

Med Def_001017

1
2 JANE DOE,
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4 vs.
5 JOSEPH LADAPO,
6 Defendant.
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25 Job No.: 322529

TRANSCRIPTION OF AUDIO RECORDING
FLORIDA BOARD OF MEDICINE
RULES HEARING FOR THE STANDARDS OF PRACTICE FOR THE TREATMENT OF GENDER DYSPHORIA IN MINORS FEBRUARY 10, 2023

TRANSCRIBED AUDIO RECORDING BY: Julie Thompson, CET

February 10, 2023

Thereupon, The following proceeding was transcribed from an audio recording:

CHAIRMAN ACKERMAN: Good afternoon. It's good to see you all today. Good to be here today. This is the Rules Hearing for the Standards of Practice for the Treatment of Gender Dysphoria in Minors. Welcome. Welcome here today. My name is Dr. Scot Ackerman. I'm the Chairman of the Board of Medicine.

In front of me to my right is Dr. William Kirsh. He's the Vice-Chairman of the Board of Osteopathic Medicine.

Dr. Di Pietro will be a few minutes late.
So before I begin, I'd like to have a roll call. So, Mr. Paul Vasquez, Executive Director of the Board of Medicine, will you please do a roll call for the Board of Medicine.

EXECUTIVE DIRECTOR VASQUEZ: Dr. Ackerman is present.

Nicholas Romanello?
VICE-CHAIR ROMANELLO: Here.
EXECUTIVE DIRECTOR VASQUEZ: Dr. Barsoum is excused.

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|  | Dr. Benson? | Page 3 |
| :---: | :---: | :---: |
|  | DR. BENSON: Here. |  |
|  | EXECUTIVE DIRECTOR VASQUEZ: | Dr. Coffman? |
|  | DR. COFFMAN: Present. |  |
|  | EXECUTIVE DIRECTOR VASQUEZ: | Dr. Derick is |
| excused. |  |  |
|  | Dr. Diamond? |  |
|  | DR. DIAMOND: Present. |  |
|  | EXECUTIVE DIRECTOR VASQUEZ: | Ms. Garcia is |
| excused. |  |  |
|  | Dr. Hunter? |  |
|  | DR. HUNTER: Present. |  |
|  | EXECUTIVE DIRECTOR VASQUEZ: | Ms. Justice? |
|  | MS. JUSTICE: Present. |  |
|  | EXECUTIVE DIRECTOR VASQUEZ: | Dr. Pages is |
| excused. |  |  |
|  | Dr. Pimentel? |  |
|  | DR. PIMENTEL: Present. |  |
|  | EXECUTIVE DIRECTOR VASQUEZ: | Dr. Vila? |
|  | DR. VILA: Present. |  |
|  | EXECUTIVE DIRECTOR VASQUEZ: | Dr. Wasylik? |
|  | DR. WASYLIK: Present. |  |
|  | EXECUTIVE DIRECTOR VASQUEZ: | Dr. Zachariah |
| is excused. |  |  |
|  | Also President is Paul Vasqu | z. That's me, |

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the Executive Director of the Florida Board of
Medicine, and Board Counsel, Chris Dierlam.
    You have a quorum.
    MR. DIERLAM: Thank you, Mr. Vasquez.
    CHAIRMAN ACKERMAN: Thank you.
Mr. Vasquez.
    Danielle Terrell, the Executive Director of
the Board of Osteopathic Medicine, will you please
call a roll for the Board of Osteopathic Medicine.
    EXECUTIVE DIRECTOR TERRELL: Yes, sir.
Dr. Kirsh?
    VICE-CHAIR KIRSH: Here.
    EXECUTIVE DIRECTOR TERRELL: Dr. Williams?
    DR. WILLIAMS: Here.
    EXECUTIVE DIRECTOR TERRELL: Dr. Mortensen?
    DR. MORTENSEN: Here.
    EXECUTIVE DIRECTOR TERRELL: Dr. Ducatel?
    DR. DUCATEL: Here.
    EXECUTIVE DIRECTOR TERRELL: Mr. Creegan?
    MR. CREEGAN: Present.
    EXECUTIVE DIRECTOR TERRELL: Ms. Jackson is
    excused. And as you stated, Dr. Di Pietro is
    delayed in travel, and she will be here shortly.
    Also, present with us, we have a legal
    counsel, David Flynn, and myself, Executive Director
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of the Board of Osteopathic Medicine, Danielle Terrell. We do have a quorum, sir.

CHAIRMAN ACKERMAN: Thank you, Ms. Terrell.
So before we begin, Mr. Paul Vasquez, again, he's the Executive Director of the Board of Medicine. Please begin by making some opening comments.

EXECUTIVE DIRECTOR VASQUEZ: Good
afternoon. It's Friday, February 10, 2023. The time is 1:02 p.m. My name is Paul Vasquez. I'm the Executive Director of the Florida Board of Medicine. This is a duly noticed joint meeting of the Boards of Medicine and Osteopathic Medicine. This is a public meeting and is being recorded. The audio will be available on the board's websites next week, and I'll go over some instructions, so this meeting will be successful and the board members will be able to take care of the matters that are before them today.

There is a court reporter in the meeting. If you speak to the board, it is important that you state your name for the record. When appropriate, the Chair will ask for public comments. Therefore, please refrain from speaking during the meeting until the appointed time.

Please remember, this is a public meeting

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and is being recorded. Any side conversations may be recorded and become part of the public record. At this time, please silence all electronic devices.

In June 2022, the Boards of Medicine and Osteopathic Medicine received notice from the Department of Health that it intended to present a petition to initiate rulemaking regarding the treatment of gender dysphoria in Florida.

During the Board of Medicine's regular meeting on August 5, 2022, the Board hosted the State Surgeon General and others representing the position of the department. Equal time was granted to experts from the University of Florida, who held an opposing position.

Three major points were revealed during that meeting. First, so-called bottom surgery is not offered for minors at major medical centers in Florida, and so-called top surgery is infrequently offered to minors at major medical centers in Florida, though there have been instances in Florida where females as young as 15 years old have undergone mastectomies.

Second, there are significant substantive differences between the large medical societies in the United States and their European colleagues

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regarding the treatment of minors with gender dysphoria.

Third, the chief point of agreement amongst all experts is that there is a lack of high-quality clinical research on the subject of gender dysphoria and its treatment.

At the conclusion of the meeting, the Board voted to initiate rulemaking.

During the Board of Osteopathic Medicine's regular meeting on August 12, 2022, the Board hosted the State Surgeon General and others representing the position of the department. At the conclusion of the meeting, the board voted to initiate rulemaking.

The task then fell upon a joint rules and legislative committee to hold a rule workshop to consider and possibly develop rule language.

In preparation for a meeting on October 28, 2022, board staff was directed to invite subject matter experts with differing viewpoints, generally, representing three cohorts.

Florida licensed pediatricians or pediatric endocrinologists who actively treat minors with gender dysphoria, scientists with expertise in the current clinical data, representatives from a large

American clinical societies, ultimately representatives from the University of Florida, the University of Oxford, Yale University, the University of Turku in Finland, and the Children's Hospital in Chicago, and a private practice endocrinologist from California participated in that meeting. A formal invitation was also extended to the Endocrine Society, which declined the invitation.

Formal invitations were also sent but declined by physicians actively practicing at Nicklaus Children's Hospital in Miami, Johns Hopkins All Children's Hospital in St. Petersburg, and Joe DiMaggio Children's Hospital in Hollywood.

During the committee meeting on October 28, 2022, emotionally powerful public comment was also received representing both the affirmative and negative positions on the issue. Ultimately, a motion was passed to approving draft language for the consideration by the boards.

On November 4, 2022, a joint meeting of the Boards of Medicine and Osteopathic Medicine was held to consider the draft language. Again, public comments were received representing both the affirmative and negative positions on the issue. Ultimately, both boards approved proposal language to establish practice standards for the treatment of gender dysphoria in minors. The language was published in the Florida Administrative Register on November 14, 2022. Following the publication of the language, a number of requests for rule hearing were received by both boards resulting in today's meeting.

The Boards of Medicine and Osteopathic Medicine are apolitical bodies that have the primary mission of protecting the people of the state of Florida. As with any issue before the Boards, the board members will look to the available science and appropriate standard of care while putting aside any personal feelings they may have on the issues before them today.

In terms of how this meeting will be conducted, it is the Board's expectation that we will have civil discourse while discussing the issues on today's agenda. We require that everyone refrain from making any disruptive comments or taking any disruptive actions during the duration of the meeting.

The boards reserve the right to remove any individual who chooses to disrupt the progress of

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the meeting, so please conduct yourselves accordingly.

This meeting will end no later than 5:00 p.m. Public comment will be received during the meeting to the extent possible, depending on the progress of the meeting and the time allotted. The public comment process will be randomized and will be as equitable as possible. However, it is evident that not everyone who wishes to speak will be able to speak given the time constraints of this meeting. If there are any publicly elected officials with us today, please make yourself known to the Chair during public comment to ensure that you have an opportunity to speak. Thank you.

CHAIRMAN ACKERMAN: Thank you, Mr. Vasquez.
I have a few comments I'd like to make before we start to kind of go over where we as a board have gone from when we first heard about the request for a rule to now. I may say a few things that are redundant with Mr. Vasquez, but please bear with me. And I think these are good things for us all to remember and for you all to -- for those of you who are visiting today and want to speak today to understand where our heads are at as a Board and what in the processes that we've gone through. So, again, in early June, we were given notice by the state that the state will be petitioning the Boards of Medicine and Osteopathic Medicine, asking us that we develop rules on the subject of gender dysphoria and gender-affirming healthcare. This was presented to us at our August 5, 2022, board meeting that we held in Tampa. Our then chair, Dr. David Diamond, who is in -understood that we were -- that there were unique sensitivities related to this issue. So he directed our staff and our counsel to ensure that the process, that we approach this subject in a fair and thorough manner.

We heard testimony from many subject matter experts. These subject matter experts were all well-published and well-respected. They're academics from various institutions here in Florida and also academics from all over the world. They shared with us their research, their expertise, their experience, and their knowledge. And we found that they had varied perspectives and varied opinions.

We heard from the public as well. We heard from the public on all sides of the issue. The public comment, like these experts, was also very

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1 diverse.

4 our Rules Committee met on October 28th, and again, 5 we heard from more subject matter experts, again, 6 with different expertise and with different

At the conclusion of that meeting, we decided to initiate the rulemaking process. And so backgrounds.

We also heard from more of the public, we heard more public comment. And again, the subject matter experts and the public had very varied opinions. We then took these varied opinions and perspectives and we processed them and we proposed rules on gender dysphoria and gender-affirming healthcare.

So we created these rules, and then on November 4th, these rules were presented to a joint meeting of the Board of Medicine and the Board of Osteopathic Medicine. And those Boards adopted rules for the standard of practice for the treatment of gender dysphoria in minors.

The Board of Medicine and the Board of Osteopathic Medicine have very similar rules except for ones -- except for one difference. So I like to just read the rules that we had -- that we put forth at our November 4th joint board meeting that were

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1 approved.

So the Board of Medicine and Osteopathic Medicine approved the following. Number 1, the following therapies and procedures performed for the treatment of gender dysphoria in minors are prohibited: sex reassignment surgeries or other surgical procedures that alter primary or secondary sexual characteristics, and puberty blocking hormone and hormone antagonist therapies.

Also, minors being treated with pubertyblocking hormone or hormone antagonist therapies prior to the effective date of this rule may continue such therapies.

The Board of Osteopathic Medicine had one more rule, and their additional rule was that nonsurgical treatments for the treatment of gender dysphoria in minors may continue to be performed under the auspices of institutional review board approval.

Investigator initiated clinical trials conducted at any of the Florida medical schools set forth in Florida statute, and that such clinical trials must include long-term longitudinal assessments of the patient's physiologic and psychologic outcomes.

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So as you can see, the only difference between the Board of Medicine's -- proposed Board of Medicine's rule and the Osteopathic Board's rule is the exemption for clinical trials.

So as per our standard rulemaking practice, we invited formal requests for rule hearing today. We have received six requests for rule hearing, and today we are here to honor those requests and have a formal rule hearing.

The purpose of a rulemaking hearing in Florida, as per Florida statute, is twofold. Number 1, to allow the agency to inform itself of matters bearing on the proposed rules or modifications thereof.

And number 2, to allow the public and specifically individuals and groups having particular interests and/or information to participate in the rulemaking process.

To be clear, this is not a rule challenge as provided for Florida statute; that comes later on. This is a rulemaking hearing.

So in the past, just to put things in proper context or perspective, the Board of Medicine or the Board of Osteopathic Medicine may propose a rule that would affect the way we treat patients

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1 with pneumonia. And the rule may have some language
2 in it that does -- that's not consistent with what may be general practice or may be in conflict with what some individuals are doing and the way they treat pneumonia.

And so people would come to this hearing and help educate us and clarify how things might be done, so we can make some tweaks to the language or tweaks in that rule. But generally, not to come to challenge the rule completely, but just to make some modifications or tweaks to it.

So we'll be -- so to begin with -- so that's -- those are my comments. And so we will be hearing today, first, from those who have requested a rules hearing. And then we'll hear from the public. We will not be able to hear from all those who -- all those of the public who made requests because we have a lot of people that made requests, and I want to make sure that we allow time for the Boards of Medicine and Boards of Osteopathic Medicine to have some time for deliberation. So let's go ahead and begin.

So I would like to call now the presentation of those who've made requests for a rules hearing. And so we've had six people that

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1 have formally requested a rules hearing. I'm going to allow each of them 10 to 15 minutes to speak.

I want to include in that same 10 to 15 minutes time for the board to respond to you. If you have any questions for the board, for us to be able to respond specific, you know, to those questions that you may have. I'm not sure if all six of those people or entities are here today to speak to that, but I'm going to going to go through the names as we receive them and as they are in the public record.

So the first person that made request for the rules hearing is Mr. James Wright.

Are you here, Mr. Wright? Okay.
The second person that made requests for rules hearing was Lauren Miller.

Ms. Miller, are you here?
The third person that made requests for rules hearing is Simone Chriss, the Director of Transgender Right Initiative of the Southern Legal Counsel.

Is that Ms. Chriss? Thank you for being here today.

SIMONE CHRISS: Yes. Thank you --
CHAIRMAN ACKERMAN: The floor is yours.

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4 Chriss. I'm the Director of the Transgender Rights
SIMONE CHRISS: I appreciate it. Hello, everyone. Thank you for the opportunity to speak today. My name's Simone

6 Initiative at Southern Legal Counsel. We're a statewide not-for-profit public interest, civil rights law firm that utilizes federal impact litigation to ensure communities that we serve have access to justice and freedom from discrimination and to hold the state accountable for discriminatory laws and policies.

I just want to say, to start, I was born and raised in Florida in a small rural town on a farm. I went to the University of Florida for undergrad and law school, and I chose to stay here to practice law and make this my home because I wanted to make this state a better place and protect the rights of folks in my community.

Having grown up as a gay teen in a conservative area, $I$ wanted to protect the rights of LGBTQ youth in Florida. But as I stand before you today, I am ashamed to be from Florida. I am ashamed that the rest of the country and the world is watching, while those in positions of power who are entrusted to protect our rights, our health, our

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 well-being, are weaponizing that power against the transgender community for political gain, and doing so under the guise of protecting children is particularly insidious.Given that we know based on the overwhelming weight of evidence and science, that access to treatment for gender dysphoria is safe, effective, and medically necessary, and stripping children in Florida of access to that care harms them. It in no way protects them.

We vehemently oppose the proposed rules based both on the science and evidence, supporting the medical necessity of treatment for gender dysphoria, but also on our own extensive experience working with hundreds of transgender adults and minors in this state and witnessing the tremendous benefits that access to gender-affirming care provides and the devastating consequences that can result when such care is denied.

As I'm sure you all are well aware, lawsuits challenging similar bans across the country have successfully struck down or enjoined these same measures. Why is that? It's because our position, that treatment for gender dysphoria is safe, effective, and medically necessary, is based on

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 science and evidence. It is supported by decades of clinical research.The notion that Florida needs to adopt a standard of care is bizarre to me because there exists a standard of care for the treatment of gender dysphoria. And it's established over decades by the World Professional Association for Transgender Health, the Endocrine Society, and other major medical organizations that we as a -- you all as a medical community, have always trusted and have always looked you for guidance.

Bans such as the one being considered by you all today directly contravene the widely accepted authoritative standards and the consensus of every major medical organization in our country. The position that you all have unfortunately chosen to take, on the other hand, is based on fear on disinformation and manufactured outrage about something that most people genuinely just don't understand.

The reality is that these bans violate core constitutional rights, including transgender individual's rights under the equal protection clause of the 14th Amendment to the U.S. Constitution to be free from discrimination on the

1 basis of sex, the fundamental rights of parents under the substantive due process clause to make decisions about medical care for their own child. And for a state that holds itself out as being so deeply concerned about the preservation of parental rights, it feels sublimely ironic that you all are stripping parents of their rights and substituting the judgment of parents and of doctors who are actual experts in the provision of this care for that of the state.

I've attended every one of your meetings thus far, and I find it incredibly troubling and disingenuous the way that the Board of Medicine, particularly, has reversed course on the inclusion of the IRB approved investigator initiated clinical trial exception for prospective patients.

I find this concerning because as
Dr. Diamond, you said yourself during -- I don't remember if it was the October $28 t h$ or November 4 th meeting, but you said, "The chief point of agreement amongst all the experts" -- and I must emphasize this -- "is that there is a pressing need for additional high quality clinical research." Seven days later to reverse course on that and remove that exception, it just doesn't make sense.

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The proposed rule is a cruel and discriminatory measure that is inconsistent with the rights guaranteed to minors, parents of minors, and medical providers under the equal protection clause, the due process clause, the Affordable Care Act, and other laws.

The Florida Board of Medicine has a duty to ensure that doctors licensed to practice medicine in the state of Florida are providing high quality evidence-based care to patients.

By adopting and enacting the proposed rules that we're here to discuss today, you would be denying Florida medical providers the ability to utilize their own judgment, their own clinical expertise, and mandating that they violate the evidence-based treatment guidelines for the treatment of gender dysphoria. Utilizing this process to categorically exclude the provision of medical care to an entire group of people, transgender minors, will further set dangerous precedent whereby standards of care in the state of Florida can change based on the whim of the Governor and political motivations.

I just want to quickly read a note that was sent to me this morning by a client of the parent of

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1 a transgender minor who wasn't able to be here
2 today.

She wanted me to share this with you all. "Access to gender-affirming care, including puberty blockers and the embrace of a family who accepts her for who she is have allowed my child to blossom into a girl who loves herself, who is confident, and who just wants to be a happy kid in the state where she has called her home since birth.

Barring doctors who have extensive training and medical experience and follow peer review guidelines from working with families to provide life-saving and life-changing care to kids will rob this incredible gift of joyful being not only from trans kids but from their parents and families who love and support them.

As the parent of a trans child, I deserve to be able to experience the joy of watching my child blossom into a happy, confident, empowered girl who feels comfortable and confident in her own body." Thank you.

CHAIRMAN ACKERMAN: Thank you, Ms. Chriss.
Do any of the members of either board have any questions for Ms. Chriss or any comments?

Dr. Vila?

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DR. VILA: Yeah. Ms. Chriss, thank you for coming today and thank you for all the things that you do to help treat and protect and care for children of the state. I sincerely appreciate that. And I think that's one thing that everyone in this room has in common, that we're here for the children, and we're trying to do the best that we can to protect them.

And the thing I'll take exception with is in your statement, you said the overwhelming weight of the evidence is clear that these therapies are acceptable and safe. And that's not true.

When you look -- the literature is not clear. It's not clear. And you admitted that because you said -- you agreed with the statement that we needed some more research in these areas, but the clinical data clearly doesn't support the -there's not adequate evidence to support the use of the therapies, the limited therapies that we've said should not be used because of the irreversible harm.

So this Board is not against research, is not against care for transgender children. This Board has reviewed hundreds of studies. We've talked to doctors. We've received testimony from both sides of this issue, and the overwhelming data

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1 does not support -- so I take exception to what you said. It just doesn't support. It's not there. There's lots of physicians that feel differently. So in terms of the research, there's still an opportunity to research. What the Board has sought to do is to protect our children from therapies that have irreversible harm; that have been shown to create irreversible harm. So it's a very limited set of therapies that have been restricted, but this Board still wants these patients cared for absolutely. Thank you.

CHAIRMAN ACKERMAN: Thank you, Dr. Vila. SIMONE CHRISS: If I may --

CHAIRMAN ACKERMAN: Ms. Chriss, you want to respond to that?

SIMONE CHRISS: If I may, briefly. Thank you.

I appreciate the points that you're raising. However, I have to push back on the notion that there isn't an overwhelming consensus of scientific and medical evidence demonstrating the efficacy of this treatment. And that's a point that I think we're just going to have to agree to disagree on, but there are a handful of experts that you can fly in from other states and other countries

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1 who will come to the conclusion that ACA came to, which is what you all are relying upon. And those folks will say that, but talk to the doctors that practice in Florida; talk to the folks that are actually treating these children. Hear from the children.

I mean, I've been at every meeting, and kids who are actually impacted, who have received this treatment and who have -- it has been lifesaving for them. Their voices haven't been heard. And the physicians that are providing evidence-based medicine in this state and who have had overwhelmingly positive results with the patients that they serve, those folks' voices are not being heard.

And so I just -- I have to push back on that notion that this is in any way protecting children. Because if that were the case and you all thought that these treatments genuinely were so harmful and damaging, why would there be a clause allowing kids already on this treatment to continue receiving said treatment? Why are these same exact drugs and blockers and hormones provided to treat other conditions? They're solely excluded for gender dysphoria.

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Is there anything else from any other board members? Thank you, Ms. Chriss.

SIMONE CHRISS: Thank you.
(END OF AUDIO RECORDING)

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| 1 | CERTIFICATE OF TRANSCRIPTIONIST |
| :--- | ---: |
| 2 | I certify that the foregoing is a true and |
| 3 | accurate transcript of the digital recording |
| 4 | provided to me in this matter. |
| 5 | I do further certify that I am neither a |
| 6 | relative, nor employee, nor attorney of any of the |
| 7 | parties to this action, and that I am not |
| 8 | financially interested in the action. |
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Julie Thompson, CET-1036

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| Director | Ducatel | 22:19 | 24:21 |
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