USA?

23 A Correct.

24 Q Are you aware that that Healthcare Ethics
25 USA is a publication of the Catholic Health

1 Association?

2 A Yes.

3 Q And this article -- it's not a medical
4 journal that's subject to peer review; is that right?

5 A It's an ethics journal.

6 Q Is it a peer-reviewed journal?

7 A I don't think it is. I think it's one like
8 the other one, editorial reviewed.

9 Q Okay. Number 12 here, this is a book
10 review you wrote?

11 A Yes.

12 Q And so that would not be a peer-reviewed
13 article?

14 A No.

15 Q And 13, another article in the American
16 Journal of Bioethics titled "How We Should Conceive
17 of Creation: Natural Birth as an Ethical Guidepost
18 for Neonatal Rescue."

19 Do you recall if that article was
20 peer-reviewed?

21 A Well, I think that one was. I think that
22 that was a -- I think Doug McAdams actually wanted to
23 do that himself, but that may have been another one
24 where they were responding to an AJOB article.

25 So the reason I wouldn't know is because I

1 wasn't the primary author on those. So if it was
2 peer-reviewed and the comments from the reviewers
3 come back, they come to the primary author.

4 (Whereupon, Exhibit Number 12 was marked
5 for identification purposes and made a part of the
6 record.)

7 Q (By Ms. Dunn) I understand. So I'll just
8 quickly show you the, I guess post -- I don't know,
9 post -- or the journal page that references this
10 article and we'll mark this as Plaintiffs'
11 Exhibit 12.

12 So this article again is an open-peer
13 commentary.

14 A Okay.

15 Q So we can agree that that is not a
16 peer-reviewed article?

17 A It's been a learning experience for me.
18 Thank you.

19 Q I'm going back to your CV.

20 (Document is displayed).

21 The next article is a publication, it looks
22 like, in the Catholic Health Association.

23 Do you know what this -- whether this is a
24 peer-reviewed journal?

25 A I would expect that's only reviewed by the

1 editors.

2 Q This article -- or this publication,
3 "Reflections by a Christian Scholar," here at Line
4 18 -- or Number 18 is an "In Press Proceeding," but
5 is this a lecture that was presented at a conference?

6 A That was -- it was.

7 Q Okay. And it will be published as such?

8 A Yes.

9 Q 19, there's an article that you co-authored
10 with some other individuals that's called "Affirming
11 Ethical Options for the Terminally Ill."

12 This was published in the Heritage
13 Foundation publication; is that right?

14 A Apparently, right.

15 Q And the Heritage Foundation is not an
16 academic medical journal?

17 A No.

18 Q Okay. Would this be a transcript of a
19 lecture as well?

20 A I believe so.

21 Q Okay. And did you participate in that
22 lecture, or in what capacity were you --

23 A I would have given it.

24 Q Would it have been at a Heritage Foundation
25 event? Is that when that occurred?

1 A Yes.

2 Q Okay. The next article at Line -- at
3 Paragraph 20, "The Deadly Advocacy of Doctor-Assisted
4 Suicide."

5 This is a Washington Times article?

6 A Uh-huh. That looks requested.

7 Q Not a peer- --

8 A Not peer-reviewed.

9 Q Not peer-reviewed.

10 21 is an article you wrote with another
11 individual called "Strangers in a Strange Land: How
12 Our Founding Principles and a Bitter Pill Undo the
13 Assimilation of U.S. Catholics."

14 This article was also in The Linacre
15 Quarterly; is that right?

16 A Yes.

17 Q And as we've said, The Linacre Quarterly is
18 the official publication of the Christian -- I'm
19 sorry, the Catholic Medical Association?

20 A Peer-reviewed.

21 Q And this is peer-reviewed.

22 Do you know that this particular article
23 was peer-reviewed?

24 A Yes.

25 Q So, to your knowledge, a commentary is

1 peer-reviewed?

2 A What are you talking about, Strangers in a
3 Strange Land?

4 Q Yes.

5 A Well, they sent it back and forth to us.
6 Did they look -- I don't know how they decide to list
7 things in their journal, but I know that they
8 required us to go through peer review.

9 Q So I guess I'm wondering, is there -- there
10 is a distinction between "editorial review" and
11 "peer review." Are you certain that this particular
12 publication was peer-reviewed?

13 A Well, when they send it back -- and as I
14 recall they sent it back with suggestions -- so that
15 would have been peer-reviewed.

16 Q So --

17 A If you get messages from peer-reviewers,
18 that means it's peer-reviewed.

19 Q Well, I do think there's a difference. I
20 think the editors of the journal can give you
21 comments and edits, but a peer-review process is
22 different and requires practicing professionals who
23 are your peers to provide comments and, you know,
24 editorial sugg- -- or maybe not even editorial
25 suggestions, but to provide comments.

1 So I do think there is a distinction, as
2 noted in that email from American Journal of
3 Bioethics, between editorial review and peer review.

4 So I'm just trying to determine if you are
5 certain that that article was peer-reviewed or
6 whether it could have just been subject to editorial
7 review.

8 A To the best of my recollection, it was.

9 Q It was. Okay.

10 And would you say that that article, the
11 "Strangers in a Strange Land," would that article be
12 better described as empirical research or a learned
13 opinion?

14 A More in the learned opinion category.
15 (Document is displayed).

16 Q Going back to your CV.

17 At 22 we have a document titled "Ethical
18 Dilemmas in Pediatric Lipidology. Endotext
19 Pediatrics."

20 Do you know if that -- is that a book or do
21 you know what -- where that publication appeared?

22 A No, that -- that is done by the
23 endocrinologist I was doing it with, Don Wilson, so
24 he just told me that that was published.

25 Q Okay. So --

1 A And just for my permission and I said
2 "Sure."

3 Q So is it a chap- -- I'm confused. Is it a
4 chapter in a book or a publication?

5 A I believe it's a publication.

6 Q Okay. Number 23 here, this is another --
7 it's a chapter in, I think, the same book that we saw
8 at the beginning, is that right, "Ethical
9 Decision-Making in the Elderly"?

10 A No, that's the subsequent edition of --

11 Q So it's an update to that first entry on
12 this publication list?

13 A Yeah, but it's already been published, so
14 that hasn't been -- caught up yet. But, yes, that's
15 now published.

16 Q Okay. 24, is this another -- your "CPR,
17 DNR, and the Patient's Good," is this another book
18 that you've contributed to?

19 A Yes.

20 Q And 25 would be similar. This "Ethical
21 Issues in the Provision of Nutrition and Hydration"
22 in Pellegrino's Compendium, that's, similarly, a
23 book?

24 A Yes. They --

25 Q And 26 -- I'm sorry.

1 A They told us it will be published this
2 fall.

3 Q Okay. And then 26, which is "Chapter 101
4 ethics in Prenatal/Neonatal Medicine," identified as
5 the "Handbook in Neonatology," is that another book
6 publication -- a book -- a publication related to a
7 book?

8 A Yes.

9 Q Okay. And I believe that's the end of the
10 publications that we have listed in your CV.

11 So you don't have any articles that you've
12 published that underwent peer review where the topic
13 was gender-affirming medical care; is that right?

14 A Yes. I've said that.

15 Q Okay. Well, I'm not sure we talked about
16 publications. We talked about presentations and
17 teaching, but I just want to confirm that you also
18 haven't authored any publications that underwent
19 peer review that were related to gender-affirming
20 care.

21 A Correct.

22 Q You have been listed as an author on one
23 article related to gender-affirming medical care; is
24 that right?

25 A Yes.

1 Q And what article was that?

2 A That was the Laidlaw article.

3 Q And this article was an open-peer
4 commentary; is that right?

5 A Correct.

6 (Document is displayed).

7 Q And this is the article we're talking
8 about?

9 A Yes.

10 (Whereupon, Exhibit Number 13 was marked for
11 identification purposes and made a part of the
12 record.)

13 Q (By Ms. Dunn) All right. I will mark this
14 as Plaintiffs' Exhibit 13.

15 So this article did not undergo
16 peer review; is that right?

17 A Actually, you were the one who pointed out
18 to me it underwent an editorial review, not a
19 peer review.

20 Q Okay. Because it's in the American Journal
21 of Bioethics and we looked at that email which
22 clarified that?

23 A Right.

24 Q Okay. So this commentary argues that
25 minors alone cannot consent to gender-affirming care

1 medical treatments; is that correct?

2 A Yes, that's correct. That minors should
3 not be permitted to consent without the involvement
4 of their parents to the gender-affirming care.

5 Q And so it's not suggesting that parents and
6 legal guardians cannot provide informed consent?

7 A It was responding to an article that said,
8 in fact, that if they don't perform -- or don't offer
9 informed consent, they should be able to bypass the
10 parent.

11 Q But this article itself isn't suggesting
12 that parents can't provide informed consent for their
13 children?

14 A No.

15 Q The article mentions -- so in the first
16 paragraph the article states -- and I will -- I can
17 highlight with my cursor. Actually, I can't. It
18 won't let me.

19 But right here near where my cursor is, it
20 states that, "Watchful waiting with support for
21 gender-dysphoric children and adolescents up to the
22 age of 16 years is the current standard of care
23 worldwide, not gender-affirmative therapy."

24 What is "watchful waiting"?

25 A Okay. They were using the -- the term as

1 a -- as an approach to supporting children without
2 puberty blockers or hormones.

3 Q And watchful waiting is not a type of care
4 that you provided as a clinician; is that right?

5 A That's right.

6 Q And what evidence is relied on to support
7 the contention that watchful waiting is the current
8 standard of care?

9 A Well, he actually -- Dr. Laidlaw listed
10 the -- the article right there, I believe.

11 Q So that's based on the de Vries and
12 Cohen-Kettenis article published in 2012?

13 A Uh-huh. Yes.

14 Q So if we scroll down to the bibliography,
15 that article is listed here. And I believe -- so
16 it's called the "Clinical Management of Gender
17 Dysphoria in Children and Adolescents. The Dutch
18 Approach."

19 What supports the contention that the Dutch
20 Approach is the worldwide standard of care?

21 A I think that he was talking about in places
22 other than America.

23 Q But in what way does this article establish
24 that the Dutch Approach is a worldwide standard of
25 care?

1 A I think it's difficult to answer -- for
2 anybody to answer what is the worldwide standard.
3 Perhaps the Dutch Approach was certainly one that had
4 been significant in the world and they were kind of
5 leaders in the approach to children with transgender
6 care.

7 Q Are there any sources cited that support
8 what the standard of care in the United States would
9 be?

10 A You mean within this article or elsewhere?

11 Q Within this article.

12 A I would have to go back and re-read it to
13 answer that. I'm sorry.

14 Q And we've established today that your field
15 of specialty is not pediatric endocrinology, correct?

16 A Correct.

17 Q Did you write any of the information in
18 this commentary about puberty-blocking medications?

19 A No. No. My contribution was only on the
20 ethical aspects.

21 Q Okay. So if we move further on in the
22 article, this sentence here which provides opinions
23 about GnRH analogues that suggest or assert that they
24 cause infertility, what evidence was relied on in
25 making this assertion?

1 A Once again, I wasn't writing the
2 innercological (phonetic) parts of this.

3 Q So you're not familiar with any of the
4 evidence that would suggest -- or any evidence that
5 would suggest that GnRH analogues cause infertility?

6 A I have read this, yes.

7 Q Is that -- is it not -- I mean, is that
8 fact, that the impact of GnRH analogues on fertility,
9 is that not relevant to the bioethics opinions
10 presented in this article?

11 A Yes.

12 Q So wouldn't it be important to be familiar
13 with any such evidence?

14 A Yes.

15 Q Okay. So what evidence is being cited to
16 support that contention?

17 A Once again, I'm going to have -- I haven't
18 read this article in some time, so I would have to go
19 back through it to see what evidence it cites.

20 Q There's about two paragraphs there. Would
21 you -- would that help you to review to determine if
22 there is evidence being cited to support that
23 assertion?

24 I can zoom out, I can zoom in, whatever
25 makes it easier.

1 A Which -- I'm sorry, where are we reading
2 right now?

3 Q I believe the relevant text is in the
4 section "Puberty-Blocking Agents and Infertility."

5 A Okay. I'm just reading along with you, I'm
6 sure. "There are no randomized controlled studies
7 for the use of puberty-blocking agents including
8 safety for stopping normal puberty. Endocrine
9 Society has published revised clinical guidelines in
10 2017, including adolescents. The" -- better scroll
11 up. Let's see what else we've got.

12 -- "quality of evidence for PBA is noted to
13 be low. In fact, all the evidence in the guidelines
14 with regard to treating children/adolescents is low
15 to very low because of the absence of proper studies.
16 These same guidelines, however, recommend arresting
17 normal puberty at Tanner Stage II. This is highly
18 significant because it's the pubertal stage occurring
19 before menarche in girls and before spermarche in
20 boys. Continued suppression of pituitary gonadal
21 axis by PBA will maintain a state of immaturity of
22 the male and female gonads. As a result, though the
23 child will likely grow in stature, the gonads and
24 entire pelvic genitalia will remain stunted at
25 Tanner 2. The condition of cross-sex hormones will

1 not change this condition. As a result, the patient
2 will be infertile as an adult. The continued
3 administration of cross-sex hormones may lead to
4 permanent sterilization. Gonadectomy, of course,
5 would also ensure sterility."

6 Is that what you were talking about?

7 Q No. I'm talking -- I'm asking. My
8 question is, there's an assertion made here that as a
9 result the patient will be infertile as an adult.
10 And there's no citation provided.

11 So I'm asking what evidence is being relied
12 on to support that assertion.

13 A Okay. And that's a very reasonable
14 question, but I -- this is not the only place I have
15 read that. It is not referenced in this short
16 commentary.

17 Q So there's no evidence being provided to
18 support the assertion that the administration of GRNH
19 analogues leads to infertility as a result?

20 A The evidence is not, apparently,
21 re-presented in this short commentary. I don't say
22 that there's no evidence. I'm saying that the
23 references don't seem to be listed for all the
24 statements in the commentary.

25 Q But there's no evidence being cited in this

1 article to support that assertion?

2 MR. BEATO: Object to form.

3 Dr. Donovan, you can answer that question.

4 THE WITNESS: I think that you're probably
5 right. Reminding you that absence of evidence is not
6 evidence of absence.

7 Q (By Ms. Dunn) The article also suggests
8 that puberty-blocking agents impair adults' sexual
9 function. And I'll scroll down. There's a section
10 here on this.

11 What evidence is provided in this article
12 to support this assertion?

13 A Once again, I think that you're looking for
14 the type of evidence that can be included in much
15 longer articles. These are space-limited, so both
16 the length of the article and the length of the
17 references is not expansive. That doesn't mean that
18 there haven't been multiple reports of either
19 concerns or actual evidence that these things have
20 occurred, they're just not all listed within this
21 article.

22 Q Can you name a study that would support
23 this assertion?

24 A I am certain that there are studies that
25 have supported that assertion. I can't name you one

1 currently. It would take a little research.

2 Q Can you name any study that would support
3 the assertion that the administration of GRN- -- GnRH
4 analogues causes infertility?

5 A The same answer.

6 Q So your assertion is that providing the
7 citation in the text would make this article too long
8 to include. Is that what you're suggesting?

9 A No. No. It was clearly a matter of choice
10 and it was not chosen to include all the references
11 that could have conceivably been included.

12 Q Is it common in medical publications to
13 make an assertion and not provide the evidence on
14 which the author relies?

15 A It is common not to list every possible
16 reference, of course. It is also common to list
17 references. And some of the time you list
18 references, depending on the type of article you're
19 writing, whether it's an original article or a
20 response article, whether it's an extensive article
21 or a brief summary. So there will be variability.

22 Q Well, but this article, though, is
23 discussing the fact that children should not be able
24 to make decisions around medical transition and it
25 relies specifically on these assertions of the

1 harmful impacts and yet it fails to cite any evidence
2 to support those assertions. Is that not right?

3 MR. BEATO: Object to form.

4 Dr. Donovan, you can answer.

5 THE WITNESS: Yeah, I don't -- no, I don't
6 think that's exactly right. Of course, it cites some
7 evidence and you see that there are references
8 listed, but there aren't references listed for
9 everything.

10 Once again, how long is the article, how
11 many references are listed will depend a lot on what
12 you can put in there, how much that even the editors
13 will allow.

14 Q (By Ms. Dunn) Well, there's ten articles
15 listed, and not a single one assert -- not a single
16 one of these articles supports the contentions about
17 the harmful impacts that the authors are alleging.

18 MR. BEATO: I apologize. Is that a
19 question?

20 Q (By Ms. Dunn) Well, you can strike that.

21 MR. BEATO: Counsel, would you mind if we
22 take a five-minute break, or would you like to
23 continue asking questions?

24 MS. DUNN: Let me just finish asking
25 questions about this article and then I think it

1 would be a good time for a break.

2 MR. BEATO: Of course. Of course.

3 Q (By Ms. Dunn) So I'll move on to the
4 section of the article that's more about an
5 adolescent's ability to consent. I assume that that
6 would be relevant to the bioethics contributions you
7 made to this article?

8 A Yes.

9 Q And so here we -- in this section, the
10 "Co-morbid Psychiatric Condition" section, on what's
11 marked with the Bates number AHCA EXP 002078, it says
12 that there's an "additional issue related to an
13 adolescent's decision to take puberty-blocking agents
14 without any parental involvement."

15 And then it cites to "associated
16 psychological conditions."

17 So is this suggesting that because youth
18 with gender dysphoria may have other psychiatric
19 conditions, that that means that they're not able to
20 assent to this type of treatment?

21 A Well, it certainly would be a reason for
22 concern if someone had autism or schizophrenia or
23 profound depression, all of which have been
24 associated with transgender adolescence, that it
25 might impair their ability to provide fully informed

1 consent.

2 Q Currently there are no -- the standards of
3 care regarding the administration of this type of
4 treatment to minors does require parental
5 consent; isn't that right?

6 A Yes.

7 Q And there are protocols used by clinicians
8 to obtain informed consent for patients who do not
9 have capacity to consent for themselves in other
10 circumstances; isn't that right?

11 A Yes.

12 Q So there are frequently situations where
13 patients may have a psychiatric condition that can
14 impact their ability to provide informed consent and
15 there are protocols to -- that apply to those
16 situations?

17 A But those protocols do not allow for the
18 direct consent of the children. That is parental
19 permission being sought.

20 Q Yeah, but there are situations where adults
21 may not have capacity to consent because of
22 psychiatric conditions and there are protocols in
23 place where physicians are still able to obtain
24 informed consent and provide treatment; isn't that
25 right?

1 A That's a different situation altogether if
2 we're talking about an adult. But you're also
3 talking about an impaired adult who, therefore, their
4 ability to provide an informed consent with full
5 capacity would be questionable.

6 Q But what I'm saying is that there are
7 standards and protocols that clinicians engage in in
8 these types of situations; isn't that right?

9 A That's kind of a general statement that's
10 hard to disagree with. There are situations and
11 approaches to situations.

12 Q You published this article with Michael
13 Laidlaw and Michelle Cretella; is that right?

14 A That's right. Correct.

15 Q Are you aware that Michelle Cretella is the
16 executive director of the American College of
17 Pediatrics?

18 A I have heard that. She was not at the
19 time.

20 MS. DUNN: All right. I think that this is
21 probably a good time for the break that you asked
22 for, Michael.

23 MR. BEATO: Excellent.

24 (Lunch recess taken from 11:35 a.m. to
25 12:10 p.m.)

1 Q (By Ms. Dunn) So I wanted to just follow up
2 on one thing we talked about before the break, and
3 that was -- I asked about the affiliation of your
4 co-author, Michelle Cretella.

5 And you stated that at the time of the
6 article she wasn't affiliated with the American
7 College of Pediatricians; is that right?

8 A No. You said she was executive director,
9 and I think she just did that recently.

10 Q Okay. At the time that you all wrote the
11 article together, was she affiliated with the
12 American College of Pediatrics in any way?

13 A Probably.

14 Q Okay.

15 A But, however, I don't belong to the ACP, so
16 I don't know. I mean, I think she was.

17 Q Do you know anything about that
18 organization?

19 A Very little. I mean, it's pediatricians
20 who didn't agree with the AAP on certain issues.

21 Q Sure. So I just -- I'm going to point you
22 to a couple documents, so I'm going to share my
23 screen.

24 (Document is displayed).

25 This is a document from the American

1 College of Pediatricians entitled "Homosexual
2 Parenting: A Scientific Analysis."

3 Have you ever seen this document?

4 A No.

5 Q Okay. So this document is -- it's a policy
6 statement of the American College of Pediatrics which
7 states that, "There's sound evidence that children
8 exposed to the homosexual lifestyle may be at
9 increased risk for emotional, mental, and even
10 physical harm."

11 You were not aware of the American College
12 of Pediatrics' position on this issue when you --

13 A I've never seen this before, no.

14 Q So you were not aware of this policy
15 position when you made the decision to co-author a
16 publication with Michelle Cretella?

17 A No.

18 (Whereupon, Exhibit Number 14 was marked for
19 identification purposes and made a part of the
20 record.)

21 Q (By Ms. Dunn) And I'm just going to mark
22 that -- that exhibit that we just talked about, the
23 American College of Pediatrics' policy statement on
24 homosexual parenting as Exhibit 14.

25 And then I'm going to show you another

1 policy statement from the American College of
2 Pediatricians.

3 Have you ever seen this policy statement?

4 A No.

5 (Whereupon, Exhibit Number 15 was marked
6 for identification purposes and made a part of the
7 record.)

8 Q (By Ms. Dunn) Okay. So I'm going to mark
9 this as Plaintiffs' Exhibit 15. This is a policy
10 statement from the American College of Pediatrics
11 stating that there's "No evidence that psychotherapy
12 for unwanted homosexual attraction is any more or
13 less harmful than the use of psychotherapy to treat
14 any other unwanted psychological or behavioral
15 adaptation."

16 You are not familiar with this policy
17 statement?

18 A Correct.

19 Q And you were not aware of this policy
20 statement when you made the decision to co-author the
21 publication -- a publication with Michelle Cretella?

22 A First time I've seen it was today.

23 Q Would it have changed -- if you had known
24 about this, would it have changed your decision to be
25 an author on that publication?

1 A It didn't seem like those two really are
2 directly connected to each other.

3 Q So would it have changed your decision to
4 be an author --

5 A No.

6 Q -- on that publication?

7 A I don't know. I haven't read the article,
8 so it's hard to say whether it would change or not
9 change.

10 Q Well, I suppose, knowing that -- I mean,
11 I -- just understanding what I -- what I read from
12 this document, that it's a policy position issued by
13 this organization of which your co-author plays a
14 leadership role, that states that there's "No
15 evidence that psychotherapy for unwanted homosexual
16 attraction is any more or less harmful than the use
17 of psychotherapy in other contexts," would knowing
18 that that was a policy position of the American
19 College of Pediatricians have changed your decision
20 to co-author a publication with Michelle Cretella?

21 A I agreed to co-author based on the topic at
22 hand and not anybody else's CV. So the answer would
23 be I don't see how it would.

24 Q And same for the exhibit that we marked as
25 Exhibit 14, the policy statement on homosexual

1 parenting.

2 If you had been aware of that policy
3 statement, would it have changed your decision to
4 co-author a publication with Michelle Cretella?

5 A Well, once again, it's speculative. I
6 don't know exactly what it says, but I was -- I was
7 part of the -- the effort on the other paper simply
8 on the basis of that paper alone.

9 Q We also talked about a number of your
10 publications appearing in The Linacre Quarterly, and
11 that that is the official journal of the Catholic
12 Medical Association; is that right?

13 A Yes.

14 Q Are you aware of -- actually, I'm just
15 going to open -- one second. So I'm going to show
16 you a document.

17 (Document is displayed).

18 (Whereupon, Exhibit Number 16 was marked for
19 identification purposes and made a part of the
20 record.)

21 Q (By Ms. Dunn) So this is a cover page of
22 Resolutions of the Catholic Medical Association. I
23 will mark this exhibit as Plaintiffs' Exhibit 16.

24 Have you ever seen this -- these -- this is
25 a printoff of a web page. So have you ever seen this

1 web page of the Catholic Medical Association?

2 A I don't think so.

3 Q So the website states that, "The following
4 are resolutions accepted as positions at the Catholic
5 Medical Association."

6 And we're going to jump to the resolutions
7 that are listed in the topic of "Family and Sexual
8 Education." Specifically I'm going to look at
9 Resolution 8-12, which is a resolution on transgender
10 treatments.

11 Resolution 8-12 reads that, "The Catholic
12 Medical Association does not support the use of any
13 hormones, hormone-blocking agents, or surgery in all
14 human persons for the treatment of gender dysphoria."

15 Were you aware of this resolution of the
16 Catholic Medical Association?

17 A No. As I've mentioned, I'm not a member of
18 the Catholic Medical Association.

19 Q And if you --

20 A I wasn't aware of this.

21 Q You weren't aware of this?

22 A No.

23 Q If you had been aware of this, would it
24 have changed your decision to publish in the Catholic
25 Medical Association's official journal?

1 A Well, I -- I imagine that I would probably
2 be pleased if anybody agrees with me.

3 Q So are your beliefs aligned with this
4 resolution?

5 A I don't know because I haven't seen the
6 full text of it. I just see a title there.

7 Q So this is the full text of the resolution.
8 The title is "8-12: Resolution on Transgender
9 Treatments." And then it says "Be it resolved."

10 A Well, then, that does sound reasonable.

11 Q Okay. And then if we move down to
12 Resolution 8-13, which is the "Resolution on Gender
13 Dysphoria," it reads, "Be it resolved that the
14 Catholic Medical Association and its members reject
15 all policies that condition all persons with gender
16 dysphoria to accept as normal a life of chemical and
17 surgical impersonation of the opposite sex. Further,
18 that the use of puberty-blocking hormones and
19 cross-sex hormones and surgical reassignment surgery
20 be rejected."

21 Were you aware of this resolution of the
22 Catholic Medical Association?

23 A No. Like I said, I've never seen this page
24 before and I don't know if any of these were ever
25 adopted.

1 Q These are on the website of the Catholic
2 Medical Association as adopted resolutions.

3 A Okay.

4 Q I'll represent that to you. And so if you
5 had been aware of this resolution, would it have
6 impacted your decision to publish in The Linacre
7 Quarterly, the Catholic Medical Association's
8 official publication?

9 A No.

10 Q And are your beliefs around the treatment
11 of gender dysphoria aligned with this
12 Resolution 8-13?

13 A I would not have used this language, but I
14 don't have severe disagreements with it.

15 Q Okay. At this point we're going to turn
16 back to what has been marked as Plaintiffs'
17 Exhibit 1. And that is your report, which is not on
18 my screen anymore, so I'm going to have to stop that
19 share again.

20 (Document is displayed).

21 This, we already identified, as the expert
22 declaration that was provided, written by you and
23 provided to plaintiffs by the defendants in the
24 lawsuit that brings us here today, Dekker versus
25 Weida.

1 You stated that you yourself drafted this
2 report fully and completely?

3 A Yes.

4 Q And does this report comprise the totality
5 of your opinions around the provision of
6 gender-affirming care medical treatments?

7 A Well, when you say "totality," that would
8 mean like I have no other thoughts or opinions, so
9 that's probably not the best way to characterize it,
10 but it certainly is my opinion.

11 Q Okay. So here you state that you "Have not
12 testified as an expert in the past five years at any
13 court hearing, trial or deposition."

14 So when we talked about the depositions
15 that you participated in earlier in our conversation
16 today, those all predated the last five years?

17 A That's right.

18 Q So you -- and we've talked a little bit
19 about your position as the founding director of the
20 Oklahoma Bioethics Center, which you reference here.

21 Does that organization still currently
22 exist?

23 A I am not quite sure of its status. I think
24 someone took it over from me and someone else took it
25 over from him, and I don't know what involvement

1 she's having currently.

2 I know that there is still some bioethics
3 education going on through the university, but I
4 don't know if it's under the umbrella of the
5 Bioethics Center or not.

6 Q In Paragraph 8 you mentioned that you "Have
7 chaired the IRB, the Institutional Ethics Research
8 Board, for 17 years at SFH."

9 What is "SFH"?

10 A That was one of the teaching hospitals.
11 Saint Francis Hospital.

12 Q So "SFH" stands for Saint Francis Hospital?

13 A Correct.

14 Q And are you currently the chair of IRB and
15 Saint Francis Hospital in Tulsa, Oklahoma?

16 A No.

17 Q So the way this is phrased it always seems
18 present tense. When did you stop being the chair of
19 the Institutional Research Ethics Board at SFH?

20 A Oh, when I left Tulsa.

21 Q And when was that?

22 A Or Georgetown.

23 Q So in 2012?

24 A Right.

25 Q Okay.

1 A So it was in the -- 17 years before that
2 or -- yeah.

3 Q So scrolling down to Paragraph 10, you
4 state that you "Have studied and consulted on issues
5 surrounding transgender patients, both minors and
6 adults, locally and nationally."

7 We just -- we discussed your background and
8 your CV extensively and you weren't able to identify
9 presentations, and other than one article,
10 publications surrounding issues on transgender
11 patients; isn't that right?

12 A No, I've not been writing about it but I've
13 discussed it with people locally and nationally.

14 Q And in what context have you discussed it
15 with people?

16 A Well, I'm not quite sure -- what context?

17 Q Well, in what -- who were you discussing
18 these issues with?

19 A Oh, various colleagues.

20 Q Can you name those --

21 A Other bioethicists.

22 Q So let's start with nationally. Who
23 nationally were you speaking about on issues
24 surrounding transgender patients?

25 A I would be speaking to bioethicists, you

1 know, informally, not -- not for meetings or
2 publication.

3 Q Can you name any of the bioethicists that
4 you had these conversations with?

5 A I'm sure I can. I'm not sure if they want
6 to be involved or not, so I'd want to clear it with
7 them first.

8 Q Were these informal conversations that were
9 occurring at meetings of some sort?

10 A Oh, boy, there hasn't been a meeting in,
11 like, three years where people had the opportunity
12 for informal conversation. So, no, these would be
13 either locally or over the phone or Zoom or
14 something.

15 Q So how many Zoom conversations would you
16 say you've had with other national bioethicists on
17 transgender issues in patients?

18 A I mean, the purpose of the -- well, no,
19 that's not true. I was going to say the purpose
20 wasn't specifically to talk about transgender issues,
21 but you'd be talking about bioethical issues in
22 general. But, no, we've had a couple conversations,
23 either by phone or Zoom, maybe half a dozen times
24 where the primary topic probably was transgender
25 issues.

1 Q Now, you say "half a dozen." That means
2 six -- like around six?

3 A Around that, yeah.

4 Q And --

5 A I mean, I don't keep track of them, so I'm
6 just guessing at this point.

7 Q What time period were these conversations
8 occurring?

9 A These would have been in the recent past
10 because not many, many people were having these
11 discussions over ten years ago.

12 Q So in the last ten years you would say
13 you've had approximately six conversations by Zoom or
14 by phone with other bioethicists around --

15 A Well, no. I mean, that's -- that's --
16 that's a little narrow. I know I've had a lot more
17 conversations than that. You know, you asked me
18 about by Zoom, so that would probably be no more than
19 half a dozen, I suspect. By phone, more than that
20 certainly, and even in person. So, I'm sorry, I
21 didn't keep a tally. People call me, ask me my
22 opinion, or if we're in a discussion and they ask me
23 what do I think about such and such, then I'll tell
24 them.

25 Q What you're referencing is kind of informal

1 consultations of your opinion on these things?

2 A Absolutely.

3 Q So I think I'll just say, going back to the
4 ground rules we started with, I may be -- and this
5 may be partially my fault -- occasionally maybe
6 asking you a question too quickly and cutting you
7 off. And so I just want to remind both of us to try
8 not to interrupt each other and -- you know, if you
9 try not to interrupt me with my question, I'll try
10 not to interrupt your answer. I'll pause before I
11 jump in with my -- with additional questions.

12 So this sentence says, "I've studied or
13 been consulted on." So it seems like what we were
14 just talking about was "been consulted on."

15 So what instances -- I guess, can you
16 provide some context for this statement that you
17 "have studied issues surrounding transgender patients
18 locally and nationally"?

19 A Oh, yes. Yes, I've been reading up on the
20 available literature and journals and other places,
21 even in the popular press and in blogs and such.

22 Q So when you say "studied," you just mean
23 reading up on the medical literature?

24 A Reading up on medical literature is
25 studying, you betcha.

1 Q Sure. And I guess I'm wondering, like, how
2 are you -- so in what way are you identifying the
3 sources that you're studying?

4 A How do I --

5 Q How are they coming to your attention?

6 A Oh, well, through -- they're published
7 journals, both online and paper.

8 Q Can you name any studies that have had
9 significance with regard to your position -- or, I'm
10 sorry, let me strike that and start again.

11 Can you name any specific studies that have
12 been meaningful in your position on issues
13 surrounding transgender patients?

14 A Not so easily that there would be any study
15 or a couple of studies that would be meaningful. I
16 take little bits from everything I read and form my
17 own opinions.

18 Q What specific issues have you studied
19 surrounding transgender adult patients?

20 A Okay. I'm having a little trouble --

21 Q Hearing me?

22 A No, I heard you, I just didn't understand
23 you completely I'm afraid. What do you mean, "what
24 issues"?

25 Q Well, you -- I'm just asking what you mean

1 by your terminology. So you say that you "have
2 studied issues surrounding transgender patients."
3 Specifically, what issues related to transgender
4 patients have you studied?

5 A Well, I think that the things that I have
6 read about and been concerned about exactly parallel
7 those that you see in the younger patients, as well,
8 in terms of the concept, the diagnosis and the
9 treatment and the results.

10 Q So can you estimate how many times you've
11 been consulted on issues specific to transgender
12 patients?

13 A No. I mean, these are not formal
14 consultations, these are discussions.

15 Q I'm sorry. So going back to your role
16 providing ethical consultations, either -- I guess at
17 Georgetown would have been primarily the period of
18 time we're talking about. Can you estimate how many
19 of those ethical consults would have related to
20 transgender patients?

21 A None of the hospital consults related to
22 transgender patients as transgender patients.

23 Q So you've not given an ethical consult with
24 regard to patient care for a patient that was
25 transgender?

1 A Not for an individual patient, no.

2 Q And that extends to both children and
3 adults?

4 A Correct.

5 Q Moving on to Paragraph 11 where you say,
6 "For ethical as well as medical reasons, I have never
7 prescribed medications nor referred for surgery any
8 patients that consider themselves transgender."

9 These medical reasons you reference --
10 going back to your specialty, you're a pediatric
11 gastroenterologist. We've established that. That's
12 right, right? Is that right?

13 A Yes.

14 Q Did any of your pediatric gastroenterology
15 patients identify as transgender, to your knowledge?

16 A No --

17 Q To your knowledge --

18 A -- not to my knowledge.

19 Q Oh, I'm sorry, I cut you off again. I
20 apologize.

21 What were you saying?

22 A I just said "not to my knowledge."

23 Q To your knowledge, have any of your
24 pediatric gastroenterology patients been diagnosed
25 with gender dysphoria?

1 A Not to my knowledge.

2 Q Have you ever prescribed a medication to a
3 patient in your role as a bioethicist?

4 A That's not the role of a bioethicist.

5 Q Okay. I just wanted to confirm that.

6 Do bioethicists treat medical conditions
7 with surgical referrals?

8 A That's not the role of the bioethicist.

9 Q Okay. When you -- so turning back to
10 Paragraph 11, when you refer to ethical reasons that
11 you don't prescribe medications, is that because your
12 activities as a bioethicist are informed by your
13 Catholic faith?

14 A No, it's because I think that it's
15 unethical.

16 Q Do you think that it's unethical because
17 it's not consistent with the ERDs that we talked
18 about as Plaintiffs' Exhibit 4?

19 A No, I think it's unethical on the face of
20 it. I don't think you have to be Catholic, Muslim,
21 Jewish, or none of the above to come to the same
22 conclusions.

23 Q In Paragraph 12 you say that, "None of your
24 opinions are biased by professional income."

25 The entirety of your career in medicine

1 didn't involve patients who present to you for a
2 gender dysphoria diagnosis; is that right?

3 A That's correct.

4 Q And none of your writings, presentations,
5 or positions dealt with issues affecting trans
6 people; is that right?

7 A Not entirely right, but mostly right.

8 Q And when you say "not entirely," are you
9 referencing the one article we looked at before?

10 A No, I'm saying I'm very careful about
11 absolutes.

12 Q Understood.

13 In Paragraph 14 you reference your review
14 of the literature. Have you reviewed all of the
15 literature pertaining to gender dysphoria?

16 A No one has reviewed all the literature
17 pertaining to practically anything, including gender
18 dysphoria.

19 Q Is the literature you've reviewed limited
20 to -- or, I suppose, is the bibliography you provided
21 a fair representation of the literature you've
22 reviewed in preparing this expert report?

23 A It would have to be a representation, sure.
24 Provided, it's -- I consider it fair, but it's not,
25 you know, complete. There are many things that I

1 would look at that I didn't consider important enough
2 to include in the bibliography, including the things
3 that I look at and think, "Well, that's wrong, but
4 it's good to know that that's how they feel."

5 Q So are there other sources that you
6 considered in preparing this expert report?

7 A Sure. Many.

8 Q And are you able to list those sources?

9 A No.

10 Q And why not?

11 A Too many. There's just too many. And some
12 of them I read in their entirety, and some of them I
13 didn't, and some of them are just off of things like
14 the CDC site, a WPATH site, and some of them aren't.
15 It's just -- it's a whole gemish. Anybody who just
16 reads an article and considers themselves an expert
17 isn't working hard enough.

18 Q So when you prepare an expert report for
19 submission in a case like this, we are entitled to
20 know what your sources for your expert opinion are.

21 So, you know, I -- I -- I think we either
22 need to understand that that bibliography is the list
23 of sources you relied on exhaustive, or we're
24 entitled to know what additional sources you
25 considered and relied upon in writing this report.

1 Are you able to provide that list?

2 A I could probably -- no, I couldn't, really.
3 I -- there's just -- there's too many things that I
4 look at and read on a relatively frequent, if not
5 constant, basis. And some of them I thought were
6 pertinent and some of them not so pertinent. I
7 thought the pertinent ones would be in the
8 bibliography.

9 But I would be hesitant, like you saw when
10 we were looking at other articles, to say that you
11 have an exhaustive bibliography for any article.
12 There's always more that could be added, but there
13 are some practical limitations.

14 Q If a source is not listed in your
15 bibliography, would that mean that you did not
16 consider it pertinent to your report?

17 A No, I didn't say it wouldn't be pertinent
18 but it may not be something I felt needed to be
19 included.

20 As a for instance, all the regulations that
21 govern human -- research with human subjects. Well,
22 there's huge tomes that include all that. I don't
23 think that that necessarily needs to be included in
24 the brief bibliography that I submitted. You know,
25 all the various statements from medical associations

1 about this one way or the other may have been things
2 that I have read, but I don't see that they added
3 much to my bibliography so I didn't include them.

4 I see something several times a week on
5 this subject and I look at it and I read it and I see
6 if it adds any new information or, you know, can
7 alter my -- my perspective or sometimes reinforce my
8 opinion, but that doesn't necessarily mean that it
9 belongs in the bibliography.

10 Q To be clear, for your work as an expert you
11 wrote a report, which is being submitted to a court
12 of law.

13 Do you understand that?

14 A Yes.

15 Q This report is comprised of your opinions
16 that are being presented to a judge as evidence in a
17 court case.

18 Do you understand that?

19 A Yes.

20 Q Okay. And when we ask for the sources upon
21 which you relied, we are provided with a bibliography
22 that has been marked as Plaintiffs' Exhibit 2, which
23 I will pull up, and I believe has approximately seven
24 sources on it.

25 (Document is displayed).

1 So this was the bibliography we were
2 provided. You've already confirmed that; is that
3 correct?

4 A Yes.

5 Q In submitting that report, we -- so the
6 Federal Rules of Civil Procedure require that an
7 expert who provides a written report must disclose
8 the facts or data that are considered by the witness
9 in forming their opinions.

10 So we are entitled to know all facts and
11 data that you relied upon in forming your opinions.
12 And when we asked for that information, we were given
13 this bibliography.

14 Are there additional sources that needed to
15 be added to this bibliography that are facts or data
16 that were considered by you in forming your opinions?

17 A I didn't feel that I needed to add anything
18 else to the bibliography.

19 Q So this bibliography --

20 MR. BEATO: Chelsea -- I apologize. You
21 can continue, Chelsea.

22 Q (By Ms. Dunn) So this bibliography is a
23 complete document of the facts and data considered by
24 you in forming your opinions in your expert
25 report; is that correct?

1 A Well, I -- those are articles considered by
2 me in forming my report.

3 Those are not the only things that I
4 thought about, nor the only things that I read, nor
5 the only things that have influenced me over the last
6 decade, or over the last year, or over the last few
7 months. You know, there's a lot of things that I
8 have read. I thought these were pertinent to the
9 report.

10 Q Dr. Donovan, I appreciate that these are
11 the most pertinent, but you are required under the
12 Federal Rules of Civil Procedure to provide a report
13 that contains the facts and data that you considered
14 in forming your opinions.

15 A These are facts and data that I considered
16 in forming my opinion. It is not --

17 Q But is it a complete document of those
18 facts and opinions?

19 A Of course not. It can't be because there's
20 no way that I can tell you everything that has
21 affected my thinking.

22 MR. BEATO: So, Dr. Donovan, let me -- let
23 me step in.

24 For the studies that you reference in your
25 bibliography, those are a sufficient and accurate

1 representation of the studies that you relied on when
2 issuing your expert report; is that correct?

3 THE WITNESS: Yes, I believe so.

4 MR. BEATO: And if there are additional
5 studies that you think of that could've -- well,
6 strike that.

7 Okay. So you think it's a sufficient and
8 accurate representation of the studies that you
9 relied on for your expert report, correct?

10 THE WITNESS: I -- yes, with the provisos
11 that I've already said. There are other things that
12 I would consider important, but -- once again, all
13 the CDC documents or -- now, those -- I didn't
14 include those. Did I rely on them? Have they guided
15 my understanding of, for instance, the requirements
16 of appropriate human research? Well, sure.

17 Q (By Ms. Dunn) So setting aside various
18 sources of background knowledge that you brought to
19 this report, when you were writing this report, are
20 these the specific sources you were referencing in
21 writing your report?

22 A I don't know how to answer that any better
23 than I have.

24 MR. BEATO: Then the answer would be "yes."

25 Q (By Ms. Dunn) Are these the only specific

1 sources you referenced in writing your report?

2 A Of course not.

3 MS. DUNN: I'm sorry, we need a short
4 break, please.

5 MR. BEATO: Okay.

6 (Recess taken from 12:44 p.m. to 1:19 p.m.)

7 Q (By Ms. Dunn) So, Dr. Donovan, when we were
8 talking before about the obligations that are
9 associated with submitting an expert report to a
10 federal court, I was referencing a rule which is the
11 Federal Rule of Civil Procedure 26(a) -- I'm going to
12 make sure I get this right -- (a)2(b). And this
13 governs when someone who's been retained as an expert
14 provides a written report to the Court. I'm going to
15 read from that rule.

16 So that rule says: "Unless otherwise
17 stipulated or ordered by the Court, this disclosure
18 must be accompanied by a written report prepared and
19 signed by the witness. If the witness is one
20 retained or specially employed to provide expert
21 testimony in the case or one whose duties as the
22 party's employee regularly involve giving expert
23 testimony.

24 "The report must contain, 1: A complete
25 statement of all opinions the witness will express

1 and the basis and reasons for them.

2 "2: The facts or data considered by the
3 witness informing them.

4 "3: Any exhibits that will be used to
5 summarize or support them.

6 "4: The witness's qualification.

7 "5: A list of all other cases which the
8 witness testified as an expert at trial or by
9 deposition.

10 And, "6: A statement of the compensation
11 to be paid for the study and testimony in this case."

12 Were you instructed that your report was
13 required to contain all of the opinions that you
14 intend to offer in this case?

15 A Yes, I believe I was, but I think perhaps,
16 you know, when we're talking about the opinions that
17 I intend to offer, I don't think that was the
18 conversation you and I were having previously.

19 Q Well, I'm sorry, I'm just starting with the
20 first subsection.

21 A Oh, okay.

22 Q So were you instructed that the report has
23 to contain all of the opinions you intend to offer in
24 this case?

25 A Yes.

1 Q And does your expert report that we've been
2 referencing as Exhibit 1 contain all of the expert
3 opinions you intend to offer in this case?

4 A Yes, I believe so.

5 Q Okay. Were you instructed that your expert
6 report must contain the facts or data considered by
7 you, the witness, in forming those opinions?

8 A Yes.

9 Q Okay. And did you provide all of the facts
10 or data that you considered in forming your opinions,
11 either in the report or in the bibliography that
12 accompanies it?

13 A I would say, yes, in the report or the
14 bibliography.

15 Q Okay. So turning back to your report.
16 Give me a second.

17 MR. BEATO: No problem. No problem
18 whatsoever.

19 Q (By Ms. Dunn) Okay. So back to your
20 declaration. So here you say that you relied on your
21 "years of experience as a physician and medical
22 ethicist and your review of the literature as
23 documented in your report."

24 So we should be able -- your report will
25 demonstrate any literature that you relied upon in

1 forming your opinions; is that correct?

2 MR. BEATO: Dr. Donovan, you're muted.

3 THE WITNESS: It's hard to answer that way.
4 Sorry.

5 Yes, I believe so.

6 Q (By Ms. Dunn) In Paragraph 15 you refer to
7 yourself as an "unbiased observer." And you make
8 comparisons to the fact that it's preferable to have
9 unbiased observers make opinions on the diagnosis of
10 brain death. But those unbiased observers still have
11 to have qualifications in order to render opinions on
12 these issues; is that correct?

13 A Yes.

14 Q And what are your qualifications to render
15 opinions on the provision of gender-affirming care?

16 A Well, they would be, I think, analogous to
17 rendering opinions on the diagnosis of brain death.

18 My perspective is that of an ethicist. I'm
19 not a neurologist or a neurosurgeon or a transplant
20 surgeon, but when you are talking about --
21 particularly in today's topic, you know, whether or
22 not what we are doing constitutes appropriate
23 informed consent and whether or not it is -- or
24 should be considered research versus standard of
25 care, yeah, I've had years of experience in

1 discussing these topics and -- and completely ready
2 and able to render an opinion on it.

3 Q But you've never -- you haven't had any
4 specialized -- well, you haven't been a --
5 participated in presentations or publications around
6 the provision of gender-affirming care specifically?

7 A You mean, if I don't have a large public
8 record on it? It certainly doesn't mean that you
9 haven't been reading up on it, done some research and
10 formed an opinion.

11 Q But you do have a large body of
12 publications and presentations on issues such as
13 physician assisted suicide or brain death; isn't that
14 correct?

15 A Relatively large. Yeah, I've got those
16 things. Those have been issues for many years now.
17 This case, for instance, is certainly less
18 than a year old.

19 Q You reference, in Paragraph 17, a
20 "diagnosis of transgenderism."

21 What is a diagnosis of transgenderism?

22 A Diagnosis of someone who is being
23 transgender or that they believe that they are
24 transgender.

25 Q Where does that diagnosis exist?

1 A Where does the diagnosis what? I'm sorry.

2 Q Exist. Where's that diagnosis provided
3 for? Is that a medical diagnosis?

4 A You mean, who provides the diagnosis? Is
5 that what you're asking me?

6 Q Well, no. Is that a medical diagnosis?

7 A Well, it certainly is supposed to be, yes.

8 Q Where is the criteria for that -- or
9 where's the diagnostic criteria for transgenderism?

10 A Well, the diagnostic criteria for
11 transgender patients is found in both DSM and WPATH.

12 Q And the what?

13 A W-P-A-T-H criteria.

14 Q But that diagnosis is gender dysphoria, not
15 transgenderism; isn't that correct?

16 A Yes. But gender dysphoria only occurs in
17 those who have identified as transgender.

18 Q But transgenderism is not a diagnosis
19 that's reflected in the DSM-5 or in the WPATH
20 standards of care, correct?

21 A Okay.

22 Q Is that correct?

23 A Yes, I believe so.

24 Q You refer here to a person presenting
25 themselves as a -- or a person having a gender

1 identity that's different from the sex assignment at
2 birth as an aberration. Is that fair to say?

3 A I think that's quite fair to say. You
4 know, if you talk about the norm being what is
5 predominant, then that would have to be statistically
6 described as abnorm.

7 Q What is your basis for asserting that a
8 person asserting their gender identity is akin to
9 asserting a delusion that they are a chicken?

10 A Well, I think that if someone came in with
11 something that seemed to define -- defy both the
12 visual evidence and common sense, that you would not
13 necessarily take that at face value.

14 Q Are you a licensed psychiatrist?

15 A No, I'm not a licensed psychiatrist, but I
16 do know the difference between a person and a
17 chicken.

18 Q Have you ever diagnosed any sort of mental
19 health condition?

20 A I'm sure I have because I've had patients
21 who had to be referred.

22 Q You've -- you have been the one to provide
23 the diagnosis of a mental health condition?

24 A Well, when you suspect it, you refer it to
25 someone to care for them, sure.

1 Q But is that providing a diagnosis for the
2 patient or is that referring someone for a diagnosis?

3 A It's a presumptive diagnosis.

4 Q You then state that, "This is the approach
5 now being taken by many psychiatrists and surgeons
6 and endorsed by medical society."

7 Is the approach you're referring to in this
8 sentence the approach of someone saying that they are
9 a woman and someone else immediately clothing them in
10 a dress?

11 A No. I'm saying that the -- the problem is
12 that we are accepting the mis-diagnosis. Or not even
13 a mis-diagnosis, but the mistreatment rather.

14 Q And what is the mistreatment you're
15 referring to here?

16 A In terms of patients with gender dysphoria,
17 I think it's not conceptually sound to say that you
18 are a man or a person in a man's body but you think
19 you're supposed to be in someone else's body or some
20 other body or yourself or alter that body in order to
21 look like that. Those are approaches that just don't
22 really seem to fit with a common sense approach.

23 If we had a patient with anorexia nervosa
24 and she had a dysmorphia and she said, "I am too
25 fat," the last thing that I would recommend we do is

1 to help her body conform to her self-image.

2 Q So you're comparing gender dysphoria to
3 anorexia nervosa?

4 A Well, they're both distortions of bodily
5 image, yes.

6 Q But affirming a patient with anorexia
7 desire to limit their calorie intake could lead to
8 dehydration; is that correct?

9 A And worse.

10 Q And it could lead to starvation or even
11 death?

12 A Yes.

13 Q Yes. And so your position is that it is
14 mistreatment to affirm someone's gender identity if
15 it's not aligned with their sex assigned at birth?

16 A I am saying that we don't have enough
17 information to be certain of the correct approach
18 and, therefore, to embark upon that approach without
19 seeking that information is wrong.

20 Q And what particular types of medical
21 treatment are you referencing?

22 Are you speaking of the administration of
23 cross-sex hormones?

24 A Yes.

25 Q Are you speaking of gender-affirming

1 surgeries?

2 A Yes.

3 Q And are you speaking of the administration
4 of puberty-blocking medications?

5 A Yes.

6 Q And so it is your opinion that affirming
7 someone's gender identity, if it is not aligned with
8 their sex assigned at birth, is mis- -- is medical
9 mistreatment?

10 A I think it is fraught with problems because
11 I think that it is probably applying a treatment that
12 does not match the needs of the patient.

13 Q Earlier you said that you have given
14 presumptive diagnoses for mental health conditions.

15 When you're licensed as a medical doctor --
16 or I guess you're a pediatric endo- -- I'm sorry.

17 Does your license allow you to diagnose
18 mental health conditions?

19 A My license? Yes.

20 Q Okay. So you say that -- so going back to
21 this approach. When you say "this is the approach,"
22 I just want to make sure that we're both talking
23 about the same -- you know, what you are referring to
24 as "this approach."

25 And you're talking about the approach of

1 providing medical care that affirms someone's gender
2 identity when it doesn't match their sex assigned at
3 birth. Is that accurate?

4 A Yes.

5 Q Okay. And you say that "many psychiatrists
6 are taking this approach."

7 What is the basis to say that?

8 A Well, I -- I don't think that that's in
9 contention that many psychiatrists are providing or
10 endorsing gender-affirming care. I didn't
11 specifically give you data on that, but I think that
12 that's pretty widely known.

13 Q You then go on to say that, "Perhaps, as a
14 result the number of individuals who identify as
15 transgender has exploded over the past decade"; is
16 that correct?

17 A It has certainly increased, it has.

18 Q And you said a number of 20 to -- to a
19 factor of 20 to 40; is that right?

20 A That's right, that's what I've read.

21 Q Where did you get that information?

22 A Actually, the CDC had that information in
23 their database.

24 Q So you didn't -- you cited to -- in your
25 bibliography, which I'll quickly turn to -- I stopped

1 sharing. I could have just stayed where I was.

2 (Document is displayed).

3 So you cite to -- here on this first line
4 there's a "CDC Youth Risk Behavior Survey" and then
5 there's a link to the Williams Institute.

6 Is this the data you're using to make that
7 20- to 40-factor assertion?

8 A I believe that's where it came from.

9 Q And so the Williams report that's linked
10 here -- I'll just quickly pull up that source, just
11 so we can look at it together.

12 (Document is displayed).

13 So this is the Williams Institute report
14 that is found at the end of that link.

15 Do you recognize this report?

16 A Not in that form, but I'm sure that must be
17 it.

18 (Whereupon, Exhibit Number 17 was marked for
19 identification purposes and made a part of the
20 record.)

21 Q (By Ms. Dunn) Okay. I'm going to mark this
22 as Exhibit 17.

23 So this study -- I'll zoom in a little
24 bit -- or this report cites to data from the CDC, a
25 couple of different surveys, it looks like, the

1 Behavior Risk Factor Surveillance System, the Youth
2 Risk Behavior Survey, and then some other survey
3 data.

4 Is this the document where you got -- when
5 you reference the CDC, is this the document where you
6 got that information?

7 A I believe so, or links from it.

8 Q Okay. And do you know where in this report
9 it cites a 20- to 40-factor increase?

10 A I'm sorry, I'd have to read the whole thing
11 again to find that.

12 Q So here on this first -- on this first page
13 it says, "Youth ages 13 to 17 comprise a larger share
14 of the transgender-identified population than were
15 previously estimated, currently comprising about
16 18 percent of the transgender-identified population
17 in the U.S. up from 10 percent previously."

18 Is that relevant to how you determined
19 there was a 20- to 40-factor increase?

20 A No, the 20 to 40 is actually what I read in
21 the CDC survey, but I don't see it -- as a matter of
22 fact, I can hardly see what you've got there at all,
23 but that's okay.

24 Q Oh, I'm sorry.

25 A Small print.

1 Q I'm happy to share your screen.

2 So I'll just -- I guess what I'll represent
3 to you is that we could not -- looking at your
4 bibliography, we could not find the 2017 data that
5 you were citing to. So are you saying that you
6 received that information -- that information came
7 directly from the CDC and not from this report?

8 This report is what was linked and we
9 thought that that indicated that that's where it came
10 from.

11 A Well, I -- I believe that that information
12 may be there.

13 That's the executive summary, isn't it?
14 Not the entire report?

15 Q Correct.

16 A Yeah.

17 Q All right. I will stop sharing this
18 document and go back to your bibliography.

19 (Document is displayed).

20 So going back to your report, in
21 Paragraph 19 you state that, "80 percent of young
22 males who present early" -- and I assume that you
23 mean by this present with a gender identity that's
24 different than their sex assigned at birth. Is that
25 what you're referencing?

1 A Yes.

2 Q Okay. So young males presenting early,
3 that "80 percent of those young males would
4 historically revert in their self-perception by the
5 time they had completed puberty."

6 Where did -- what is your evidence of that
7 statement?

8 A Oh, that -- that's been widely published
9 and repeatedly published.

10 Q Can you name the study that that
11 information comes from?

12 A I'm sure I could. It's more than one
13 source, but, yeah.

14 Q Can you name those studies?

15 A Not right now, no.

16 Q Why didn't you cite to this -- the studies
17 that you relied upon in formulating that assertion in
18 this report?

19 A Once again, I had relied upon a large
20 number of things. Not everything that was listed in
21 the bibliography, as I mentioned before.

22 Q But you are aware that it was your
23 obligation to provide the data and resources you
24 relied upon in forming your opinions when you
25 submitted this report?

1 A Well, I understood that I would present my
2 opinion and/or the data in the bibliography. And my
3 opinion has been formed by a much broader reading
4 sources than -- than are involved even in this case.
5 So --

6 Q I understand --

7 A -- my opinion, you know, was not strictly
8 just a matter of -- of opinion on the -- on this
9 particular case. And, in fact, you know, I have read
10 these and somewhere have articles that do demonstrate
11 that. So I thought that that was important.

12 I hadn't really seen anybody contesting
13 that as a fact. Sometimes what people are doing is
14 showing that it may be transition for females, but
15 that -- that is a fact that had been clearly
16 established in the past and I didn't think that that
17 would be very controversial.

18 Q This fact was of significance to your
19 opinion; is that right?

20 I mean, you cited it in your report so it
21 has had some significance to your opinion.

22 A Okay.

23 Q Is that right?

24 A Yeah.

25 Q And you are under an obligation to provide

1 the data and evidence that you are relying upon to
2 come to your opinions. We've discussed that already.

3 Do you understand that?

4 A I -- yes, we've discussed that.

5 Q And you haven't -- you are unable right now
6 to provide the source of evidence on which you relied
7 in making this statement.

8 A Well, you did say that you wouldn't accept
9 anything more at this point. I could, if you want,
10 go back through my files and find that.

11 Q You -- well, so perhaps I should ask it
12 this way. You did not disclose the data or evidence
13 you were relying upon in making this assertion when
14 you submitted your report?

15 MR. BEATO: Counsel, I think we can agree
16 that for this proposition there's not a citation to
17 it and it's not involved in the bibliography. I
18 think we've established that.

19 MS. DUNN: Well, I think the witness needs
20 to say that, though, if you don't mind, Michael.

21 Q (By Ms. Dunn) So you did not disclose the
22 data or evidence you relied upon in making this
23 particular assertion when you submitted your
24 report; is that correct?

25 A I did not. I did not list things in the

1 bibliography that supported every statement that I
2 made.

3 Q Okay. You also say that, "We are now
4 seeing a much larger number of females."

5 What is your source for this assertion?

6 A No one denies that. That data is available
7 as well. And I believe you'll find it in the
8 bibliography. I could go through the articles and
9 bring that out for you, but, you know, I'd have to
10 open up the articles and find them.

11 Q So if we turn to your bibliography, can you
12 tell me in looking at it which of these articles
13 would support that assertion?

14 A Not at this time.

15 Q And you did not specifically provide a
16 citation for that source of -- I'm sorry, for the
17 evidence or data upon which you make this assertion
18 in your report?

19 A I didn't footnote the report itself.

20 Q You then say that, "The two leading
21 explanations for this unexplained phenomenon are
22 greater social acceptance or social contagion."

23 What sources do you rely upon in making
24 that assertion?

25 A Actually, this was suggestions that have

1 been made that I do have listed in there.

2 But I'm -- like I said, the way I write, I
3 read and then I write. But I wasn't asked to
4 footnote these so I didn't. I could find them in
5 the -- in the articles that you have, I'm sure, but
6 it's going to take me some time to pull those out
7 again.

8 Q So these are -- could be described as
9 perhaps hypotheses? Is that what you're suggesting?

10 A Yes. Explanations could be hypotheses.

11 Q But as the literature stands, there's no
12 scientific evidence that links social contagion as a
13 cause of gender dysphoria?

14 A There has been, as you know, a description
15 by Littman and all about the -- about gender
16 dysphoria in young females being almost like a social
17 contagion. And she had documented that. I didn't
18 list that one in there, it's just -- I thought that
19 was a worthwhile and interesting observation.

20 But, once again, it's an unexplained
21 phenomenon with potential explanations. It's not
22 data.

23 Q So just to be clear, are we referencing the
24 Littman report that -- you did list this in your
25 bibliography. Is that what you're referencing right

1 now, the rapid --

2 A Yes.

3 Q -- onset gender dysphoria?

4 A Yes.

5 Q And are you aware that there was a
6 correction issued with regard to this article?

7 A I'm aware that she got a lot of flack about
8 that in a subsequent article as well, yeah. It's --
9 it was not embraced by the community.

10 Q And so you're aware that there was a
11 correction issued by the publication that featured
12 her article?

13 A I had heard about that.

14 Q Have you read it?

15 A Nope.

16 (Document is displayed).

17 Q So what I'm showing you on the screen is
18 the correction to the Littman article that you listed
19 in your bibliography.

20 You have not seen this document before?

21 A I don't recall seeing this.

22 Q You said you don't recall seeing it?

23 A Nope.

24 (Whereupon, Exhibit Number 18 was marked for
25 identification purposes and made a part of the

1 record.)

2 Q (By Ms. Dunn) And we will mark this as
3 Plaintiffs' Exhibit 18.

4 And if you'll look at -- so here it says,
5 "Emphasis that this is a study of parental
6 observations which serves to develop hypotheses."

7 So this specifically says that,
8 "Rapid-onset gender dysphoria is not a formal mental
9 health diagnosis at this time. The report did not
10 collect data from adolescents and young adults or
11 clinicians and, therefore, does not validate the
12 phenomenon."

13 Are you aware that this correction was
14 issued with regard to this hypothesis?

15 A Well, this doesn't actually correct
16 anything that I had just said, though, that you were
17 reading to me because, in fact, I wasn't making a --
18 an argument so much about rapid-onset gender
19 dysphoria, but also pointing out that we are seeing
20 more females currently than in the past when male
21 predominance was the usual or the norm.

22 And then I pointed out that there may be
23 some potential explanations for that. That's all I
24 did.

25 And this still says it's a "study of

1 parental observations and serve to develop
2 hypotheses."

3 Q So this article --

4 A (Inaudible) hypotheses.

5 Q You would agree this article is
6 hypothesis-generating rather than hypothesis testing
7 or validating?

8 A That's all I was using it for.

9 Q Okay. Turning back to your report.

10 (Document is displayed).

11 You say that -- in Paragraph 20 you say
12 that, "There's no biochemical, hormonal,
13 radiological, or genetic basis for confirming a
14 diagnosis of gender dysphoria"; is that correct?

15 A That's correct.

16 Q What is your evidence to make this
17 assertion?

18 A Because there is no evidence. There is --
19 there is no biochemical, hormonal, radiological, or
20 genetic. Nobody has held out that there is. I
21 didn't really think that needed further explication.
22 None of the people treating it say that they have a
23 hormonal or a biochemical or a radiological or a
24 genetic basis that they can point to.

25 Q So you're not aware of any studies that

1 demonstrate that genes or hormones might influence
2 gender identity?

3 A I didn't say that. "Might"? Might is a
4 different thing from diagnosing.

5 (Whereupon, Exhibit Number 19 was marked for
6 identification purposes and made a part of the
7 record.)

8 Q (By Ms. Dunn) So I'm going to share an
9 article titled "Neurobiology of Gender Identity and
10 Sexual Orientation." This was published in the
11 Journal of Neuroendocrinology in 2018.

12 We'll mark this as Plaintiffs' Exhibit 19.

13 Are you familiar with this study,
14 Dr. Donovan?

15 A I am aware of it. I haven't read this
16 article.

17 Q And so you were not aware that this
18 article, on Page 4, states that, quote, "Several
19 extensive reviews by Dick Swaab and coworkers
20 elaborate the current evidence for an array of
21 prenatal factors that influence gender identity,
22 including genes and hormones."

23 A "And evidence of a genetic contribution to
24 transsexuality is very limited." Yeah. I mean,
25 this -- this basically is not diagnostic.

1 Q So my question is whether you were aware of
2 this study when you made your assertion in your
3 report.

4 A This study has nothing to do with what I
5 said. It confirms what I said in that there is no
6 genetic basis that allows us to diagnose it.

7 Are you saying that this is a genetic basis
8 for the diagnosis of gender dysphoria?

9 Q I'm saying that there is evidence in the
10 literature -- that this article notes that there is
11 evidence in the literature that there are prenatal
12 factors that could influence gender identity,
13 including genes and hormones.

14 A There is -- there are suggestions. None of
15 these are proven in humans. These are all hypotheses
16 that I think are worth noting, but none of these are
17 used to diagnose a child or an adult with gender
18 dysphoria or as transgender.

19 Q But my point is that you had not read this
20 study when you made your assertion in your report
21 because you -- you told me when I opened this study
22 that you had not read it; is that correct?

23 MR. BEATO: Object to form.

24 Dr. Donovan, you can answer the question.

25 THE WITNESS: I was aware of the study. I

1 had not read it. I didn't think it was particularly
2 worth a great deal of time when they were unable to
3 use their findings to form a diagnosis on individual
4 patients, which was really what I was pointing to.

5 Q (By Ms. Dunn) Give me just one quick
6 second. Not a break.

7 So, I guess, going back to the report --
8 and I'll just close this other exhibit to hopefully
9 get there.

10 (Document is displayed).

11 When you say -- or when you take issue with
12 the fact that self-report -- that there's no way to
13 confirm a diagnosis other than self-report, are you
14 suggesting that medical conditions that rely on
15 self-support -- I'm sorry, that rely on self-report
16 of symptoms are invalid? I mean, there are other
17 conditions that rely on self-report.

18 A No, I didn't say that. And the term I
19 used, by the way, was self-perception rather than
20 just self-report --

21 Q And what's --

22 A -- because symptoms can be reported.

23 No, I said "self-perception." And all I
24 would say with that is if that's all we have to go
25 on, we should proceed cautiously.

1 Q Is there a difference between
2 self-perception and self-report?

3 A Well, first you have to perceive in order
4 to report.

5 Q You wouldn't agree that just because a
6 diagnosis is based on self-report that it should go
7 untreated?

8 A I'm sorry, please restate that so I'm
9 clear.

10 Q So the mere fact that a diagnosis is based
11 on self-report doesn't mean that the condition should
12 go untreated?

13 A No, it shouldn't go untreated if there is a
14 condition that a patient is reporting. It should be
15 confirmed and the treatment should be conformed
16 appropriately.

17 Q And that sort of confirmation is done by a
18 clinician, according to diagnostic criteria; is that
19 right?

20 A To the extent that you say it, yes.

21 Q So even in the case of patients with gender
22 dysphoria, a clinician is confirming that diagnosis.

23 A Insofar as it can be confirmed, yes.

24 Q But you're not suggesting that there must
25 be a biochemical, hormonal, radiological, or genetic

1 test to confirm every diagnosis?

2 A I don't think there's anyone who is trying
3 to make that diagnosis who would not welcome some
4 sort of confirmatory evidence. And that's what I'm
5 saying. And we don't have that.

6 Q In Paragraph 22 you talk about a "treatment
7 approach that is to provide puberty blockers for
8 young prepubertal patients followed by cross-sex
9 hormones followed by various levels of surgical
10 reconstruction."

11 Are you aware that puberty blockers block
12 puberty?

13 A Well, of course.

14 Q So in what context would a puberty blocker
15 be given to a patient who is prepubertal?

16 A You can only block puberty if it hasn't
17 occurred. So puberty blockers are for those who have
18 not gone through puberty completely. They're not
19 given after Tanner Stage 2.

20 Q But a patient receiving puberty blockers
21 would be at Tanner Stage 2, so they would be
22 beginning to move through the process of going
23 through puberty?

24 A That's what they're supposed to block with
25 those medications.

1 Q And just to confirm this, your clinical
2 practice was not in endocrinology; is that correct?

3 A I was a pediatrician. All my patients were
4 supposed to go through puberty eventually.

5 Q Understood. But your clinical practice was
6 not in endocrinology --

7 A No.

8 Q -- is that correct?

9 A No.

10 Q And what evidence do you have to support
11 your contention that any youth who receives puberty
12 blockers goes on to cross-sex hormones?

13 A It's by far the norm.

14 Q What evidence do you have to support that
15 assertion?

16 A It has been reported repeatedly, including
17 by the people who are using the puberty blockers and
18 cross-sex hormones. It's not in contention.

19 Q But what evidence are you relying on to
20 make this statement?

21 A It's -- that's the multiplicity of sources.

22 Q Is there one source in your bibliography
23 that you can point us to?

24 A I'm sure I can find that as well, yes.

25 Q If I were to show you your bibliography

1 right now --

2 A If I were to read the articles again. I
3 don't even highlight them, typically, but I could
4 find it for you.

5 Q But if I were to show you your bibliography
6 today, you would not be able to identify to me which
7 source contains the support for this assertion?

8 A I suspect it's in more than one.

9 Q But if I provided you with your
10 bibliography today, you would not be able to point me
11 to the -- any one of the specific sources that
12 contain the information to support this assertion?

13 A Given enough time, I would.

14 MR. BEATO: Object to the form.

15 You can repeat that, Dr. Donovan.

16 THE WITNESS: Say what?

17 MR. BEATO: Could you repeat your answer?

18 I made an objection, but could you repeat your
19 answer?

20 THE WITNESS: I don't even remember the
21 last answer. I'm sorry.

22 Q (By Ms. Dunn) Can you point me to which of
23 these sources you rely on in making this assertion?

24 A I'm sure I could, given enough time.

25 Q Can you do it right now?

1 A Nope.

2 Q And then what evidence do you have to
3 support the contention that any person who receives
4 hormones goes on to have a surgery of some sort?

5 A I didn't say that.

6 Q Well, you summarized the treatment approach
7 as being -- as moving from one of these types of
8 treatment to the next.

9 A That's true.

10 Q And do you have any evidence to support the
11 contention that a person who receives hormones then
12 goes on to surgery?

13 A That is the sequence. That's not
14 contentious. That's what WPATH -- I didn't say
15 everyone did, I just said that's the sequence.

16 Q So you say that treatment -- here you say,
17 "Treatment is determined by the patient."

18 What does that mean?

19 A I mean you can't have surgery unless the
20 patient wills it.

21 Q But you also can't have surgery unless a
22 clinician supports it; isn't that correct?

23 A Well, that's true, but that really isn't in
24 contention here.

25 Q Well, this is -- you've framed in your

1 report that this is self-determined. And I -- I just
2 want to be clear, you're not -- your opinion, you're
3 not stating that this is something that happens
4 without clinician approval, correct?

5 A I didn't say it would happen without
6 clinician approval. Patients should not
7 self-castrate.

8 Q In Paragraph 23 you say that, "The studies
9 that support this approach have come under increased
10 scrutiny, with international scientific and clinical
11 bodies expressing concerns about the safety,
12 efficacy, and scientific basis for the current
13 interventions."

14 What international scientific bodies are
15 you referring to?

16 A Those in Finland, Sweden, England,
17 Australia, and New Zealand.

18 Q And what sources are you relying on in
19 making that statement?

20 A Well, the -- and these are published
21 sources as well.

22 Q Are they in your bibliography?

23 A They are in a bibliography. I think that
24 they're in the one that we have for this as well.

25 Q I'm sorry, I don't understand that.

1 Are they in the bibliography that was
2 provided with your expert report -- or after your
3 expert report?

4 A Yes. Certainly the Abbruzzese one mentions
5 that. I'm trying to think which others may have done
6 that.

7 The Levine report may have, as well, and I
8 think I could find it in the Clayton report, too, but
9 I'd have to look.

10 Q Do you have any sources directly from these
11 international scientific bodies, or you're relying on
12 these -- these articles that you've referenced in
13 your bibliography?

14 A No, they've published them.

15 Q I'm sorry, who's published them?

16 A No, no, the various medical associations in
17 those countries have published their concerns. This
18 isn't just from the articles itself.

19 Q And did you rely on those sources when you
20 made this statement in your report?

21 A I also read those, yes.

22 Q And did you cite them in your bibliography
23 to your report?

24 A Once again, I didn't cite everything that I
25 read.

1 Q So you said that you think that this was
2 mentioned in the Abbruzzese article?

3 A I believe it was, yes.

4 Q So I'm just -- I'm going to pull up this
5 article for you -- for us. And this is the
6 Abbruzzese article that's listed in your
7 bibliography. Abbruzzese, Levine and Mason are the
8 authors?

9 A Yes.

10 (Document is displayed).

11 Q I can -- is this --

12 A Oh, no, this isn't the one. They had -- it
13 was an evaluation of the original Dutch studies
14 involved, so it wouldn't be in there.

15 Q So this is the Abbruzzese article that is
16 cited in your bibliography, so when you reference
17 "Abbruzzese" in identifying a source where you would
18 have received this information about the
19 international bodies, you're not speaking of this
20 article called "The Myth of Reliable Research in
21 Pediatric Gender Medicine"?

22 A That's correct.

23 Q You're thinking of an article that's not
24 listed in your bibliography?

25 A I can't say that.

1 (Whereupon, Exhibit Number 20 was marked for
2 identification purposes and made a part of the
3 record.)

4 Q (By Ms. Dunn) Well, there's no other
5 Abbruzzese article -- sorry.

6 Before I move on to there, I'd like to mark
7 this as Plaintiffs' Exhibit 20.

8 So going back to your bibliography, there's
9 no other Abbruzzese article that's listed here.

10 A Then we must assume that it was not the
11 Abbruzzese article.

12 Q Okay. So you can't identify which of the
13 source -- you said it might be in either the Levine
14 or Clayton articles?

15 A I --

16 MR. BEATO: Object to form.

17 Dr. Donovan, you can answer that.

18 THE WITNESS: I believe so. Once again,
19 this was not a controversial statement, so I didn't
20 make a point of highlighting the reference for it.

21 Q (By Ms. Dunn) So did you just -- you
22 decided not to reference anything that you found to
23 be non-controversial?

24 A I didn't say that.

25 Q Just going back to the Abbruzzese study

1 that you did cite, in what way did you rely on this
2 study in your report, do you recall? Or this -- I'm
3 sorry, this article.

4 A Well, they were critiquing the original
5 Dutch studies that talked about the diagnosis and --
6 and, therefore, the treatment protocols for gender
7 dysphoria, only it wasn't called "gender dysphoria"
8 at the time. It was also called the "gender-identity
9 disorder," I think, at that time.

10 And it turns out the literature itself was
11 so poorly done that it shouldn't have served for
12 the -- for the development of the widespread
13 treatment protocol for this condition.

14 Q Are you aware that one of the authors of
15 this article is affiliated with the Society for
16 Evidence-Based Gender Medicine?

17 A Well, it says that there.

18 Q Yeah. Are you familiar with the Society
19 for Evidence-Based Gender Medicine?

20 A Not particularly, no. I've heard of it.

21 Q What do you know about it?

22 A That they have real problems with -- with
23 the diagnosis and treatment of gender identity
24 disorder.

25 Q Are you a member?

1 A No.

2 Q Have you done any work for Society for
3 Evidence-Based Gender Medicine?

4 A No.

5 Q Do you know how they're funded?

6 A No.

7 Q In Paragraph 23 -- I'm sorry, I'll re-share
8 your report so that we can be specific.

9 (Document is displayed).

10 In Paragraph 23 you say that, "Three
11 European countries have begun to form more
12 conservative and cautious treatment guidelines."

13 What countries are these?

14 A Well, Great Britain, you know, the
15 Tavistock Clinic was closed and they re-did their
16 approach.

17 And Finland has said that they are
18 concerned about their own approach.

19 And so is Sweden.

20 I believe France has already done that, as
21 well, too, but I haven't read up on that.

22 Q Did any of these countries ban this sort of
23 medical treatment?

24 A To my knowledge, nobody has yet banned that
25 approach.

1 Q And when you say that they --

2 A But have they expressed concerns? Yes.

3 And re-evaluated, yes.

4 Q What evidence do you have that these
5 countries have formed more conservative and cautious
6 treatment guidelines?

7 A Well, the Brits themselves said that
8 they -- they closed Tavistock in order to actually
9 slow down their enthusiasm for gender affirmation and
10 to spread it around to other clinics and hospitals in
11 Great Britain who would take a more cautious
12 approach.

13 Q What is your source for that?

14 A There's a report in the British literature.

15 Q Is that report cited in your bibliography?

16 A It's not.

17 Q And in England, the care is still being
18 provided, just by local clinics instead of
19 centralized clinic; is that right?

20 A Yes, that's my understanding.

21 Q In Paragraph 24 you assert that, "Initial
22 psychological evaluations of the patient have often
23 become minimal or almost non-existent."

24 What is your evidence for this assertion?

25 A The next line does point out what has been

1 reported. I thought that was also in the
2 bibliography.

3 Planned Parenthood clinics have been
4 reported by those going to them that they will give a
5 prescription after a single visit, sometimes within
6 the same day.

7 Q You're saying that that comes from patient
8 reports?

9 A Uh-huh.

10 Q So the only source that we are given
11 related to Planned Parenthoods from your -- I'm
12 sorry, when we were provided with your sources, was a
13 printoff of the Planned Parenthood of Texas.

14 Is that what you're referencing?

15 A I'm sorry, I'm not sure what you're
16 referring to.

17 Q Okay. I'll pull it up.

18 (Document is displayed).

19 So this was provided to us when we asked
20 for sources upon which you relied. And this was
21 actually provided in response to your GAPMS report.

22 But is this what you were referencing when
23 you say that hormones are provided after a single
24 visit?

25 A Actually, scroll down. I think that may be

1 one of the places where they -- yeah. Well, I guess,
2 "If you are eligible, Planned Parenthood staff may be
3 able to start hormone therapy as early as the first
4 visit."

5 Yeah, I'd say that was it.

6 Q Yeah, is this the only --

7 A At least one of them.

8 Q Is this the only evidence that you have of
9 that?

10 A No.

11 Q What other evidence do you have of that
12 assertion?

13 A There have been patients who have also
14 described this, and that's been published in the lay
15 literature.

16 Q And what literature is that published in?

17 A Online. I'd have to find it.

18 Q These aren't --

19 A But the fact that Planned Parenthood -- the
20 fact that Planned Parenthood also says the same thing
21 made me think that it was probably accurate.

22 Q Are these your patients that we're talking
23 about?

24 A Of course not.

25 Q They're just anecdotes or reports that --

1 A Patients that have gone to Planned
2 Parenthood and received hormonal treatment on the
3 first day.

4 Q And these are things that you've read
5 online?

6 A Yep.

7 Q Have you confirmed this information in any
8 way?

9 A I think Planned Parenthood just confirmed
10 it right in front of us.

11 Q Well, this actually says, "If you are
12 eligible, Planned Parenthood may be able to start
13 hormone therapy as early as the first visit."

14 Do you know what it means to be eligible?

15 A The patient said that they went in and said
16 that they wanted it and they got it. That sounds
17 like they were eligible.

18 Q But does it say that there are no
19 psychological exams being provided? This report does
20 not say that, correct?

21 A It would be difficult to follow the
22 guidelines in a single day, seeing as how it's
23 supposed to be over a prolonged period of time to
24 confirm the diagnosis.

25 Q But you have not confirmed that Planned

1 Parenthood is doing -- the patient may have gotten a
2 psychological exam elsewhere and then gone to Planned
3 Parenthood.

4 How -- have you confirmed that that's not
5 what's happening?

6 MR. BEATO: Object to form.

7 Dr. Donovan, you can answer.

8 THE WITNESS: You mean, have I visited the
9 Planned Parenthood office and asked to see the
10 psychological report that didn't exist? No.

11 Q (By Ms. Dunn) And so you're basing this
12 assertion on reports that you've seen online and this
13 statement from this website?

14 A And there are other reports for other
15 locations. It's not just Planned Parenthood who have
16 done this. But, yes, I think if a patient goes to
17 Planned Parenthood, says they didn't bring a
18 psychological report, that they were given their
19 hormones on the first day. One of them said over the
20 phone even. That seems like it's plausible. And
21 nobody has come out to deny it.

22 Q But you haven't confirmed that this is
23 actually the way the care is being provided?

24 A What sort of confirmation are you looking
25 for?

1 Q Well, I guess I'm looking for evidence
2 that's something more than just ambiguous printout of
3 a website and, you know --

4 A And a patient statement?

5 Q -- things you've read online.

6 A I'm sorry. And the patient's statement
7 doesn't count?

8 Q Well, unless you can point -- I think it --
9 without you identifying where online you've seen
10 them, I think it's hard to assign credibility to that
11 sort of statement.

12 And you're not able to identify to us where
13 you read these patient reports?

14 MR. BEATO: Object to form.

15 Dr. Donovan, you can answer the question.

16 THE WITNESS: They could be found.

17 Q (By Ms. Dunn) Did you identify where you
18 read these patient reports in your expert report?

19 A No.

20 Q And did you disclose that in your
21 bibliography?

22 A Actually, I think that was touched on by
23 one or two papers in the bibliography, as well. But,
24 once again, you know, it wasn't the --

25 Q Can you tell us --

1 A -- sole topic of the paper, so I'd have to
2 go through each one.

3 Q Can you identify right now to me which of
4 these articles support that statement that there
5 aren't psychological examinations being provided of
6 patients with gender dysphoria?

7 A Not today.

8 Q Are you aware to do so would be
9 inconsistent with the standard of care prescribed by
10 WPATH?

11 A Absolutely.

12 Q You agree that that would be inconsistent
13 with the standard of care?

14 A Yes.

15 Q And you agree that that would be
16 inconsistent with the standard of care required by
17 the Endocrine Society clinical guidelines?

18 A Yes.

19 Q Do you know of any instances of this
20 happening in the state of Florida?

21 A No.

22 Q Do you know of any instances where someone
23 was prescribed any sort of gender-affirming medical
24 treatment without a psychological evaluation and that
25 was covered by the Florida Agency for Medicaid?

1 A I don't know who's prescribing these in
2 Florida.

3 Q But you're not aware of any instances where
4 someone received a gender-affirming medical treatment
5 without a psychological evaluation and that care was
6 covered by Florida's Medicaid program?

7 A No.

8 MR. BEATO: Counsel, I think we've been
9 going for about an hour. Would you mind if we take a
10 break?

11 MS. DUNN: Absolutely. Let's take a break.

12 (Recess taken from 2:19 pm. to 2:27 p.m.)

13 (Whereupon, Exhibit Number 21 was marked
14 for identification purposes and made a part of the
15 record.)

16 Q (By Ms. Dunn) So before the break we were
17 looking at a PDF of a website of the Texas Planned
18 Parenthood. I did not mark that as an exhibit and so
19 I'd like to have that marked as Plaintiffs'
20 Exhibit 21.

21 All right. So we'll go back to your
22 report, Dr. Donovan. And in Paragraph 25, you
23 reference that, quote, "With further study it has
24 come to light that complications such as arrested
25 maturation, physiological changes, fertility

1 challenges, hematological changes, and osteoporosis
2 can all result from treatment with puberty blockers
3 and may be irreversible."

4 You don't cite any evidence to support this
5 statement in your report, correct?

6 A Within the report or in the bibliography
7 are we saying now?

8 Q Well, so first of all there's no citation
9 here to support this statement; is that correct?

10 A No, I -- like I said, I didn't use
11 footnotes on this.

12 Q And which of the sources in your
13 bibliography provide the evidence to support that
14 assertion?

15 A I think you'll find it in the Levine and I
16 think probably in Robbins as well. Probably in
17 Clayton as well, too, because she was talking about
18 the dangers.

19 Q I'm going to pull up the Clayton article
20 that you reference.

21 A Okay.

22 (Document is displayed).

23 Q Do you recognize this document?

24 A Looks like -- yes.

25 Q And this is the Clayton article that's

1 included in your bibliography?

2 A Yes, looks like it.

3 (Whereupon, Exhibit Number 22 was marked for
4 identification purposes and made a part of the
5 record.)

6 Q (By Ms. Dunn) I'd like to mark this as
7 Plaintiffs' Exhibit 22.

8 This article is a letter to the editor; is
9 that correct?

10 A This looks like, yeah, the one -- the story
11 about Rose. I don't know that they talked as much
12 about the -- in this particular one about the adverse
13 effects. I'd have to look on the next page.

14 (Document is displayed).

15 Okay. It's really hard for me to read this
16 because the print is so small.

17 Oh, that's bigger. That's good. Thanks.

18 Okay. This, I think, concentrates more on
19 the surgical problems than the hormonal problems. Is
20 that right? Slide slowly.

21 Yeah, I think this is one on the -- bring
22 it up a little bit more, if you would, Ms. Dunn.

23 Q Up this way?

24 A The other way, I think. Yeah.

25 Oh, I guess she did talk about hormonal

1 treatments there, but that wasn't really as pointed.

2 Let's go down to the next page. I think
3 that this one was really better for the -- go ahead
4 down.

5 Further down. Thanks.

6 Can you scroll down a little bit? I'm
7 having trouble.

8 Well, she does mention irreversible and
9 long-term adverse effects with the treatments on
10 fertility and sexual function and bone, brain,
11 cardiovascular functioning.

12 So, yeah, she -- this wasn't the highlight
13 of it but she certainly does go into it as well.

14 Q Just to be clear, though she may reference
15 those things, this is a letter to the editor,
16 correct?

17 A Yes.

18 Q And letters to the editor are not
19 peer-reviewed?

20 A No.

21 Q And Ms. Clayton is actually, it appears, a
22 student at the University of Melbourne when she wrote
23 this?

24 A If you say so.

25 Q Well, her email address indicates that

1 she's a student. Do you know otherwise?

2 A No.

3 Q And she --

4 A (Inaudible).

5 Q I'm sorry?

6 A No. I see that now.

7 Q And she is a -- at the School of Historical

8 and Philosophical Studies at the University of

9 Melbourne; is that right?

10 A That's what it says there.

11 Q She's not a medical doctor?

12 A No.

13 Q You also referenced the Robbins article

14 that you cite in your bibliography.

15 A Yeah. Let's look there. I thought that

16 was pretty good, too.

17 Q Is that -- can you read that or should I

18 zoom in more. I'm trying to -- oh, wait, I haven't

19 shared my screen. I apologize.

20 (Document is displayed).

21 Can you read this or should I zoom in more?

22 I'm trying to balance getting --

23 A That's okay. I can see some of that.

24 Q Is this the Robbins article that you were

25 referencing in your bibliography?

1 A I believe so. Looks like it, yes. July
2 '19, yes. Okay.

3 (Whereupon, Exhibit Number 23 was marked for
4 identification purposes and made a part of the
5 record.)

6 Q (By Ms. Dunn) I'd like to mark this as
7 Plaintiffs' Exhibit 23.

8 This is not an article in a peer review
9 research publication, correct?

10 A Neither was the Planned Parenthood thing.
11 I mean, no, I'm just looking for reports. Right.

12 Go ahead.

13 Q So you said that this supported your
14 contention of the harmful effects of puberty blockers
15 that you cite in your report; is that correct?

16 A I'm sorry. Say that again.

17 Q When I asked -- and I'll go back to your
18 report. When I asked what supported your assertion
19 that complications can result from puberty blockers,
20 you said that you believed the Robbins article may
21 provide that information; is that right?

22 A I said that or the Levine. Like I said,
23 I'd have to look, so --

24 Q But I just want to clarify --

25 A -- I'm going to look with you.

1 Q I'm sorry?

2 A Yeah. Yeah. I said I'm perfectly willing
3 to look through these with you.

4 Q Sure. But my question is, this is not an
5 article in a peer-reviewed journal?

6 MR. BEATO: Object to form.

7 Dr. Donovan, you can answer.

8 THE WITNESS: I don't know that this is
9 peer-reviewed.

10 Q (By Ms. Dunn) If we go back to your
11 bibliography, it looks like this is published on a
12 website called thepublicdiscourse.com.

13 A I doubt that's peer-reviewed, then.

14 Q And, in fact, it appears -- and correct me
15 if I'm wrong, but it appears that this article merely
16 summarizes another article; is that correct?

17 A It refers to the Levine article a lot,
18 yeah.

19 Q Okay.

20 A This was not so much to establish the side
21 effects, which had already been reported, but
22 actually to talk about what I thought was interesting
23 which was why informed consent then was difficult,
24 given what we know and mostly what we don't know.

25 Q So, I'm sorry, I don't believe I'd asked a

1 question, so if you can just limit yourself to
2 responding to the questions I ask, I would appreciate
3 it.

4 A I thought I was responding, why we were
5 using something -- why we were using this article.

6 Q That's not what I -- I just asked whether
7 that article was summarizing another article.

8 A Okay.

9 Q So, then, you also stated that it's
10 possible that you were relying on the Levine article,
11 which you cited in your bibliography. And I will
12 pull that up.

13 (Document is displayed).

14 Is this the article you were referencing?

15 A Uh-huh.

16 Q Or you referenced.

17 A Yes.

18 (Whereupon, Exhibit Number 24 was marked for
19 identification purposes and made a part of the
20 record.)

21 Q (By Ms. Dunn) And I'll ask that this be
22 marked as Plaintiffs' Exhibit 24.

23 So do you know where in this article that
24 the complications associated with puberty blockers
25 are discussed?

1 A Let's scroll through it.

2 Q Please tell me if I'm going too fast.

3 A We may have to go back, but keep going.

4 Let's go down further, more so toward
5 the -- keep going.

6 Keep going. Let's go down to see if we
7 can't find a section on the harms as well.

8 Keep going.

9 Q Should I keep going or --

10 A Sure. Sure. Whoa, slow down.

11 Go back a little. Thank you.

12 Okay. Let's go down a little further.

13 Okay. Now, you do see -- I'm sorry, I assumed you
14 saw some of those. No, that was --

15 Q I'm sorry?

16 A Nevermind. It's hard to do it this way.

17 Just keep scrolling down, let's see if we
18 get to the prepubertal part again because he's kind
19 of switching back and forth.

20 Oh, those are the social risks for children
21 being considered for puberty block A, not the
22 physiological risks.

23 I think we've passed it, but keep going
24 down, why don't you.

25 Scroll it. Keep going.

1 No, keep going because you're on the
2 social.

3 No, you're still in the social area. Keep
4 going. I think it's probably above us.

5 Okay. Keep going.

6 Keep going down.

7 Keep going down, please.

8 Oh, go up. Way up where we were talking
9 about the --

10 Q Is this --

11 A Let's go above the --

12 Q -- what you're referencing?

13 A Huh?

14 Q Is this what you're referencing or --

15 A Possibly. Let me -- I think that there was
16 even more than that, so I think he covered it.

17 Okay. Sorry. Let's go back down. Too
18 quick. Too quick. I can't read that fast.

19 Q Sorry, did you not want me to go the whole
20 way down?

21 A Well, no, I wanted to see -- I think it --

22 Okay. Scroll up a little bit.

23 Scroll up a little bit.

24 And up a little bit.

25 Up a little bit.

1 Okay. Up a little bit.

2 Okay. Go on.

3 And I think this is a really good article,
4 but I think it is also focusing more on the informed
5 consent thing than the -- than the puberty-blocking
6 hormone issues.

7 Q So you're not able to identify a place in
8 this article that --

9 A Let's go up a little bit more. Sorry.
10 Let's go --

11 Okay. Not seeing it there.

12 Q Okay. So you're not able to identify where
13 in this article is any evidence to support the
14 assertions you made about complications associated
15 with puberty blockers?

16 A Not in this article.

17 Q Okay. And we looked at the other two
18 articles that you said from your bibliography might
19 contain that information and you weren't able to
20 identify where in those articles?

21 A That's two.

22 Q I'm going to go back to your report.

23 (Document is displayed).

24 So in addition to listing these
25 complications, you say that they may be irreversible.

1 Do you -- can you cite to any evidence for
2 that assertion?

3 A It's a maybe. The problem, of course, is
4 that what we need is evidence-based answers with
5 this. And it's not just that, you know, we're citing
6 the wrong articles today, but for many of these the
7 evidence is pretty thin or non-existent at this
8 point.

9 Q But I'm just asking whether you have
10 evidence cited to support your assertion that these
11 complications may be irreversible?

12 A They may be.

13 Q But you have not provided any --

14 A That doesn't make them --

15 Q I'm sorry. My question is whether you have
16 provided any citation in your report that supports
17 the assertion that these complications may be
18 irreversible?

19 A No, not on this bibliography.

20 Q Okay. So no citations in the report and no
21 sources you can point to on the bibliography; is that
22 correct?

23 A The citations -- none of the citations were
24 in the report. That's (inaudible) footnotes.

25 Q So then in Paragraph 26 you say, "In any

1 medical condition where the cause is unknown, the
2 treatment's uncertain, and the adverse effects of
3 intervention are not fully elucidated, a proposed
4 course of therapy would have to be seen as
5 experimental."

6 So you say "cause unknown."

7 Do causes of medical conditions have to be
8 known in order to treat them?

9 A That's not what it says, but it's certainly
10 helpful. If you know what the cause is, then your
11 treatments can be modeled to the cause more
12 certainly.

13 Q Sure. But does every medical condition
14 have to have an identified cause in order to be
15 treated?

16 A Nope. Advantageous but not necessary.

17 Q Aren't there many medical diagnoses for
18 which a cause is unknown but there is a clearly
19 established treatment protocol?

20 A Yes. I think those are preferable.

21 Q But there are medical diagnoses for which a
22 cause is unknown but there is still a clearly
23 established treatment protocol?

24 A And I said that that would be preferable,
25 yes.

1 Q What does it mean that treatments are
2 uncertain?

3 A It means that we don't really have a good
4 idea of whether or not these are the proper
5 treatments or the proper diagnosis with a proper
6 risk-to-benefit ratio and good outcomes over the
7 long term.

8 Q Is that a scientific phrase that you're
9 using?

10 A Which one?

11 Q That treatment's uncertain.

12 A It's not unscientific.

13 Q You say that, "As a result of this, that
14 the cause is unknown, the treatments are uncertain,
15 and the adverse effects are not fully elucidated,
16 that the treatment must be seen as experimental."

17 Is your definition of whether treatment is
18 experimental guided by the same standards that
19 Florida's Agency for Healthcare Administration uses
20 to determine if a treatment is experimental?

21 A I would imagine they are very close.

22 Q Did you consider evidence-based clinical
23 practice guidelines in determining -- or in coming to
24 your opinion that a treatment is experimental?

25 A If clinical practice guidelines are truly

1 evidence based, then they should be considered. I
2 don't think we have those.

3 Q Do you consider -- do you know what
4 standards the Agency for Healthcare Administration is
5 required by regulation to use in determining that a
6 type of treatment is experimental?

7 A I don't know their regulations.

8 Q So your opinion that this treatment is
9 experimental does not reflect --

10 A Is my --

11 Q So your opinion that it's experimental, it
12 doesn't reflect the agency's standards?

13 A They were asking my opinion, so I gave them
14 my opinion.

15 Q But not based on their standards, based on
16 your own standards?

17 A Yes.

18 Q But you don't offer an opinion about
19 whether gender-affirming medical care is consistent
20 with the standards AHCA uses to determine that
21 treatment is experimental?

22 A Well, I would see their standards and be
23 able to answer that more accurately. I would
24 strongly assume that they use the same sort of care
25 and precision in deciding these things.

1 Q But in formulating the opinions that are
2 contained in this report, you did not -- you had not
3 referenced the standards used by AHCA to determine
4 whether medical care is experimental?

5 A I was using more generalized standards.
6 Widely accepted.

7 Q Does your opinion that the treatments
8 for -- of gender -- I'm sorry -- gender-affirming
9 medical treatments are experimental apply to all
10 medical treatments for gender dysphoria?

11 A Could you rephrase that?

12 Q Yes. So just more clear -- a point --
13 like -- excuse me -- to provide more clarification.

14 This paragraph follows some discussion of
15 puberty blockers.

16 Is your opinion regarding a, quote,
17 "proposed course of therapy as experimental"
18 referencing specifically puberty blockers or is it
19 referencing the other sorts of gender-affirming care
20 we have been discussing today?

21 A I think it should apply to the entire
22 sequence of interventions that we've been discussing.

23 Q So including -- so puberty blockers,
24 cross-sex hormones, and gender-affirming surgeries?

25 A Correct.

1 Q Your report doesn't list any complications
2 attendant to cross-sex hormones; is that right?

3 A It doesn't list them. There were other
4 people actually, as I understood it, listing all the
5 things that you've been asking about, including that.
6 I didn't feel it was necessary to -- to reiterate all
7 that, seeing how what we were really talking about
8 was the ethical implications of informed consent and
9 the --

10 Q Well --

11 A -- and the standards for research versus
12 clinical care.

13 Q So today we're just talking about your
14 report. And so my question is just whether you
15 listed any complications attendant to cross -- the
16 administration of cross-sex hormones.

17 And you did not -- your report does not
18 list such complications; is that right?

19 A That's correct, I believe.

20 Q You also don't offer an opinion about
21 complications related to gender-confirming
22 surgeries; is that correct?

23 A About their complications, I didn't get
24 into that. That's not to say there aren't
25 complications, I just didn't feel the need to iterate

1 them.

2 Q Your report doesn't list those
3 complications?

4 A No need.

5 Q But it does say that those treatments are
6 experimental; is that right?

7 A Yes.

8 Q And you're aware that these types of
9 treatment have all been provided in the clinical
10 context for years and even decades. Are you aware of
11 that?

12 A Of course.

13 Q So gender-confirming surgeries were first
14 performed in the 1930s; is that right?

15 A The first one I knew about was Christine
16 Jorgensen in Sweden.

17 Q Which was in the 1930s; is that correct?

18 A No. I think she was more in the '50s or
19 '60s.

20 Q Cross-sex hormones became available in the
21 1930s as well; isn't that right?

22 A Well, no. The hormones have been
23 available, but -- for this use? Is that what you're
24 talking about?

25 Q Yeah. I'm sorry. Cross-sex hormones were

1 first used for this type of treatment in the 1930s?

2 A These things have been used for a long
3 time. Only recently have they become popular and
4 widely applied.

5 Q Do you think the use of puberty-delaying
6 medications to treat gender dysphoria in adolescents
7 was first referenced in medical literature around 25
8 years ago? Isn't that right?

9 A Sounds right.

10 Q In the next paragraph, Paragraph 27, you're
11 responding to Dr. Karasic's report and you suggest
12 that, "Healthcare providers treating patients for
13 gender dysphoria should include protocols for
14 de-transitioning."

15 Do you have any evidence to support the
16 contention that that is not happening?

17 A I didn't say it wasn't happening. He was
18 concerned about his patient's -- or some patient's
19 de-transitioning.

20 And I said, in that case, you know,
21 protocols to manage that are appropriate.

22 Q But he was referencing the fact that
23 patients were being forced to de-transition by the
24 fact that their medical care would no longer be
25 covered by Florida's Medicaid system, correct?

1 A And I -- I'm assuming that he himself was
2 assuming that's their only source for the ongoing
3 treatment, which I wouldn't know, but he did say
4 that.

5 Q Well, Medicaid is health insurance coverage
6 for individuals who cannot afford to pay for their
7 own healthcare, is it not?

8 A That's true.

9 Q So it's safe to assume that many
10 individuals who have lost coverage for this type of
11 care are unable to access it elsewhere, correct?

12 A There's a fair presumption.

13 Q You reference a, quote, "idea" of a quote,
14 "conveyor belt of treatment."

15 Do you know of any Medicaid patients in
16 Florida that were on a conveyor belt of treatment who
17 were unable to stop receiving gender-affirming
18 treatment if they wanted?

19 A I don't think Dr. Karasic or myself were
20 referring to any individual patients, so, no.

21 Q But you would agree that having to stop
22 receiving gender-affirming medical treatment because
23 you can't afford the treatment is different than
24 voluntarily deciding to stop the treatments, right?

25 A Different in what way?

1 Q Well, it's different for a patient to no
2 longer be able to afford a treatment versus choosing
3 to stop a treatment; is that correct?

4 A Well, there would be differences, but the
5 differences might be financial. The differences
6 probably wouldn't be the effect on the withdrawal
7 from the medications. I think those would probably
8 be about the same.

9 So would there be some differences?
10 Probably.

11 Would there be similarities? Undoubtedly.

12 Q No, I'm sorry, I'm not referencing the
13 impacts of discontinuing that treatment, I'm saying
14 that as a factual matter, it is different for someone
15 to no longer be able to afford a type of medical care
16 than that they choose to stop that medical care.
17 Those are the two different circumstances that should
18 not be treated identically.

19 A Well, those would be the financial impacts
20 that I think you were referring to.

21 Q So when we were talking about the conveyor
22 belt of treatment, I just want to confirm because I
23 think your answer was a little bit ambiguous.

24 You do not know of any patients in Florida
25 who have not been able to stop receiving

1 gender-affirming treatment if they so chose?

2 A My exchange with Dr. Karasic was not about
3 any specific Florida patients, that's correct.

4 Q You're not aware of that actually
5 happening?

6 A No.

7 Q You say that, "To begin treatment of such
8 patients without knowing how to successfully
9 discontinue such treatment, and to not warn patients
10 of this issue in advance, again reflects unfavorably
11 on the issue of informed consent for the treatment of
12 patients identifying as transgender."

13 What basis do you have to believe that
14 patients and clinicians don't know how to continue --
15 discontinue that treatment?

16 A Dr. Karasic was talking about those who
17 would suddenly have to de-transition.

18 I was talking about the need to be able to
19 plan for that.

20 Q But are you --

21 A If you don't plan for that, then what I was
22 saying about it being a medical failure on the
23 practitioner's part would come into play.

24 It is not just a loss of funding, which I'm
25 sure has occurred in other circumstances for

1 patients, but other circumstances as well that might
2 cause them to be forced into de-transition or a
3 decision about that.

4 Q But do you have any knowledge or evidence
5 upon which to suggest that clinicians and patients
6 aren't able to thoughtfully discontinue that
7 treatment?

8 A I'm advocating that they thoughtfully
9 discontinue the treatment.

10 Q And I'm saying, do you have any evidence to
11 believe that's not happening?

12 A I was responding to Dr. Karasic's concern.
13 I wasn't concerned that that wasn't going to happen.

14 Q In your conclusion on Paragraph 28 -- I'm
15 sorry, Paragraph 29 of your conclusion, you compare
16 gender-affirming care to a lobotomy.

17 Are you aware that nearly all lobotomies
18 were performed without informed consent from patients
19 and guardians?

20 MR. BEATO: Object to form.

21 Dr. Donovan, you can answer.

22 THE WITNESS: I wouldn't know how to know
23 that all lobotomies were performed without informed
24 consent. I believe that, in fact, the single case
25 that I did cite was with informed consent.

1 Q (By Ms. Dunn) You cited a case?

2 A Yes, President Kennedy's sister.

3 Q Were you aware that lobotomy was not
4 supported by major medical associations?

5 A Yeah. It was considered innovative surgery
6 at the time for psychiatric problems. It didn't last
7 long enough to seek widespread support from medical
8 association.

9 Q So you cited a single case with regard to
10 the informed consent. Do you have evidence to
11 demonstrate whether or not the care was being
12 provided without informed consent in any other case?

13 A No, no. You're the one who was asking
14 about informed consent for these. I was just
15 pointing out that they did exist and they were a
16 mistake.

17 Q Of course, but you have likened it to
18 gender-affirming care, so I'm just trying to
19 determine whether these -- to your knowledge, these
20 procedures were being done without informed consent.

21 A You are correct that they could not be done
22 with informed consent, seeing as how people had no
23 clear idea of what the long-term consequences would
24 be but proceeded anyway.

25 And to that extent it's very similar to

1 what we're seeing with the treatment for gender
2 dysphoria currently.

3 Q Well, but lobotomies were also not
4 supported by major medical associations at the time.

5 A I don't think the issue in the lobotomy was
6 whether or not there was a major medical association
7 that supported it or not, I think it was actually the
8 procedure itself, and the consequences known or
9 unknown, and the ability to give informed consent for
10 that procedure. That's where you actually find the
11 strongest parallels.

12 Q So just to be clear, the case that you've
13 cited, the sister of President John F. Kennedy, she
14 did not consent to that treatment; is that correct?

15 A I --

16 Q She did not provide informed consent for
17 that treatment?

18 A I don't know.

19 Q When you cited it as --

20 A I don't see how she could.

21 Q -- a case where --

22 A I don't see how she could.

23 Q Okay. But in gender-affirming care
24 situations, there are protocols for informed consent?

25 A A protocol for informed consent is not the

1 same as obtaining informed consent. Only if it's
2 followed, and it has to be followed by providing all
3 the elements of informed consent.

4 Those elements include the capacity to
5 understand what's going on; the absence of coercion
6 in the decision-making process, either positive or
7 negative; the comprehension so that you can
8 understand all the risks, benefits and alternatives
9 that are presented to you.

10 But when those things are not even
11 available, then the possibility of informed consent
12 is reduced or absent.

13 Q What evidence do you have that that isn't
14 happening, that that information is not being
15 provided in this context?

16 A Because the information is not available,
17 according to even the people who are providing it.

18 For instance, Robert Garofalo, who is the
19 chief of adolescent medicine at Lurie Children's
20 Hospital in Chicago, told a podcast interviewer last
21 year that the evidence base remained a challenge.
22 It's a discipline where the evidence base is now
23 being assembled and it's truly lagging behind
24 clinical practice. He said it's -- he thinks it's
25 being done safely.

1 But now I think we're really beginning to
2 do the type of research where we're looking at short,
3 medium, and long-term outcomes of the care that we
4 are providing in a way that I think hopefully will be
5 reassuring to institutions and families and patients,
6 or will also shed a light on the things that we could
7 be doing better.

8 Q Did you cite that podcast in your report?

9 A No, I'm just telling you.

10 Q Did you rely on --

11 A In response to your question. You said,
12 you know, why would I think that.

13 Q Well, saying that there's room for there to
14 be more research and to improve the evidence base for
15 the treatments is different from saying that people
16 are not being fully informed of the risk of which we
17 are aware.

18 MR. BEATO: Object to form.

19 Dr. Donovan, you can answer.

20 THE WITNESS: We first have to be aware of
21 the risks and the benefits. Neither of those are
22 clearly elucidated in the present day.

23 Q (By Ms. Dunn) Well, these treatments have
24 been provided for decades at this point, and so
25 there's some --

1 A Provision --

2 Q -- information --

3 A I'm sorry.

4 Q There is information about the risks. And
5 the standards of care and clinical guidelines that
6 are applicable to this care require that that
7 information be disclosed to the patients and their --
8 and in the case of minors, to the patients and their
9 guardians; isn't that correct?

10 A No, not entirely.

11 Should they be required? Yes.

12 Is it? But the problem is, of course, even
13 when things are done for decades, if they are not
14 well documented, done in an orderly fashion where the
15 risk, benefits, alternatives, and outcomes can be
16 clearly delineated, then, in fact, you can't give
17 informed consent because you don't have the
18 information to give.

19 Q What evidence do you have to suggest that
20 the informed consent process that's being engaged in
21 is not sufficient?

22 A The fact that they can't tell what's going
23 to happen to children and adolescents and young
24 adults ten years from now or 15 years from now or 20
25 years from now because the data is so sloppy the

1 information isn't there.

2 Q What evidence do you have to support that
3 statement?

4 A There is evidence to support that
5 statement. There is evidence from many sources.

6 Q What evidence -- can you please cite to the
7 evidence that you rely upon in making that statement?

8 A I -- I can, but, you know, I -- I turned in
9 a lot of different reports with citations and giving
10 you that answer right today will be difficult, but
11 certainly not impossible if you're willing to receive
12 it.

13 Q Well, I'm asking if you, right now, can
14 cite to me the data and information upon which you
15 are presenting this opinion?

16 MR. BEATO: Object to form. I also think
17 that Dr. Donovan's answers speak for themselves.

18 But, Dr. Donovan, if you want to provide
19 another answer --

20 THE WITNESS: I don't have any other
21 answer. I think I've answered it.

22 Q (By Ms. Dunn) Okay. I think at this point
23 I will stop sharing your expert declaration and we
24 will move on to look at the report you provided in
25 support of Florida's GAPMS process. So let me just

1 pull that up.

2 (Document is displayed).

3 Do you recognize this document,
4 Dr. Donovan?

5 A Yes.

6 Q And what is it?

7 A The title reads: "Florida's Medicaid
8 Project: Treatment for Transgender Children Medical
9 Experimentation Without Informed Consent: An
10 Ethicist's View of Transgender Treatment for
11 Children."

12 Q And this is the report you provided to the
13 Agency of Healthcare Administration in Florida in the
14 course of their process to determine whether or not
15 gender-affirming care was experimental?

16 A Yes.

17 (Whereupon, Exhibit Number 25 was marked for
18 identification purposes and made a part of the
19 record.)

20 Q (By Ms. Dunn) And I'm going to mark this as
21 Plaintiffs' Exhibit 25.

22 How did you become involved in preparing
23 this report?

24 A I was contacted and asked if I would be
25 willing to help.

1 Q And do you recall the names of any of the
2 individuals who you spoke with from the agency in
3 your work with them?

4 A I'm sorry, I don't.

5 Q Did anyone assist you in preparing this
6 report?

7 A No.

8 Q Did you draft the report solely on your
9 own?

10 A Yes.

11 Q Did you consult with anyone in preparing
12 the report?

13 A No, not really.

14 Q Did you consult with anyone not at the
15 agency, any other bioethicist or any other medical
16 professionals?

17 A No.

18 Q Okay. So going into the substance of the
19 report itself. I'm on Page 1 of the report, which is
20 also, in this version of the document, marked as
21 Appendix 237. Just give me one quick second.

22 In the second paragraph here, the second
23 sentence says that, "Currently less than half of
24 state Medicaid programs provide gender-affirming
25 care."

1 Do you see that reference?

2 A Yes.

3 Q And that cites to a Williams Institute
4 report from 2019?

5 A Yes.

6 Q When you say "less than half provide," are
7 you referring just to those states that have
8 affirmatively included coverage for gender-affirming
9 care?

10 A I'm not quite sure what the question means.

11 Q So when you say that "less than half of
12 states cover," does that mean that less than half the
13 states have policies that exclusively provide for
14 coverage?

15 A All that I know is what I read, that less
16 than half the state Medicaid programs provide
17 gender-affirming care.

18 Q So I'm going to pull up the Williams report
19 that you've referenced.

20 Do you recognize this report? Is this what
21 you were relying on? I can scroll down to the
22 executive summary if it helps.

23 Is this the report that you relied on?

24 A It's not on the screen.

25 Q Oh, I'm sorry. Thank you. This is me

1 getting a little tired.

2 (Document is displayed).

3 Is this the Williams report that you
4 referenced?

5 A I don't know. It doesn't look like the way
6 I saw it, but it probably is. Sure.

7 (Whereupon, Exhibit Number 26 was marked for
8 identification purposes and made a part of the
9 record.)

10 Q (By Ms. Dunn) I'll mark this as Plaintiffs'
11 Exhibit 26.

12 So this report actually splits the states
13 into three different categories.

14 One is those states that have affirmative
15 coverage for gender-affirming care. And in that
16 category are 18 states and D.C.

17 Then after listing all those states, it
18 notes that 20 states have no express statute or
19 policy addressing coverage. And so in these states
20 coverage for gender-affirming medical treatments may
21 be covered, but there's not an affirmative coverage
22 policy.

23 And then the last category is the 12 states
24 that have express bans on coverage.

25 Is this the information that you reviewed

1 in making the statement in your report that "less
2 than half the states cover gender-affirming care"?

3 A Yes.

4 Q And would you agree that even fewer than
5 half the states, so closer to 25 percent of states,
6 only 12 states explicitly exclude gender-affirming
7 care. Is that accurate?

8 A That's what it says, 12 have expressed
9 bans, 18 have expressed coverage.

10 Q And the other 20 states may cover
11 gender-affirming care; is that correct?

12 A It's -- the law is silent, it says, so --

13 Q But you don't have any information that one
14 of those states do or do not cover gender-affirming
15 medical treatments?

16 A I'm sorry, you faded out there. Try again.

17 Q I'm sorry. You don't have any information
18 as to whether or not those 20 states in fact do cover
19 gender-affirming medical treatment?

20 A It just says that they -- okay. They're
21 silent. I will remain silent myself.

22 Q I'm just saying you don't have any
23 information to confirm that they do not cover it?

24 A Okay. Nothing --

25 Q It's possible that they do.

1 A Nothing beyond the report itself.

2 Q You reference the Belmont report providing
3 ethical requirements for medical research and
4 informed consent; is that correct?

5 A Correct.

6 MR. BEATO: Chelsea, the GAPMS report is
7 not on the screen.

8 MS. DUNN: Yeah. Thank you. I'll pull it
9 up.

10 (Document is displayed).

11 Q (By Ms. Dunn) So now we're on Page 2 of
12 your report, which is labeled as Appendix 238. And
13 here you reference the Belmont report regarding
14 informed consent for research; is that right?

15 A Yes.

16 Q The Belmont report governs biomedical and
17 behavioral research involving human subjects; is that
18 right?

19 A Yes.

20 Q Those guidelines apply to research being
21 done when human beings are the subjects of that
22 research; is that correct?

23 A Yes.

24 Q The Belmont report does not apply in
25 providing clinical care in clinical settings; is that

1 right?

2 A Well, the way you state it, you have to
3 understand that, first off, the Belmont report was an
4 expert opinion. It was not a law or a regulation
5 itself. It did talk about clinical research. So it
6 will involve human beings in clinical setting.

7 Q Sure. But providing gender-affirming
8 medical treatment in the clinical setting is
9 different than biomedical and behavioral research
10 involving human subjects, right?

11 A I am sad to report that, yes, that's true.

12 Q So these ethical principles don't apply to
13 the type of clinical care that the plaintiffs in this
14 case were receiving?

15 A Absolutely wrong.

16 Q Well, I mean, are you offering an opinion
17 about the clinical care that our plaintiffs have
18 received?

19 A No. You just said that the principles as
20 enumerated in the Belmont report don't apply to
21 clinical care. But, of course, they do. They talk
22 about, you know, the principles of autonomy,
23 beneficence, justice, non-maleficence, and fully
24 informed consent, and all of those apply to clinical
25 care whenever it should be delivered.

1 Q Your opinion, your report, states that,
2 "There are deficiencies in each of these categories
3 in the current approach to treating minors with
4 gender dysphoria."

5 How do you know that?

6 A I think it's kind of spelled out in the
7 report itself.

8 Q Well, what is your evidence, though, for
9 saying that there are deficiencies in the clinical
10 care that's being provided?

11 A By the nature of the care and the inability
12 to give informed consent because of the things that
13 are not known, that are not included in an adequate
14 evidence base.

15 Q Aren't there always unknown risks to
16 medical treatments?

17 A Yes, but we should minimize those to the
18 extent possible. That's the point of doing research
19 on innovative therapies in order to get
20 evidence-based data.

21 Q But the way that you're framing it, someone
22 could never provide informed consent because a doctor
23 could never explain every single possible unknown
24 risk.

25 MR. BEATO: Object to form.

1 Dr. Donovan, you can answer.

2 THE WITNESS: Actually, now you're
3 sounding -- no offense -- a little like a lawyer
4 because, in fact, that's often what is brought up.
5 Of course, physicians can't tell you every unknown
6 risk. How can anyone tell you what's unknown?

7 What they can do is strive mightily to
8 determine what the risks, outcomes, and benefits are
9 through carefully constructed trials that are then
10 widely reported through the -- to the world so that
11 they can then be applied.

12 MR. BEATO: Here's a question, Counsel.
13 Would you mind if we take a five-minute break or do
14 you have related questions that you would like to ask
15 Mr. Donovan?

16 MS. DUNN: No. I was about to pull up the
17 Belmont report, so we can take a break now. It's a
18 fine time.

19 (Recess taken from 3:21 p.m. to 3:26 p.m.)

20 Q (By Ms. Dunn) So, Dr. Donovan, before we
21 broke we were talking about informed consent. Is it
22 your position that nobody can ever provide informed
23 consent to gender-affirming care?

24 A Well, I told you before I'm not fond of
25 absolutes, but I think that there are deficiencies in

1 the body of knowledge about what is termed
2 "gender-affirming care" that prevent fully informed
3 consent from being available.

4 Q Which suggests that there's no way that
5 gender-affirming care can be provided with fully
6 informed consent. Is that your opinion?

7 A I will accept your suggestion.

8 Q Well, I guess, are there circumstances --
9 any circumstances where a patient can provide fully
10 informed consent to gender-affirming care?

11 A I think that's what we answered the first
12 time. I think that we have some serious knowledge
13 gaps. We have embarked on a program of what's termed
14 "gender-affirming care" for a diagnosis of gender
15 identity disorder, now gender dysphoria, that
16 actually started without us knowing all the risks,
17 benefits, alternatives, and long-term outcomes. And
18 I don't think we've made great progress in that
19 regard, even though it's been going on, as you
20 pointed out, for years.

21 Q But the end result of that is that because
22 of these unknowns that you cite, you don't believe
23 that any -- that a patient can provide fully informed
24 consent to any of the gender-affirming medical
25 treatments we're discussing today?

1 A Informed consent can't be obtained without
2 information. That's the informed part. And I think
3 we have an information gap.

4 Q So it's your opinion that a patient can't
5 provide fully informed consent to any of the
6 gender-affirming medical treatments we've been
7 discussing today?

8 MR. BEATO: Object to form.

9 But, Dr. Donovan, you can answer that.

10 THE WITNESS: You're saying to any of them,
11 and they can certainly, you know, consent to certain
12 aspects of them because certain aspects they'll be
13 able to say, you know, "If I do a mastectomy, what
14 are the risks, benefits, alternatives?"

15 How that relates to, you know, gender
16 dysphoria is still problematic, but the surgery
17 itself, it's been done a lot.

18 Q (By Ms. Dunn) Well, so --

19 A In other circumstances, I mean.

20 Q I guess, if a patient can provide informed
21 consent, what is -- I'm -- are you saying the patient
22 can provide informed consent about these treatments
23 or that they cannot?

24 A Well, you were the one who said that --
25 kind of made it an absolute, they couldn't do it to

1 any aspect of them.

2 And I was pointing out that there are
3 aspects of them in which they can be informed.

4 If I were to offer -- if I were a surgeon
5 and offered a patient a mastectomy, I could tell them
6 the risks, benefits, the alternatives to a mastectomy
7 and the expected outcomes. But I couldn't tell them
8 how that would affect their diagnosis of gender
9 dysphoria with certainty.

10 Q So you're saying the treatments themselves
11 might be able to have gender-affirming care, but the
12 treatments for the purposes of the treatment of
13 gender dysphoria cannot be made with fully informed
14 consent?

15 A Yeah, that one was a little jumbled. Can
16 you try again --

17 Q Right.

18 A -- please?

19 Q So you're saying that the procedures
20 themselves may be -- people may be able to provide
21 fully informed consent to the procedures themselves,
22 but they can't provide fully informed consent to the
23 use of those procedures to treat gender dysphoria?

24 A That would be partially true. And that's
25 going to be more true for, for instance, surgical

1 procedures which have been done and would be done
2 again in very much the same mode.

3 You know, using puberty-blocking agents or
4 cross-sex hormones for these indications would be
5 much more difficult, even though we know how those --
6 how those apply in other diagnoses and other
7 indications. So there you have a problem.

8 Q I'm just going to go back to your report.

9 (Document is displayed).

10 You make a reference in the third paragraph
11 that, "The rules for their involvement" -- which is
12 referencing the involvement of children in research
13 studies -- or vulnerable subjects in research
14 studies, are set out in the, quote, "Code of Federal
15 Regulations 46 CFR 401 through 409."

16 So when we looked up this reference we
17 found a section of the U.S. Code that appears to be
18 on shipping.

19 A No, I don't think that was mistyped. I can
20 go right behind me and find that. I mean, the CFR
21 has the rules about informed consent in children on
22 the shelf behind me. I'm pretty sure those are the
23 right numbers. 46: 401-409.

24 Do you want me to go look?

25 Q Well, no, I'll pull up --

1 MR. BEATO: Dr. Donovan, it's --

2 Q (By Ms. Dunn) I'm going to pull it up in
3 one moment.

4 (Document is displayed).

5 So if you see here in the Code of Federal
6 Regulations, we have Title 46, Part 401 to 40 -- here
7 it's just 404, but it appears to be about shipping
8 regulations. I can zoom in, I think.

9 A No, no, no, no, no. You're not in the
10 ICH Guidelines.

11 Q What's different about the citation?

12 A Well, it's the Code of Federal Regulations
13 and ICH Guidelines, Title 21, Good Clinical Practice.

14 Q Title 21?

15 A Uh-huh.

16 Q Okay. So you listed Title 46.

17 A No, no. The -- I think it was Part 46,
18 wasn't it? Yeah, Part 46, "The Protection of Human
19 Subjects."

20 Q Well --

21 A Under Title 45, Part 46.

22 Q I'm sorry, I'm a little confused. So if we
23 could just take it -- so you've listed --

24 A IR -- this is fairly standard and widely
25 available. These are the IRB Clinical Investigator

1 Reference Guides put out by -- you know, by the --
2 well, the NIH and the ICH Guidelines by the FDA
3 because this is FDA regulated.

4 And you're looking for IRB Clinical
5 Investigator Reference Guide, which should be under,
6 I guess, Title 45. Part 46 is "Protection of Human
7 Subjects."

8 Q All right. So maybe this is a citation
9 discrepancy. I'm not sure. What I'm trying to just
10 identify is how we would identi- -- how we would find
11 what you're citing to.

12 So 46 CFR, in legal citation, means
13 Title 46 of the Code of Federal Regulations.

14 What title of the Code of Federal
15 Regulations are you intending to reference?

16 A It's Title 45, Part 46.

17 Q Okay. And is it Sections 401 through 409?
18 Is that correct?

19 A Let me double check and make sure. Yep.

20 Q Okay. Thank you for that clarification.

21 A Sure.

22 Q All right. I'm scrolling down in your
23 report to Page 3, which is marked as Appendix 239.

24 And here we talk about -- you talk about
25 the various interventions, which I'm assuming you use

1 that word to reference the medical treatments or
2 procedures we've been talking about today.

3 And so first you reference "surgeries."
4 You say that, "The semantic shift from sex change
5 operations to gender-affirming surgeries is
6 important."

7 What do you mean by this?

8 A I'm looking for the context.

9 Q The first paragraph under "Surgery," the
10 very last sentence.

11 A Oh, okay. I'm sorry, what's the question
12 there?

13 Q What do you mean when you say "the
14 semantics shift is important"?

15 A It's basically what I was trying to point
16 out with the rest of the paper, that, you know, we --
17 we have switched from calling -- from differentiating
18 gender from sex, to begin with, and then we've
19 started calling it affirming surgery. We don't call
20 it just a mastectomy or a penectomy anymore.

21 So, you know, when you say that I am going
22 to do an affirming surgery for you, that's a very
23 positive connotation when a patient first hears it as
24 well.

25 If you said I'm going to do a mastectomy or

1 penectomy, I think that that probably wouldn't sound
2 as appealing.

3 Q Do you have reason to believe that
4 clinicians are not using the name for the procedure
5 with their patients?

6 A I didn't say that. I just said that they
7 are referring to it now as a "gender-affirming
8 surgery," as you know.

9 Q Well, gender-affirming surgery is the
10 category, but I'm just -- do you have any evidence to
11 believe that the term -- the word penectomy or
12 mastectomy is not being used in individual
13 consultations when someone is seeking that type of
14 surgery?

15 A I have good evidence that they're using
16 gender-affirming surgeries, but I think that that's
17 really kind of the point I was trying to make.

18 Q What evidence are you citing?

19 A Well, they are using "gender-affirming
20 surgery." You used "gender-affirming surgeries." We
21 all hear that.

22 Q Well, we use -- of course we use that term
23 to describe multiple surgeries that are for the
24 purposes of treating gender dysphoria.

25 What I'm asking is whether you have any

1 evidence to support the notion that a clinician isn't
2 using the actual name of the procedure with the
3 patient, i.e., a penectomy or a mastectomy.

4 A No.

5 Q Okay. The shift in terminology -- the goal
6 of that shift in terminology was for there to be less
7 stigma associated with the condition.

8 Is that problematic?

9 A Well, what we have done, then, is to take a
10 gender identity disorder and say that that is no
11 longer a disorder. It's only a disorder if you're
12 unhappy with it.

13 The fact that you are a physical male who
14 believes he is or should be a female is normal or
15 should be treated as normal, according to the shift
16 in the terminology and the shift in the approach. I
17 think a lot of people are having some difficulty with
18 that shift.

19 Q What do you mean "a lot of people are
20 having difficulty with that shift"?

21 A I think that people are finding it
22 difficult to just believe the concept, that this man
23 is actually a female gender or this woman is actually
24 a male gender. I think that part of the evidence for
25 that, because you like evidence, is that we're

1 involved in a lawsuit over that right now.

2 Q But who are the people that are having
3 trouble with that change in semantics or that shift?

4 A Well, I think it's a wide number of people,
5 if you just look at things that are being discussed,
6 but I'm sure the people you're suing would fall in
7 that category as well.

8 Q Do you think this shift is problematic for
9 the individuals experiencing gender dysphoria?

10 A I do.

11 Q Why?

12 A Because I think that -- I think that we are
13 taking a psychological problem and applying a
14 medical/surgical solution to it, which doesn't
15 probably -- no, forget "probably" -- doesn't really
16 directly address the underlying problem.

17 Q What is the underlying problem?

18 A I think the underlying problem is that we
19 have men who assert that they are in a -- that they
20 are females in a male body and the reverse.

21 Q Do you have any evidence to cite to to
22 support the assertion that the medical treatments
23 we're discussing today are not effective in
24 addressing the diagnosis?

25 A I don't think we have evidence one way or

1 the other, but I think that the -- it is highly
2 unlikely if, in fact, the basic underlying problem is
3 psychiatric or psychological.

4 Q But are you -- do you have any evidence to
5 cite, with regard to your assertion that surgeries
6 and medical treatments are not effective in treating
7 the condition of gender dysphoria?

8 A Well, I really think that's what we've been
9 discussing all day is the absence of this evidence,
10 that it is effective.

11 Q But you have not provided any citation to
12 support the fact that it is not effective.

13 A Nor have I seen sufficient proof that it
14 is. So I think that, in this case, when you don't
15 have evidence that what you're doing is good, it's
16 difficult to have evidence that what you're doing is
17 not good because we don't have the long-term outcomes
18 being clearly delineated.

19 I mean, we -- you've pointed out that we've
20 been doing this for over a decade on a larger scale,
21 but for a couple of decades and more on a smaller
22 scale and yet we really don't have -- I can't tell
23 you the number of people who have claimed benefit
24 after 20 years or what that's done to their suicide
25 rate. We do know that in adults the suicide rate has

1 gone up, not down after ten years. But these are
2 important questions that need to be answered and we
3 really should be answering those.

4 Q So my question is not -- my question was
5 specific to whether or not you have provided evidence
6 or citation in your report to support the contention
7 that gender-affirming medical treatments are not
8 effective to treat gender dysphoria.

9 A And my response --

10 Q Have you cited an evidence or citation?

11 I mean, just look at your report,
12 Dr. Donovan. I'm just asking, is there a citation or
13 evidence to support that contention?

14 A And what I'm trying to explain is that in
15 the absence of evidence, you know, that isn't
16 evidence of absence.

17 What we're dealing with right now is an
18 entire situation that is evidence-deficient.

19 Q But I'm not asking about the situation.
20 I'm asking a yes or no question as to whether or not
21 there is a citation or evidence -- a source of
22 evidence cited in your report.

23 MR. BEATO: Object to the form.

24 THE WITNESS: And I not only answered that,
25 but I also gave you a reason why there is no answer

1 for that.

2 Q (By Ms. Dunn) I don't believe I've heard --
3 it's a yes or no question and I don't believe I've
4 heard a yes or a no.

5 MR. BEATO: Object to form.

6 Dr. Donovan, you can answer.

7 THE WITNESS: There is no sufficient
8 evidence as to the outcomes.

9 Q (By Ms. Dunn) So is that a no, that you
10 have not provided a citation to a source of evidence
11 to support the contention that gender-affirming
12 surgeries and medical treatments are not effective to
13 treat gender dysphoria?

14 MR. BEATO: Counsel, I think the report
15 speaks for itself and I think Dr. Donovan's answer
16 speaks for itself.

17 MS. DUNN: Michael, if you have an
18 objection, you're welcome to state it, but I'm asking
19 a yes or no question and I'm not being given a yes or
20 no answer.

21 THE WITNESS: You're not being given a yes
22 or no answer by me because a yes or no answer would
23 be inappropriate. I could give you a yes or no
24 answer, but it would not actually help clarify the
25 truth, it would obfuscate it.

1 Q (By Ms. Dunn) I'm merely asking whether you
2 provided a source of evidence to support your
3 contention that gender-affirming medical treatments
4 are not effective to treat gender dysphoria.

5 If you -- that is a yes or no question.

6 A It is a yes or no question, but a yes or no
7 answer is inappropriate when there is no such
8 evidence. It's like asking for evidence of aliens.

9 You know, have I proven that there is no
10 evidence? Proving the negative is much harder than
11 affirming the positive, as you know.

12 Q But I haven't asked you to prove, I've
13 merely asked if you cited evidence in your report.

14 MR. BEATO: Object to form.

15 THE WITNESS: Evidence to do what?

16 Q (By Ms. Dunn) To support the contention
17 that gender-affirming medical treatments are not
18 effective to treat gender dysphoria.

19 A And how is "support" and "prove" different
20 because I'm confused now.

21 Q A supporting citation just demonstrates
22 that you relied on some sort of evidence. And I'm
23 merely asking if you have cited any such evidence in
24 your report.

25 A There is no such evidence to cite.

1 Q And, similarly, you haven't cited any such
2 evidence in your bibliography?

3 A And there is no such evidence to prove that
4 it is effective long term.

5 Q Back to your report. I just want to make
6 sure I'm in the right place.

7 So you state that, "The lack of sexual
8 maturity in younger patients, especially previously
9 delayed by puberty-blocking agents, makes the sparse
10 tissue more difficult to work with and outcomes less
11 favorable with problems such as wound rupture are
12 more likely."

13 What is your evidence to support this
14 assertion?

15 A This is information that I have received
16 from surgeons. This is not personal experience.

17 Q How did you receive this evidence from
18 surgeons?

19 A This was in reading their reports.

20 Q And are those reports cited here?

21 A No.

22 Q Are they cited in your bibliography?

23 A Everything that's cited here is cited
24 within the body of the thing. This doesn't have a
25 separate bibliography, to my recollection. No, it

1 doesn't.

2 Q Okay. I'm sorry, but it wouldn't be a
3 source that would be cited in the bibliography you
4 provided with your expert report?

5 A This was stated by surgeons who do this
6 surgery, so I don't think it's controversial enough
7 to need a separate citation.

8 Q Well, this is evidence that you're relying
9 on. I'm just asking if you have cited a source for
10 that evidence.

11 A And, no, I didn't, because I didn't think
12 this was anything controversial, seeing as how the
13 surgeons themselves have mentioned this.

14 Q You then say that, "These are challenges
15 that are not routinely described to minors at the
16 beginning of their treatment progression."

17 What is your evidence to support that
18 contention?

19 A Simply because it -- I don't think it's
20 even widely known by people.

21 Q Do you have a source of evidence that you
22 can cite to for that assertion?

23 A Are we talking about the same assertion or
24 something --

25 Q No, the assertion that these challenges are

1 not routinely described. I'm just asking how --

2 A I certainly haven't been able to find them
3 as part of the routine description anywhere in
4 surgery for adolescents, but if I'm wrong, I'd be
5 happy to be corrected.

6 Q Other than this one -- this issue
7 identified with individuals who begin their treatment
8 with puberty blockers, you don't describe any other
9 ethical issues or complications related to
10 gender-affirming surgeries in this part of the
11 report; is that right?

12 A Everything I described is -- is there.

13 Q What do you mean by that?

14 A Well, what did you mean by that? This
15 is --

16 Q Well, I'm asking if there are other ethical
17 issues that you've identified with gender-affirming
18 surgeries.

19 A I think the fact that they're being done is
20 the ethical issue, actually. We're talking in this
21 report on -- not on adults, but on children.

22 Q So now we'll move on to this section that's
23 called "Hormonal Treatment." It's on the same page,
24 Page 3 of your report marked as Appendix 239.

25 Here you again cite to "80 percent of

1 minors who identify as transgender will reverse this
2 identity by the time they reach their mid 20s."

3 Do you cite any evidence in this report to
4 support this assertion?

5 A Actually, I think we found that in the
6 other reference, but I don't have a specific citation
7 on that paragraph, no.

8 Q Are you saying that this source was
9 included in your bibliography?

10 A Yeah. I thought we found that 80 percent
11 when we were looking through there.

12 Q To my recollection, you were not able to
13 identify that source from your bibliography.

14 A Okay.

15 Q Is that inconsistent with your
16 recollection?

17 A It's been a long day, Counselor. I'm not
18 sure.

19 Q But there's no citation here to support
20 that assertion?

21 A That's right.

22 Q You say that, "Sex hormones have an
23 important and lasting effect on brain development and
24 adolescent psychology."

25 That's right here right before the end of

1 this paragraph.

2 There's no citation or source of evidence
3 for this assertion in your report; is that correct?

4 A That's correct, I don't have citations for
5 every statement.

6 Q Do you know of any studies that show the
7 administration of cross-sex hormones to be harmful to
8 brain development?

9 A What I said was they have an important and
10 lasting effect. And I think that, yes, those studies
11 do exist.

12 I think that most people recognize that if
13 they have ever been an adolescent, or had one in the
14 family, it's -- didn't seem like it was that
15 controversial a concept to require a separate
16 citation. But, yes, there is evidence for that,
17 you're right.

18 Q There's evidence for what?

19 A For the fact that there are important
20 effects and lasting effects on brain development and
21 adolescent psychology.

22 Q But you did not cite any research or
23 studies to support this assertion?

24 MR. BEATO: Object to form.

25 Dr. Donovan, you can answer.

1 THE WITNESS: What you see is what you get.
2 Everything that I cited is right there. And if it's
3 not there, then it wasn't cited in this paper.

4 Q (By Ms. Dunn) And in your report you don't
5 describe other ethical issues related to the
6 administration of cross-sex hormones?

7 A I didn't cite any. That doesn't mean there
8 aren't any.

9 Q Specific to this report, there are no other
10 ethical issues related to the administration of
11 cross-sex hormones addressed.

12 A Okay. Not specifically.

13 Q And I'm just -- I see you flipping through
14 papers. Are you just looking at the same report that
15 I have on the screen?

16 A Yes, it's easier to read.

17 Q That's absolutely fine, I just wanted to
18 confirm that's what you're looking at.

19 And if you're looking at a different
20 section than me at some point, if you're referencing
21 it, if you'll just please direct me to that section.

22 A Sure.

23 Q So the next section addresses "Puberty
24 Blockers." You state that, "Children and parents are
25 only told that this is a benign intervention whose

1 effects are easily reversible and that potential
2 effect on the development of bone density may be
3 mentioned."

4 What evidence do you have that this is the
5 exhaustive information provided to children and their
6 parents?

7 A Actually the people who provide them have
8 written this in their own papers. It is not cited --

9 Q Well, who --

10 A It is not cited there, but those people who
11 have written papers about transitioning have
12 frequently said on their websites, you know, what I'm
13 saying there.

14 Q Can you direct us to those sources?

15 A It can be done.

16 Q Can you do that right now today?

17 A No.

18 Q You go on to discuss a case of a child in
19 Sweden. Where did you get this information?

20 A I'm trying to read where you are.

21 Q I'm sorry, it's just the next sentence, I
22 think.

23 A Oh. I'm sorry, that was reported. I
24 didn't cite the -- the location of the report, but it
25 was reported publicly in the literature.

1 Q There's no cite, though, in your report?

2 A Once again, Counselor, if you don't see it
3 right there, you're right, it's not a specific
4 citation.

5 Q You go on to note that, "Sweden changed its
6 guidelines for gender-affirming care to reflect that
7 GnRH analogues should only be used in exceptional
8 cases."

9 Do you know what the criteria in those
10 Swedish guidelines is?

11 A No.

12 Q So I'm going to pull up the Swedish
13 Guidelines for the Treatment of Gender Dysphoria.

14 (Document is displayed).

15 Do you recognize -- have you ever seen this
16 document, Dr. Donovan?

17 A Is that the one from February of last year?

18 Q Let's see if there's a date on it. I don't
19 see a date on it.

20 Do you recognize the document itself,
21 though?

22 A No, I don't. I said I hadn't seen that.
23 And maybe this preexisted the changes, do you think?

24 Q Let's just -- if you want to take a -- oh,
25 I'm sorry. Here if you look at this paragraph this

1 references "2022," so this must be a recent document.

2 A Okay. Let me read then.

3 Q Sure.

4 A "A systemic review published in 2022 by the
5 Swedish Agency for Health Technology Assessment and
6 Assessment of Social Services shows the state of
7 knowledge largely remains unchanged compared to 2015.
8 High quality trials such as RCTs are still lacking."

9 Q I'm sorry, I don't need you to read --

10 A "The evidence on treatment" --

11 Q Sir?

12 A -- "efficacy and safety is still" --

13 Q Dr. Donovan?

14 A I think what I'm looking for is in here.

15 Q Okay.

16 A -- "is still insufficient and
17 inconclusive."

18 Q Yeah, I'm not asking you to read from the
19 document. I'm sorry. I was just asking -- I wasn't
20 able to confirm a date, but I think based on this
21 sentence we can both agree that it was published
22 sometime after -- sometime in 2022 or 2023.

23 A Okay.

24 Q So do you know the criteria that's used to
25 determine if a case is so-called "exceptional" for

1 the purposes of the provision of GnRH analogues?

2 Are you familiar with the criteria?

3 A Well, it's saying here, to minimize the
4 risk it should offer more closely to those used in
5 the Dutch protocol.

6 Q And so that requires "early onset of gender
7 incongruence, persistence of gender incongruence
8 until puberty, and a marked psychological strain in
9 response to pubertal development is among the
10 recommended criteria."

11 Is that accurate?

12 A That's what that says, yes.

13 Q Is this significantly different than, for
14 example, the Endocrine Society guidelines?

15 A I will defer to your knowledge.

16 Q So you are not -- you are not aware whether
17 the new Swedish guidelines are significantly
18 different from the clinical guidelines for endocrine
19 treatment that are used here in the U.S.?

20 A I haven't even had a chance to read this in
21 its entirety, so I can't answer that. I'm sorry.

22 Q Well, but -- so I guess the reason I'm
23 asking is just because you reference that this case
24 should only be provided in exceptional cases, to
25 suggest that it's more restrictive than the criteria

1 for this care here in America.

2 Do you know for a fact that that is
3 correct?

4 A All I know is what the National Board of
5 Health and Welfare from Sweden said that, "The risks
6 of puberty-suppressing treatment with GnRH analogues
7 and gender-affirming hormonal treatment currently
8 outweigh the possible benefits. The treatment should
9 be offered only in exceptional cases."

10 Q But these --

11 A That was a quote --

12 Q These guides -- I'm sorry.

13 A That was a quote from the Swedish source
14 and I don't know that that quote --

15 Q Again, I'm not asking you to read the
16 document. I'm asking about the --

17 A But you are -- you are giving me this as
18 the source of it, but I'm not certain that you're
19 actually giving me the proper source.

20 Q You don't think that this publication from
21 the National Board of Health and Welfare is an
22 accurate reflection --

23 A The one that contains that quote, I don't
24 think that it -- it -- necessarily. I'd have to read
25 the whole thing to know that that's where the quote

1 came from.

2 Q What quote? I'm sorry. What are you
3 talking about?

4 A The quote that says that "The risks
5 currently outweigh the possible benefits and
6 treatment should be offered in exceptional cases."

7 Q You're saying that you --

8 A Puberty blockers. From the Swedes.

9 Q Are you saying that this isn't the source
10 that you got your quotation from?

11 A I'm not recognizing what you're showing me
12 here. I'm sorry.

13 Q So that -- understanding that, what I'm
14 asking is that you --

15 A It says, "Until a research study is in
16 place, the NBHW deems that the treatment" --

17 Q Dr. Donovan, I'm sorry, I'm not asking you
18 to read from this document.

19 A -- "may be given in exceptional cases."

20 Q If you can wait until I've posed a --
21 MS. DUNN: I think we might need to take a
22 break.

23 MR. BEATO: That's fine. We can take a
24 five-minute break.

25 (Recess taken from 4:02 p.m. to 4:08 p.m.)

1 (Whereupon, Exhibit Number 27 was marked
2 for identification purposes and made a part of the
3 record.)

4 Q (By Ms. Dunn) So, again, I have to clear up
5 my sloppiness around labeling exhibits. So the
6 Swedish guidelines we just looked at will be marked
7 as Plaintiffs' Exhibit 27.

8 So I'm just going to go back to your report
9 again, Dr. Donovan, and move on to the section that
10 you reference, quote, "The Fundamental Flaw," which
11 is on Appendix 240.

12 (Document is displayed).

13 So in this section you say, in the second
14 sentence of this paragraph, that "After close
15 scrutiny, it can only be seen as off-label
16 experimental."

17 And by that you're referencing -- the "it"
18 you're referencing is gender-affirming care, as we --
19 we discussed already, the hormonal treatments,
20 the gender-confirming surgeries and the
21 puberty-blocking medications; is that right?

22 A Yes.

23 Q And so this seems to associate off-label
24 medications with experimentation. Is that the
25 suggestion you're making?

1 A No, not exactly.

2 Q So what do you mean by "off-label
3 experimentation"?

4 A Well, that's two different phrases. One is
5 "off label," the other is "experimentation."

6 Experimentation is when you are --
7 sometimes it's also referred to as innovative
8 practice, but when you're doing things that are
9 trials in which the outcomes have not been
10 sufficiently determined or documented.

11 The --

12 Q Just to be clear --

13 A -- "off label" part is referring to the
14 FDA approval, which is useful if it's for a specific
15 indication, but is not necessary for --

16 Q So -- I'm sorry. I didn't mean to cut you
17 off.

18 So just to be clear, those terms are
19 interchangeable --

20 A No.

21 Q -- off label and experimental?

22 A No. No, they're not interchangeable.

23 Q So a medication -- just because a
24 medication is used off label doesn't mean that that
25 medication is necessarily experimental?

1 A I have used medications off label for
2 indications that were clearly documented but never
3 had sought FDA approval.

4 Q In this paragraph you talk a little bit
5 more about what we discussed earlier with, "The
6 change in terminology in the DSM-5 led to a shift
7 from seeking to correct the underlying cause of the
8 dysphoria to instead focusing on transitioning to
9 one's affirmed gender."

10 Is that a fair -- is that what you're
11 writing about here in this report?

12 A That is a quote, yes.

13 Q Okay. And what do you rely on in this
14 discussion around the impact of the change in
15 semantics?

16 A I was quoting. I was quoting the people
17 who put out the DSM-5 and the American Psychiatric
18 Association. You know, those are quotes.

19 Q Do you have any other -- was there any
20 other source you relied on in your discussion of this
21 change of semantics?

22 A I mean, this was the APA's rationale. I
23 thought that they would be reliable in terms of what
24 they were intending.

25 Q And perhaps to be more specific, in your

1 bibliography -- which I'll flip over to very
2 quickly --

3 (Document is displayed).

4 -- you cite a source that's named "Gender
5 dysphoria in the DSM-5: The change in terminology."
6 That's "HLI.org/resources/DSM-5-gender-dysphoria/."

7 A Well, no, I wasn't using --

8 Q Is --

9 A I'm sorry, I didn't mean to interrupt. I
10 thought that was -- that was not what I used in this
11 report.

12 Q So you did not -- in talking about that
13 change in semantics, you didn't rely on that Human
14 Life International article?

15 A True.

16 Q Do you know how it was used in your expert
17 report?

18 A I don't know. We could go back through it,
19 I suppose.

20 Q Well, we can table that momentarily.

21 Do you believe that this shift in semantics
22 in changing the diagnosis to gender dysphoria, do you
23 believe that change was harmful?

24 A Well, I think it shifted the focus away
25 from the patients presenting with what they describe

1 as "being in the wrong body" as saying that that is
2 somehow normal and not a disorder.

3 Q Do you believe that the best course of
4 treatment for a person experiencing gender dysphoria
5 is to help that person understand they're not trapped
6 in the wrong body?

7 A I think that that probably would be the
8 best approach and I think that it should have been
9 compared to what is being done.

10 Q You say that -- and I think it's going to
11 be in the next paragraph, so let me just find where
12 I'm referencing so I can point you directly.

13 In this second paragraph on this page,
14 we're currently on Page 5 of your report marked as
15 Appendix 241, you say -- the third sentence in this
16 second paragraph you say, "Self-diagnosing
17 psychiatric conditions is always fraught with the
18 possibility of error."

19 You aren't a psychiatrist by -- in your
20 practice; is that right?

21 A That's correct.

22 Q You're also not a licensed mental health
23 professional; is that correct?

24 A Correct.

25 Q How often during your time as a clinician

1 did you provide mental health diagnoses when you were
2 a pediatric gastroenterologist?

3 A I'm sorry, I lost you there.

4 Q Oh, I'm sorry.

5 A Can you repeat that?

6 Q Yes, of course. I think the Internet is
7 getting a little buggy.

8 So you testified that there were occasions
9 where you would give presumptive mental health
10 diagnoses to patients in your --

11 A Yes.

12 Q -- pediatric gastroenterology practice; is
13 that right? I'm sorry, did you --

14 A Yes.

15 Q Yeah. The answer to that was yes?

16 A I said "Yes."

17 Q I'm sorry, I think I lost you then, so I
18 apologize.

19 Can you estimate how many patients --

20 A Okay. I think you're right. We're having
21 some problems.

22 Q Yeah. I apologize for that. I don't know
23 if it's our Internet, but let's try to do the best we
24 can.

25 Can you estimate how many patients during

1 your time as a clinician you provided a mental health
2 diagnosis for?

3 A No.

4 Q You can't even give an estimate of that?

5 A No. I mean, no. I was in practice for 30,
6 40 years. I couldn't begin to guess accurately.

7 Q Was it common for you to be providing
8 mental health diagnoses for your pediatric patients?

9 A Oh, no, I wouldn't be providing them, I
10 would be suspecting them and referring them.

11 Q So, I guess, was that a common instance
12 that happened frequently?

13 A No, because the psychiatric diseases in
14 children aren't that common compared to the other
15 types of diseases.

16 Q And so, again, you weren't actually
17 providing these diagnoses, you suspected diagnoses
18 and were making referrals to mental health
19 clinicians?

20 A Correct.

21 Q So what basis do you have to support a
22 statement that self-diagnosing psychiatric conditions
23 is always fraught with the probability of error?

24 A I said "possibility of error." And I -- I
25 don't see that as terribly controversial. I don't

1 see anyone in psychiatry disagreeing with that.

2 I would find any patient whose
3 self-diagnosis always fraught with the possibility of
4 error. And not just in psychiatry, in medicine in
5 general.

6 Q How do we -- what conditions are
7 self-diagnosing?

8 A Well, the way it applies in this particular
9 case is when there's no confirmatory evidence in --
10 like we've talked about before, in lab, in X-rays,
11 and in other tests --

12 Q But that's --

13 A -- that could confirm it. That would be --
14 that means, basically, the patient comes in with
15 their own diagnosis. And I -- you know, I assume, if
16 somebody overruled that diagnosis, you know, that
17 that would fall in the same category as well. But
18 that wouldn't be my job.

19 Q Are all psychiatric conditions based on
20 self-reported symptoms?

21 A No.

22 Q They can't be -- they can be -- there are
23 psychiatric conditions that are confirmed by lab
24 tests?

25 A No. But they're not all self-diagnosed. I

1 don't think most schizophrenics come in and say, "I'm
2 schizophrenic."

3 Q Well, I guess, what evidence do you have
4 that individuals who are diagnosed with gender
5 dysphoria are self-diagnosing?

6 A You understand what we've been talking
7 about. This is how they present. They come in and
8 say, "I am a woman. This is a male body." They are
9 the ones who determine that.

10 Q They're reporting symptoms. But it's a
11 clinician who makes --

12 A That's not a symptom, ma'am.

13 Q What -- I -- what evidence do you have that
14 patients experiencing gender dysphoria are
15 self-diagnosing?

16 A The patients are the ones who claim that
17 they are in the wrong body.

18 Other people are not walking up to them and
19 saying, "You know, you look just like a man but I
20 think you're a woman." That doesn't happen.

21 Q But the clinician provides the diagnosis.

22 A Only after the patient has presented
23 themselves as a woman in a man's body. Okay? You
24 could say they're confirming it, but that doesn't
25 necessarily equate to providing it because it's

1 already been provided when they enter the room.

2 Q Have you cited any evidence in your report
3 that individuals experiencing gender dysphoria are
4 self-diagnosing their psychiatric condition?

5 A I -- this is -- I mean, it's in the
6 definition of "gender dysphoria."

7 Q I'm sorry, I -- can you provide a citation
8 for that?

9 A No.

10 Q The third paragraph on this page you say
11 that, "The claim of urgency, coupled with an impulse
12 towards nonjudgmental empathy, for the disturbed
13 patients has led to a frantic insistence on a single
14 approach."

15 What is the single -- I'm sorry.

16 Is the single approach that you're
17 referring to "providing gender-affirming care"?

18 A Yes.

19 Q And you call this approach "cult-like"?

20 A It seems like that to some people and I see
21 why it does.

22 Q Well, and your source for this statement is
23 two articles that are cited here; is that correct?

24 A Uh-huh. Yes.

25 Q One of these articles was from The Daily

1 Signal; is that right?

2 A Yes.

3 Q And were you aware that The Daily Signal is
4 the Heritage Foundation's news organization?

5 A No.

6 Q And one was from The Daily Mail Online; is
7 that correct?

8 A Yes.

9 Q The Daily Mail Online is a British tabloid?

10 A Yes. These were reports from parents
11 directly, so they would not appear in the academic
12 literature.

13 Q But these are your sources for your
14 suggestion that this single approach is cult-like?

15 A Made the parents feel like, yes, because
16 that's what they said.

17 Q You say that, "Love-bombing wrongly
18 encourages children to be transgender."

19 What is your citation for this proposition?

20 A I'm trying to remember if that was with the
21 same -- the next citation or something else. No,
22 that's a separate citation. I have it in my files,
23 but I don't have it cited here.

24 Q So there's no citation provided for that
25 statement here?

1 A That it's the result of overenthusiastic
2 acceptance? I think overenthusiastic acceptance is a
3 reality, but you could also see it as an opinion, you
4 know, is the glass half full or half empty?

5 I would say that the -- the rush to be
6 affirming is overenthusiastic acceptance.

7 So perhaps I'm the authority there, because
8 this is an opinion after all.

9 Q Are you -- do you have personal experience
10 with this so-called love-bombing or overenthusiastic
11 acceptance?

12 A No, no. These are the opinions that I've
13 formed from reading the experience of others.

14 Q And are these -- the experiences of others,
15 are they primarily in news articles or what sources
16 are you reading these --

17 A I think it's very hard to live in today's
18 world without realizing there is a strong urge in
19 schools, in medical circles, and in the general
20 environment to be affirming and only be affirming to
21 someone who presents with a -- with a feeling that
22 they are in the wrong body. I don't think that
23 that's really very controversial or difficult to
24 perceive.

25 Q Is it your opinion that this is

1 problematic?

2 A Absolutely.

3 Q You say -- I think going down to -- I'm
4 sorry, I'm trying to find a reference here.

5 So you also discuss an issue that arose in
6 Virginia where a sexual assault was -- well, as you
7 put it, was committed by a, quote, "Self-described
8 trans female."

9 Do you see that section?

10 A Yes.

11 Q And you quote -- or, I'm sorry, you cite to
12 an article here that was published in the Washington
13 Examiner?

14 A Uh-huh.

15 Q I'm going to show you that article.

16 (Document is displayed).

17 Is this the article that you were citing
18 to?

19 A Probably.

20 (Whereupon, Exhibit Number 28 was marked for
21 identification purposes and made a part of the
22 record.)

23 Q (By Ms. Dunn) I'm going to -- I will mark
24 this as Plaintiffs' Exhibit 28.

25 A Can you enlarge it?

1 Q Of course. Can you tell me where you got
2 the information that this person who committed this
3 sexual assault was a, quote, "Self-described
4 trans female"?

5 A There was more than one article about this.
6 This is only one that I cited.

7 Q And here it just says there was "a male
8 perpetrator who was wearing a skirt."

9 This article, which is the one you cited in
10 your report, doesn't identify this individual as a
11 trans person -- transgender person?

12 A Oh, no, there have been several reports. I
13 cited one, but this, you know, was clearly reported
14 in the news.

15 And, yes, the reason he was in the girls
16 bathroom was because he had felt proclaimed to be
17 transgender. I think that that self-diagnosis might
18 be questionable. I don't think that people who truly
19 feel they're transgender are at risk for sexual
20 assaults opposite their biologic sex.

21 Q I'm just -- at this point I'm just asking
22 about your citation here. So you have described the
23 person who committed this assault as a
24 "self-described trans female," and then you cited
25 this article.

1 And I just want to confirm that this
2 article does not refer to this person as a
3 self-described trans female.

4 A Well, this is -- this is a reference to the
5 article, but it looks like -- that does say he was
6 wearing a skirt.

7 There are a couple of links there. Do they
8 also mention that he had described himself as
9 transgender? Because he had. And we can find it.
10 Do you want to look?

11 Q Well --

12 A Can you click those links about "sexual
13 assault" or "May 21 sexual assault"?

14 Q Dr. Donovan, I'm not asking you to read
15 from the report, respectfully.

16 I am asking -- you cited this article in
17 your assertion that this individual was a
18 trans female. So I'm just asking -- in looking at
19 this document, it does not state that the individual
20 who committed this assault was a self-described
21 trans female; is that correct?

22 A And I was saying I think it may be
23 contained in those links about the same incidents.

24 Q Well, then -- but you did not provide a
25 citation to those particular articles when you wrote

1 your report?

2 A I just provided this citation.

3 Q And I'm going to pull up one more article
4 on this issue.

5 (Document is displayed).

6 So this is a CNN article that's about this
7 same sexual assault in Virginia.

8 Have you ever seen this article,
9 Dr. Donovan?

10 A I don't recall seeing it.

11 (Whereupon, Exhibit Number 29 was marked for
12 identification purposes and made a part of the
13 record.)

14 Q (By Ms. Dunn) I'm going to mark this as
15 Plaintiffs' Exhibit 29.

16 So CNN looked into this issue and they
17 report here on this page that they "could not find
18 evidence substantiating that the student identified
19 as transgender or gender-fluid."

20 Were you aware that that report had not
21 been substantiated by other news sources?

22 A I don't know how they failed to find it. I
23 don't -- I don't know what this refers to. I don't
24 know if they interviewed him or somebody else. I
25 mean, this tells me nothing.

1 Q I'm just asking if you were aware that
2 competing news sources were not able to substantiate
3 the claim that this person was a trans female?

4 A I -- I actually would -- it's easier to say
5 yes or no on this one rather than go into the
6 details, but I'll accept that.

7 Q So you were not aware that other sources
8 were unable to substantiate that claim?

9 A An unsubstantiated claim doesn't mean a
10 false claim. That's all I'm trying to indicate here.

11 But, yes, I -- I don't know anybody who's
12 interviewed the guy directly. The thing was -- it
13 was very difficult to get information on the details.
14 He was in a girl's bathroom wearing a skirt. You
15 know, whether or not he had been diagnosed by himself
16 or someone else as transgender is completely unknown
17 to me. I would doubt the diagnosis that he gave.

18 Q But you cited to one article, and I'm just
19 asking if you were aware of this other information
20 from another news source.

21 A And I said "no."

22 Q You're not aware?

23 A Not this news source.

24 Q Thank you.

25 On Page 6 of your report, which I'll pull

1 up in just one moment.

2 (Document is displayed).

3 You cite to an article by Abigail Schrier.

4 Are you familiar with this article?

5 A Yes.

6 Q Do you know where this article was
7 published?

8 A Oh, there, "Top Trans Doctors Blow the
9 Whistle on Sloppy Care."

10 Q And where was this article published?

11 A Says "Emmaus Road Ministries, 5 October
12 2021."

13 Q And is that a peer-reviewed source?

14 A You're not going to find very many
15 discussions about these things in peer-reviewed
16 sources. They basically, you know, have one
17 orientation.

18 No, this, I don't think, would be a
19 peer-reviewed source either.

20 Q Moving on to Page 7. We'll go to the
21 second paragraph. So this is Page 7, Appendix 243.
22 The second paragraph.

23 I'm sorry, I'm having trouble. I think I
24 have a different version of the report pulled up than
25 one of my colleagues, so I'm trying to identify

1 where --

2 A Okay. Well, whatever you have is what I'm
3 looking at as well.

4 Q Okay. Simone was looking at the actual
5 pages in the PDF and not the numbered pages and
6 that's why we had some confusion, so that's my fault.
7 Okay. I'm wondering why I was so confused and now I
8 understand. All right. I apologize in wasting your
9 time in trying to figure that out.

10 So we're going back up to Page 5, which is
11 Appendix 241. And you say, "The rate of suicide
12 among post-operative transgender adults in a study
13 from Sweden found an incidence 20 times greater than
14 that of the general population."

15 What study are you citing here?

16 A I don't see it. I don't even see the --
17 what you're reading to me.

18 Q Oh, I'm sorry. It's --

19 A Which paragraph?

20 Q -- the second paragraph. I'm looking at
21 the second to last sentence in that paragraph.

22 A Oh, okay. Yeah. Yes, I do remember
23 reading that. I didn't cite the article there.

24 Q Can you provide us with a name of that
25 study here today?

1 A Not off the top of my head, no.

2 Q Slightly before this, the third to last
3 sentence of that paragraph you say, "Studies have
4 shown that adult transgender persons continue to have
5 evidence of depression and suicidality following
6 treatment."

7 What studies are you referencing there?

8 A Actually, I don't know. That may even be
9 the -- among others, may be the same study, but I
10 don't have the reference down there.

11 Q So there's no citation provided in your
12 report --

13 A Right.

14 Q Regarding either of these two studies?

15 A That's true.

16 Q Are you aware of any studies that found
17 there were positive mental health outcomes among
18 transgender adolescents and young adults after
19 receiving gender-affirming care?

20 A Well, there have been positive results
21 reported.

22 Q And did you consider those studies when you
23 were preparing your opinions in this report?

24 A Of course.

25 Q Do you reference any of those studies in

1 this report?

2 A If you're going to ask me for citation
3 saying that there's -- on supportive ones, no, I
4 didn't put that in there either.

5 One of the problems is that so many of
6 these studies have been criticized because of the
7 form in which they were done, how the questions were
8 asked, and how they were reported, who was asked and
9 who wasn't asked, you know, and who refused to ask.

10 So, yes, I know that they had been
11 reported. I don't know that they are any more
12 convincing evidence.

13 Q What evidence do you have with regard to
14 those criticisms?

15 What evidence do you have of those
16 criticisms? What are you referring to?

17 A Oh, you mean are there criticisms of some
18 of the transgender reports or satisfaction surveys or
19 something?

20 Q I'm asking what criticisms. I'm asking --

21 A Yeah. I don't even --

22 Q -- if you --

23 A -- have that stated here, so, no, I don't
24 have a citation for that. I didn't even use that
25 citation, seeing as how if it was sloppy work I

1 didn't think I'd want to cite that.

2 Q So I'm going to move down again to Page 6.
3 This is marked as Appendix 242. So you reference two
4 phenomena that may be associated with -- you say
5 "this," and I -- I think we're maybe referring to
6 this idea of overenthusiastic affirmation or
7 love-bombing. Is that correct that that's what
8 you're referring to?

9 A A strong affirmation for the diagnosis and
10 treatment.

11 Q So you say here that, "It may not only be
12 easier to identify as transgender in today's
13 environment, it may be more difficult to turn one's
14 back on that diagnosis."

15 What evidence do you have to support this
16 statement?

17 A I said it "may." That's my opinion, that
18 it may be more difficult to turn one's back if you're
19 being strongly affirmed in any direction.

20 Q Have you cited any data to support that
21 assertion?

22 A Well, I think maybe the subsequent lines
23 about re-transitioning and de-transitioning and
24 switching back and forth may be supportive of that.

25 Q But you're suggesting that because a recent

1 study found that fewer youth re-transitioned, that
2 that is because it's more difficult to turn one's
3 back on a diagnosis of gender dysphoria?

4 A Yes.

5 Q Why -- how can -- I guess, what evidence do
6 you have that the lower rate of re-transition is
7 caused by the fact that it's harder to turn one's
8 back on the diagnosis?

9 A I'm sorry, I misunderstood your previous
10 question, I'm afraid.

11 No, I think that enthusiasm and support for
12 the diagnosis may be making it harder for people to
13 then change their minds about their condition.

14 Q But then when I asked what evidence you had
15 to support that, you cited to the evidence that
16 follows in that paragraph, which is evidence that --
17 it's a study where the rate of re-transition, where
18 someone changed their gender identity back, is -- is
19 significantly lower than it was in earlier studies.

20 Does that data support your contention that
21 it's harder to turn one's back on a diagnosis?

22 A I think that if you are being strongly
23 affirmed, yes, you will be less likely to say, "I
24 change my mind."

25 Q But what evidence do you have of that, that

1 that's what's happening?

2 A It's really kind of what we had just
3 discussed, I think, that, you know, in fact, if you
4 see stronger affirmation you may see fewer people
5 saying that they no longer feel that way compared to
6 historic data.

7 Q But merely citing a study which says that
8 rates of re-transition have decreased does not
9 necessarily mean that it's because of the cause --
10 the -- the hypothetis- -- I mean, you hypothesize
11 that there are two phenomena that may be, you know,
12 related to this, but those statistics about lower
13 rates of re-transition don't necessarily prove that
14 that was caused by these phenomena that you
15 identify; isn't that correct?

16 A It says it may be an explanation.

17 Q But you have no evidence to demonstrate
18 causation?

19 A That's why you say things like "it may be
20 an explanation."

21 Q So here at the top of Page 7, Appendix 243,
22 you say that, "All of this leads to the conclusion
23 that we must ask if this represents a shift towards
24 being trapped in the wrong diagnosis rather than a
25 child being trapped in the wrong body."

1 What diagnosis would be right in this
2 situation?

3 A The wrong diagnosis, I think, is when we
4 are saying that your gender identity is both correct
5 and the cause of all your problems.

6 Q So what diagnosis would be the right
7 diagnosis in that situation?

8 A Perhaps what used to be thought of as
9 gender identity disorder would be closer to accuracy.

10 Q And going further down on this page, in the
11 second paragraph about midway through, you say that,
12 "We may be making a fundamental mistake in
13 approaching transgender phenomena, not as a disease
14 or disorder but as a dysphoria that is a cause for
15 affirmation."

16 So you believe that being transgender
17 should be treated as a disease or disorder?

18 A It was a disorder until most recently. And
19 I think that the transition to a dysphoria does not
20 serve the interest of the patient.

21 Q So you believe that the medical community
22 should return to a time when being a transgender
23 person was a mental health condition that was treated
24 only with psychotherapy?

25 MR. BEATO: Object to form.

1 Dr. Donovan, you can answer.

2 THE WITNESS: I think that it would be a
3 very appropriate thing to do to test that theory. It
4 hasn't been.

5 Q (By Ms. Dunn) So is it your opinion that
6 the most appropriate treatment for gender dysphoria
7 is psychotherapy with a goal of re-aligning a
8 person's gender identity with their sex assigned at
9 birth?

10 A That's not what I said, no. I said that
11 both of those approaches are essentially untested
12 hypotheses.

13 The purely psychiatric or psychological
14 approach has fallen into great disfavor and the
15 affirming approach is the predominant one with, in
16 many cases, a nod towards some psychological
17 discussions. But, in reality, that's not been used
18 as a exclusive approach, nor has it been tested
19 against gender-affirming therapy as it has now been
20 practiced.

21 Q What is -- what evidence do you rely on to
22 say that gender-affirming care is an untested
23 hypothesis?

24 A Well, I think that we've kind of covered
25 the fact that the long-term studies have been rather

1 deficient in testing the results of the therapy.

2 Q Is there a specific source in your report
3 that supports that the impacts of gender-affirming
4 treatment are unknown?

5 A Well, I didn't actually say they were
6 totally unknown. I said that what is known is
7 insufficient.

8 Q And what studies are you relying on to make
9 that assertion?

10 A Well --

11 MR. BEATO: Object to the form.

12 Dr. Donovan, you can answer the question.

13 THE WITNESS: Okay. I think that what
14 you -- what you have to understand is what I'm saying
15 is that there are -- there's an absence of studies.
16 You can't rely on studies that don't exist.

17 And in terms of good, scientifically
18 designed and carried out programs with sufficient
19 numbers of patients to actually test a theory, you
20 don't find those.

21 Q (By Ms. Dunn) But can you cite to any one
22 study that supports this assertion?

23 A You're asking about a study that supports
24 that there aren't studies?

25 Q No, a study that supports the fact that

1 there are unknown risks that are of such a concern
2 that this care should not be provided.

3 A I'm sorry, that doesn't completely compute.
4 Try that again, if you would be so kind.

5 Q Well, you're making the assertion that we
6 don't know enough about the impacts of this care in
7 order for it to be provided.

8 A Yes. And that would be by definition of
9 unknown risk. So you really can't have a study of
10 the unknown risks --

11 Q So there's no --

12 A -- because they haven't been able to
13 determine the risks.

14 Q But what evidence of these unknown risks
15 are you relying on in formulating your opinions about
16 whether the care should be provided?

17 A Ms. Dunn, there have been suggestions that
18 there could be risks that they've shown up in
19 individuals, but we don't know in how many
20 individuals or how long or how -- whatever. But that
21 is, by definition, an unknown risk.

22 And by definition, you can't know the
23 unknown risks until you have done the studies that
24 could reveal them.

25 Q So are you relying on anecdotal, you know,

1 examples of these risks?

2 I'm just trying to understand where the
3 information of these unknown risks that keep being
4 referenced -- I just want to -- I'm trying to figure
5 out where that information is coming from, where we
6 can look to to help understand that.

7 A You are actually giving a good definition
8 for the need to do careful, large, controlled studies
9 because that's how you find unknown risks. Nobody
10 will find an unknown risk without that. At least not
11 be able to document it in large numbers.

12 Has it been documented in individuals? Of
13 course. This is why people are calling for the
14 studies.

15 Q But there are always unknown risks in
16 providing medical care. I'm just trying to determine
17 what information you're relying on in saying that
18 this type of care is associated with such a risk that
19 it should not have been provided.

20 MR. BEATO: Object to form.

21 Dr. Donovan, you can answer.

22 THE WITNESS: Actually, I did say that if
23 you were going to provide this care, it should be
24 done in a controlled, experimental venue where you
25 were also comparing it to something else that might

1 be effective without the risks of surgery or hormones
2 or whatnot. That was actually my contention all
3 along.

4 Q (By Ms. Dunn) Have you reviewed any studies
5 that demonstrate that gender-affirming care is
6 both -- is safe?

7 A Safe for what?

8 Q That it's a safe method of medical
9 treatment.

10 A Well, I think this is what we've been
11 talking about.

12 First off, there's no medical treatment
13 that's completely safe. You know, that's just a
14 truism.

15 But if you're talking about, you know, do
16 we have the studies that demonstrate sufficient
17 safety to overcome concerns about, you know,
18 potential harms, that's exactly what I'm asking for.

19 Q Have you read any studies that demonstrate
20 that gender-affirming medical treatments are safe and
21 effective?

22 A Nothing that should be considered
23 definitive or reliable, no. That's why I think the
24 studies need to be done.

25 Q But there are no studies showing the safety

1 or efficacy of gender-affirming care that you find
2 credible to rely on?

3 A I don't think that they have been done
4 carefully in a large enough series of patients for a
5 long enough period of time and conducted in an
6 appropriate manner to be able to answer that
7 question.

8 Q And what are these studies that you're
9 referring to that are unreliable?

10 A I haven't found any that should fit the
11 reliability category that we're discussing here, in
12 terms of sufficient numbers, sufficient duration,
13 sufficient design.

14 You know, and it depends on which kind of
15 question you're trying to ask. So, I mean, are you
16 talking about their psychological benefits or their
17 physical harms or -- you know, basically we just
18 don't have enough to -- to rely on at this stage.

19 Q So I guess what I'm asking, though, is can
20 you name a single study that you have read that you
21 determined was not reliable?

22 These studies we're talking about that are
23 not sufficiently reliable, can you name a single one?

24 A I have read studies and I can't name any
25 that are reliable, so I certainly couldn't name the

1 ones that aren't.

2 Q Okay. I'm going to show you a document,
3 Dr. Donovan.

4 (Document is displayed).

5 Do you recognize this document?

6 A I actually don't recognize it, but it's got
7 my name on it, so I believe it.

8 Q So you don't recall sending this email?

9 A When was that done? May 12th? No, I sure
10 don't.

11 (Whereupon, Exhibit Number 30 was marked for
12 identification purposes and made a part of the
13 record.)

14 Q (By Ms. Dunn) I'm going to mark this as
15 Plaintiffs' Exhibit 30.

16 Do you recall that Devona Pickle and Jason
17 Weida and Andrew Sheeran were the individuals at the
18 Agency for Healthcare Administration that you worked
19 with?

20 A That sounds right.

21 Q Do you recall the draft of the report that
22 you were preparing that was attached to this email?

23 A No, definitely not.

24 Q I'm going to pull up a draft of your report
25 so we can see if it might be that one.

1 (Document is displayed).

2 Do you recall seeing this draft of your
3 report?

4 A No.

5 (Whereupon, Exhibit Number 31 was marked for
6 identification purposes and made a part of the
7 record.)

8 Q (By Ms. Dunn) Okay. So if we could mark
9 this as Plaintiffs' Exhibit 31.

10 I'm just going to scroll down to --

11 A Pardon me. Just to clarify, this is not
12 something I submitted finally; is that right?

13 Q I believe this was a draft. This wasn't
14 what was publicly released with the GAPMS memo, but
15 this is a draft of that same report, as far as I can
16 tell, that has some, you know, redline edits in it.
17 They're actually green or blue on this copy, but --

18 A Okay. I can't see any edits at all, but
19 I'll trust you.

20 Q So I'll just show you. So right here do
21 you see these redlines? Or they're not red, they
22 appear to be green.

23 But you don't recognize this?

24 A Not really, no.

25 Q Well, I'm just going to ask you about a

1 specific statement in this particular report.

2 So one difference between this report and
3 the report that we were just reviewing that was the
4 final report, that was publicly released with the
5 GAPMS -- during the GAPMS process is the sentence
6 that's bolded here.

7 It says, "It should be noted that none of
8 my observations and criticisms are based on any
9 so-called religious objections."

10 Why did you feel the need to include that
11 statement in this draft of the report?

12 A Probably hoping to skip the first two hours
13 of this deposition.

14 Q Is there a reason -- was anyone concerned
15 that your opinions would be viewed as based on
16 religious objections?

17 A Well, we did seem to spend an inordinate
18 amount of time talking about various religious
19 connections this morning. And I just wasn't -- they
20 were irrelevant to what I was writing, so I thought I
21 would put that in. But it didn't even show up in the
22 last one. Maybe they didn't want to tempt anyone
23 beyond their ability to resist.

24 Q Do you know why it was removed?

25 A I don't.

1 Q Do you know if anyone internal to AHCA, so
2 anyone at the agency, expressed concern that your
3 opinions might be considered to be religious?

4 A Oh, no, that didn't come from anybody else.
5 That was all me.

6 Q So today we've reviewed the sources you
7 relied upon in formulating your opinions in the
8 case; is that correct?

9 A Correct.

10 Q We've discussed that kind of ad nauseam.
11 And I'm going to pull up your bibliography
12 just one last time.

13 (Document is displayed).

14 Which of these articles are peer-reviewed
15 articles, journal articles that you relied on for
16 your -- your expert report?

17 A I will have to tell you that I did not rely
18 on exclusively peer-reviewed articles because
19 peer-reviewed articles are extremely difficult to
20 come by in -- on this topic unless you're in favor of
21 gender-affirming care. There is such a strong urge
22 towards supporting it that anything negative is very
23 difficult to get published.

24 Q Can you identify whether any of these
25 articles were -- are peer-reviewed journal articles?

1 A I think -- looks like the Clayton one and
2 the Levine one are. And the Abbruzzese one looks
3 like it is. And the DSM is not peer-reviewed, it's
4 just what it is.

5 Q Well, I'm sorry, so if we can just go a
6 little bit more slowly --

7 A I'm going from the bottom to the top.
8 Sorry.

9 Q That's okay. So Clayton we looked at, and
10 I'm happy to pull it up again, but that was a letter
11 to the editor.

12 A Oh, was it? Well, okay, that wouldn't have
13 been peer-reviewed. That would have been published
14 literature but not peer-reviewed.

15 So, basically, I think we have been through
16 them all. I don't have anything to change on that
17 then.

18 Q And you didn't cite to the DSM-5, in fact,
19 you cited to a Human Life International --

20 A Oh, okay.

21 Q -- article -- online article on gender
22 dysphoria in the DSM-5. Is that not correct?

23 A That looks right.

24 MS. DUNN: I am done with my questions on
25 direct. So at this point I'll turn it over to see if

1 your attorney has any questions for you. Or not your
2 attorney, I'm sorry, the defense attorney --
3 defendants' attorney.

4 MR. BEATO: Sure. And thank you for your
5 testimony, Dr. Donovan. I know it's been a long day,
6 but I just have four questions to ask you.

7 THE WITNESS: Okay.

8 CROSS-EXAMINATION

9 BY MR. BEATO:

10 Q So we established that you submitted a
11 report attached to the GAPMS report, correct?

12 A Correct.

13 Q Did AHCA, the defendant in this case, did
14 AHCA ask you to opine on treatments for gender
15 dysphoria as an experienced ethicist?

16 A Only as an ethicist.

17 Q Okay. We reviewed your report attached to
18 the GAPMS report. Do you today stand by the
19 conclusions that you made in your report?

20 A I do.

21 Q Dr. Donovan, do you think that treatment
22 for gender dysphoria is a controversial subject
23 matter?

24 A Yes.

25 Q And my question is, why wade into this

1 controversial subject matter?

2 A Why did I or why do others?

3 Q Why do you. Why do you specifically.

4 A Simply because my entire life has been in
5 serving the needs of children and being concerned
6 about the ethical aspects of those treatments, and I
7 thought that there were people reluctant to speak up
8 about this, so I felt somewhat obligated when asked.

9 MR. BEATO: No further questions.

10 MS. DUNN: May I just have one brief
11 second? I won't be long, I promise, and then I think
12 we'll be all done.

13 MR. BEATO: Absolutely.

14 (Recess taken from 5:02 p.m. to 5:04 p.m.)

15 MS. DUNN: Thank you for your time today,
16 Dr. Donovan. Plaintiffs are done with their
17 questioning as well.

18 THE WITNESS: Thank you, Ms. Dunn. I'm
19 happy to hear that you are done.

20 MR. BEATO: Okay. He will read.

21 Dr. Donovan, in reading you get to look
22 over the transcript, and if there's any changes you
23 want to make there's a sheet for them.

24 THE WITNESS: Fine.

25 MS. DUNN: Plaintiffs will order the

1 deposition transcript and we'd like it expedited,
2 please.

3 MR. BEATO: We would like the transcript,
4 too. Not expedited.

5 (Deposition adjourned at 5:05 p.m. CST)

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J U R A T P A G E

I, G. KEVIN DONOVAN, M.D., M.A., do hereby state under oath that I have read the above and foregoing videotaped deposition in its entirety and that the same is a full, true and correct transcript of my testimony so given at said time and place, except for the corrections noted.

G. KEVIN DONOVAN, M.D., M.A.

Subscribed and sworn to before me, the undersigned Notary Public in and for the State of Oklahoma, by said witness _____, on this the ____ day of _____, 2023.

Notary Public

My Commission Expires: _____

JH

1 G. Kevin Donovan, M.D. c/o Michael Beato, Esq.
mbeato@holtzmanvogel.com

2

March 28th, 2023

3

4 RE: Dekker, August, Et Al. v. Weida, Jason, Et Al.

5 3/22/2023, G. Kevin Donovan, M.D., M.A. (#5815158)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 transcripts-fl@veritext.com

16

17 Return completed errata within 30 days from
18 receipt of testimony.

19 If the witness fails to do so within the time
20 allotted, the transcript may be used as if signed.

21

22 Yours,

23 Veritext Legal Solutions

24

25

1 Dekker, August, Et Al. v. Weida, Jason, Et Al.

2 G. Kevin Donovan, M.D., M.A. (#5815158)

3 E R R A T A S H E E T

4 PAGE_____ LINE_____ CHANGE_____

5 _____

6 REASON_____

7 PAGE_____ LINE_____ CHANGE_____

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21 REASON_____

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23 _____

24 G. Kevin Donovan, M.D., M.A. Date

25

1 Dekker, August, Et Al. v. Weida, Jason, Et Al.

2 G. Kevin Donovan, M.D., M.A. (#5815158)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, G. Kevin Donovan, M.D., M.A., do hereby declare that I
5 have read the foregoing transcript, I have made any
6 corrections, additions, or changes I deemed necessary as
7 noted above to be appended hereto, and that the same is
8 a true, correct and complete transcript of the testimony
9 given by me.

10

11

12

G. Kevin Donovan, M.D., M.A.

_____ Date

13

*If notary is required

14

SUBSCRIBED AND SWORN TO BEFORE ME THIS

15

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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