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THIRD COURT OF APPEALS
AUSTIN, TEXAS
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No. 03-22-00420-CV

IN THE COURT OF APPEALS
FOR THE THIRD DISTRICT OF TEXAS AT AUSTIN

GREG ABBOTT, in his official capacity as Governor of the State of Texas; JAIME MASTERS, in her official capacity as Commissioner of the Texas Department of Family and Protective Services; and TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES,

Appellants,

v.

PFLAG, INC.; MIRABEL VOE, individually and as parent and next friend of ANTONIO VOE, a minor; WANDA ROE, individually and as parent and next friend of TOMMY ROE, a minor; ADAM BRIGGLE and AMBER BRIGGLE, individually and as parents and next friends of M.B., a minor,

Appellees.

On Appeal from the 201st Judicial District of Travis County, Texas
Cause No. D-1-GN-22-002569, Hon. Amy Clark Meachum

APPELLEES' EMERGENCY MOTION FOR TEMPORARY INJUNCTIVE RELIEF PURSUANT TO RULE 29.3

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TABLE OF CONTENTS

Table of Authorities iii

Factual and Procedural Background 3

I. The Governor and the Commissioner issue directives redefining child abuse and instruct DFPS to investigate all reported instances of gender-affirming care. 3

II. The district court issues a statewide injunction against the Governor, the Commissioner, and DFPS in *Doe v. Abbott*, and the Texas Supreme Court upholds the injunction as to the plaintiffs 5

III. Appellees sue to enjoin DFPS from continuing to enforce the Governor's Directive and are granted a temporary restraining order 7

IV. The trial court orders a temporary injunction. 9

Argument and Authorities 20

I. This Court should use its inherent powers and equitable authority under Rule 29.3 to reinstate a temporary injunction on the terms set forth by the trial court. 20

A. A temporary injunction is necessary to preserve the status quo ante in this case. 20

B. Reinstating the trial court's temporary injunction is necessary to protect Appellees' rights and prevent irreparable harm. 24

II. The Court should consider this emergency motion for temporary injunctive relief on an expedited basis and set an expedited briefing schedule. 29

Conclusion and Prayer 30

Certificate of Compliance 33

Certificate of Conference 34

Certificate of Service..35

TABLE OF AUTHORITIES

Page(s)

CASES

Abbott v. Doe,
No. 03-22-00126-CV, 2022 WL 837956
(Tex. App.—Austin, Mar. 21, 2022) 6, 23, 27

BST Holdings, L.L.C. v. Occupational Safety & Health Admin., U.S. Dep't of Lab.,
17 F.4th 604 (5th Cir. 2021).. 29

In re Abbott,
645 S.W.3d 276 (Tex. 2022) (orig. proceeding) 6, 7, 24, 27

In re Geomet Recycling LLC,
578 S.W.3d 82 (Tex. 2019) (orig. proceeding) 21, 28

In re Newton,
146 S.W.3d 648 (Tex. 2004) (orig. proceeding) 23

In re Tex. Educ. Agency,
619 S.W.3d 679 (Tex. 2021) (orig. proceeding) 21, 22, 25

Shell Petroleum Corp. v. Grays,
62 S.W.2d 113 (Tex. 1933) 21

Tex. Educ. Agency v. Hous. Indep. Sch. Dist.,
609 S.W.3d 569 (Tex. App.—Austin 2020, no pet.)
(per curiam)...21, 25, 28, 29

Tex. Health & Human Servs. Comm'n v. Sacred Oak Med. Ctr. LLC,
No. 03-21-00136-CV, 2021 WL 2371356
(Tex. App.—Austin June 9, 2021, no pet.) 22, 23, 25, 26

COURT RULES

Tex. R. App. P. 29.3 20

OTHER AUTHORITIES

Ken Paxton et al., Re: Whether Certain Medical Procedures Performed on Children Constitute Child Abuse (RQ-0426-KP), Opinion No. KP-0401 (Feb. 18, 2022), https://texasattorneygeneral.gov/sites/default/files/global/KP-0401.pdf.. 4

To the Honorable Justices of the Third Court of Appeals:

Appellees Mirabel Voe, Antonio Voe, Wanda Roe, and Tommy Roe hereby move on an emergency, expedited basis for entry of an order reinstating a temporary injunction, pursuant to the Court's inherent authority and Texas Rule of Appellate Procedure 29.3 ("Rule 29.3"), to preserve the status quo ante in this litigation and to protect the parties' rights, until the disposition of the instant appeal.

Emergency relief is needed to preserve the status quo ante and prevent imminent and irreparable harm to Appellees. After a full evidentiary hearing, the trial court found that, "unless Commissioner Masters and DFPS are immediately enjoined from enforcing the DFPS Rule operationalizing Governor Abbott's Directive and Attorney General Paxton's Opinion, against the VOE and ROE Plaintiffs," they "will suffer probable, imminent, and irreparable injury in the interim." App. C (Order Granting Pls.' Appl. for Temporary Injunction) at 3. The trial court thus ordered that Appellants "*are immediately enjoined and restrained from* implementing or enforcing the DFPS Rule, and from implementing Governor Abbott's Directive and the Attorney General's Opinion," against Appellees Mirabel Voe or Wanda Roe, individually or as next friends of Antonio Voe or Tommy Roe. App. C at 4.

In issuing its temporary injunction, the trial court concluded that there

was a substantial likelihood that Appellees would succeed on the merits of their claims that the "DFPS Rule was adopted without following the necessary procedures under the APA, is contrary to the DFPS's enabling statute, is beyond the authority provided to the Commissioner and DFPS, and is otherwise contrary to law." App. C at 2-3. Accordingly, the court temporarily enjoined Appellants from (1) investigating Appellees Mirabel Voe or Wanda Roe, individually or as next friends of Antonio Voe or Tommy Roe, for child abuse "*solely* based on allegations that they have a minor child or are a minor child who is gender transitioning or alleged to be receiving or being prescribed medical treatment for gender dysphoria, and (2) taking any actions, including investigatory or adverse actions, against [Appellees] VOE and ROE and their minor children, with open investigations solely based on allegations that they have a child who is transgender, gender nonconforming, gender transitioning, or receiving or being prescribed medical treatment for gender dysphoria . . . ."[1] App. C at 4. In doing so, the trial court explained that the temporary injunction was necessary to "maintain[] the status quo prior to February 22, 2022" and prevent harms to Appellees Voe and Roe. App. C at 3-4.

[1] The Order includes an exception that permits DFPS "to administratively close or issue a 'ruled out' disposition in any of these open investigations based on the information DFPS has to date – if this action requires no additional contact with members of the VOE or ROE families." App. C at 4.

To preserve the status quo ante during the pendency of this appeal, protect Appellees' rights, and prevent immediate and irreparable harms to Appellees, this Court should exercise its equitable powers and authority under Rule 29.3 to issue a temporary order restraining Appellants on the same terms set forth in the trial court's temporary injunction.

FACTUAL AND PROCEDURAL BACKGROUND

On July 6, 2022, the trial court heard Appellees' Application for a Temporary Injunction. App. C at 1. Following a full evidentiary hearing that included testimony from fact and expert witnesses for both parties, the court issued an order on July 8, 2022, granting Appellees Voes' and Roes' Application for Temporary Injunction (the "Temporary Injunction Order"). App. C at 4. The Temporary Injunction Order is the subject of this appeal. App. D (Appellants' Notice of Appeal) at 1. The court did not decide whether to grant a temporary injunction on behalf of Plaintiffs PFLAG and the Briggle family and advised counsel it will issue a decision no later than August 3, 2022. App. C at 4.

I. The Governor and the Commissioner issue directives redefining child abuse and instruct DFPS to investigate all reported instances of gender-affirming care.

On February 22, 2022, Governor Greg Abbott sent a letter to DFPS Commissioner Jaime Masters directing the agency "to conduct a prompt and thorough investigation of any reported instances" of "gender-transitioning

procedures," without any regard to medical necessity (hereinafter, "Abbott Directive"). App. E (R.R.-Vol. 2, Pls.' Ex. 02, p. 1, ¶¶ 1, 3).[2] The Abbott Directive incorporated Attorney General Ken Paxton's Opinion No. KP-0401 ("Paxton Opinion") and claimed that "a number of so-called 'sex change' procedures constitute child abuse under existing Texas law." App. E (R.R.-Vol. 2, Pls.' Ex. 02, p. 1, ¶ 1). While the Paxton Opinion decreed that medical treatment, including use of pubertal suppression, hormone therapy, and surgery, for a minor with gender dysphoria could constitute child abuse, the Opinion did "not address or apply to medically necessary procedures."[3] The Abbott Directive, however, ordered the "investigation of any reported instances" of "gender-transitioning procedures," without any regard to medical necessity. App. E (R.R.-Vol. 2, Pls.' Ex. 02, p. 1, ¶¶ 1, 3). In addition to directing DFPS to investigate reports of medical treatment referenced in the Paxton Opinion, the Abbott Directive orders, under threat of criminal prosecution, "all licensed professionals who have direct contact with

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[2] Appendix E (App. E) contains excerpts of the reporter's record from the July 6, 2022 temporary injunction hearing that was sent to Appellees by the court reporter prior to the court reporter's actual filing of the reporter's record with this Court.

[3] Ken Paxton et al., Re: Whether Certain Medical Procedures Performed on Children Constitute Child Abuse (RQ-0426-KP), Opinion No. KP-0401, at 2 (Feb. 18, 2022), https://texasattorneygeneral.gov/sites/default/files/global/KP-0401.pdf.

children" and "members of the general public" to report instances of minors receiving such treatment. App. E (R.R.-Vol. 2, Pls.' Ex. 02, p. 1, ¶ 2).

The same day, DFPS announced that it would comply with the Abbott Directive and "investigate[]" any reports of the procedures outlined in the new directives ("DFPS Rule"), again, without any regard to medical necessity. App. E (R.R.-Vol. 2, Pls.' Ex. 03, p. 1, ¶ 2). DFPS also claimed that, prior to the Paxton Opinion and Abbott Directive, it had "no pending investigations of child abuse involving the procedures described in that opinion." App. E (R.R.-Vol. 1, 228:13-17, 266:4-8; Vol. 2, Pls.' Ex. 03, p. 1, ¶ 2). DFPS immediately launched investigations into families around Texas, including the Voe and Roe families, based on its implementation of the Abbott Directive. App. E (R.R.-Vol. 1, 40:16-22, 147:15-148:5, 148:24-149:19).

II. The district court issues a statewide injunction against the Governor, the Commissioner, and DFPS in *Doe v. Abbott*, and the Texas Supreme Court upholds the injunction as to the plaintiffs.

On March 1, 2022, Jane and John Doe, the parents of transgender adolescent Mary Doe, and Dr. Megan Mooney, a psychologist who treats transgender adolescents (collectively, the "Doe Plaintiffs"), filed a challenge to the Governor's Directive and the DFPS Rule operationalizing the Directive and Paxton's Opinion. *See Doe v. Abbott*, Cause No. D-1-GN-22-000977

(353rd Dist. Ct., Travis Cty., Tex.). On March 11, 2022, the trial court entered a temporary injunction blocking statewide DFPS investigations based on the DFPS Rule implementing Paxton's Opinion and Abbott's Directive. *Doe v. Abbott*, No. D-1-GN-22-000977, 2022 WL 831383, at *1 (353rd Dist. Ct., Travis Cty., Tex. Mar. 11, 2022). Defendants in that case appealed the orders granting the temporary injunction and denying their plea to the jurisdiction, thereby superseding those orders. *Abbott v. Doe*, No. 03-22-00126-CV, 2022 WL 837956, at *1 (Tex. App.—Austin, Mar. 21, 2022), *mandamus conditionally granted sub nom. In re Abbott*, 645 S.W.3d 276 (Tex. 2022). Pursuant to its authority under Rule 29.3, this Court subsequently reinstated the statewide injunction on March 21, 2022. *Id.* at *2. On May 13, 2022, the Texas Supreme Court left in place the Rule 29.3 temporary injunction as to the plaintiffs in that case. While the Texas Supreme Court limited the Rule 29.3 injunction to the plaintiffs in that case, based on a finding that Rule 29.3's specific language referencing "the parties' rights" did not encompass nonparties throughout the state, the Texas Supreme Court denied mandamus relief seeking to overturn the Rule 29.3 injunction as to the plaintiffs in the case.[4] *In re Abbott*, 645 S.W.3d 276, 282-83 (Tex. 2022) (orig. proceeding). In doing so, the Supreme Court emphasized that "DFPS's

[4] The Texas Supreme Court did not reach the merits of defendants' underlying appeal, *In re Abbott*, 645 S.W.3d 276, 280 (Tex. 2022), which remains pending before this Court.

preliminary authority to *investigate* allegations does not entail the ultimate authority to *interfere* with parents' decisions about their children, decisions which enjoy some measure of constitutional protection whether the government agrees with them or not." *Id.* at 281-82. The Supreme Court confirmed that "neither the Governor nor the Attorney General has statutory authority to directly control DFPS's investigatory decisions." *Id.* at 281. As a result, the Supreme Court concluded that the Governor could not be enjoined from engaging in conduct for which he had no authority to undertake. *Id.* at 283. Shortly after the Supreme Court's opinion, DFPS resumed investigating families of transgender youth for possible treatment of medically necessary health care for gender dysphoria.

III. Appellees sue to enjoin DFPS from continuing to enforce the Governor's Directive and are granted a temporary restraining order.

On June 8, 2022, Appellees brought suit challenging the above-described actions of Governor Abbott, Commissioner Masters, and DFPS, asserting six causes of action, including that Appellants' actions violated the Texas Administrative Procedure Act ("APA"), both procedurally and substantively, were *ultra vires*, and violated the Texas Constitution, including the constitutionally required separation of powers. App. A (Pls.' Orig. Pet. and Appl. for TRO, Temp. and Permanent Inj., and Req. for

Declaratory Relief), pp. 50-71, ¶¶ 212-82.

Appellee Mirabel Voe is the loving parent of Appellee Antonio Voe, a 16-year-old adolescent who is transgender and has been diagnosed with gender dysphoria.[5] App. E (R.R.-Vol. 1, 32:18-22, 33:6-10, 33:14-17, 36:15-18). The actions of Governor Abbott, Commissioner Masters, and DFPS have affected the Voes "in every aspect that [they] can[:] medically, physically, emotionally, and . . . to a certain extent financially." App. E (R.R.-Vol. 1, 53:1-17). Appellee Wanda Roe is the loving parent of Appellee Tommy Roe, a 16-year-old adolescent who is transgender and has been diagnosed with gender dysphoria. App. E (R.R.-Vol. 1, 145:5-9, 146:17-19). The investigation and the threat of future investigations have had an "awful" impact on the Roe family's home. App. E (R.R.-Vol. 1, 150:18-20).

In addition to seeking protection for the Voe and Roe families from being subjected to unlawful investigations pursuant to the DFPS Rule, the suit sought protection for one additional family (the Briggle family) and the members in Texas of PFLAG, Inc., a membership organization for lesbian, gay, bisexual, transgender, and queer (LGBTQ+) people, their parents and

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[5] Gender dysphoria refers to clinically significant distress that can result when a person's gender identity differs from the person's sex assigned at birth. App. E (R.R.-Vol. 1, 92:7-12). Treatment for gender dysphoria is governed by evidence-based clinical guidelines supported by every major medical association in the United States. App. E (R.R.-Vol. 1, 93:8-16). If left untreated, gender dysphoria may result in serious consequences including depression, self-harm, and even suicide. App. E (R.R.-Vol. 1, 92:24-93:7).

families, and allies. App. A, pp. 32-35, ¶¶ 98-109. In their petition, Appellees, along with fellow Plaintiffs, the Briggle Family and PFLAG, requested a temporary restraining order, temporary injunction, declaratory judgment, and permanent injunction against DFPS, the Commissioner, and Governor Abbott. App. A, pp. 76-77, ¶ 298. On June 10, 2022, the trial court granted for all plaintiffs a temporary restraining order against DFPS and the Commissioner and set a date for a temporary injunction hearing. App. B (Order Granting Pls.' Appl. for TRO).

IV. The trial court orders a temporary injunction.

A. Evidence before the trial court

On July 6, 2022, the trial court held a temporary injunction hearing. Based on the evidence presented as part of Plaintiffs' Application for Temporary Injunction and considering evidence from the Appellants, the trial court entered a temporary injunction against the Commissioner and DFPS for the Voe and Roe Appellees. App. C. Plaintiffs presented factual evidence demonstrating that Appellants' actions in adopting and implementing the DFPS Rule have caused severe and ongoing harms to plaintiffs and transgender youth and their families through intrusive, unwarranted, and unlawful investigations. Plaintiffs presented expert testimony showing that the kinds of gender-affirming medical care targeted

by the DFPS Rule are in fact medically necessary and part of the standard course of care for gender dysphoria in adolescents, App. E (R.R.-Vol. 1, 93:8-16, 106:7-13), and that the withholding or interruption of this medically necessary care can cause "increased risk for anxiety, depression, and suicide," App. E (R.R.-Vol. 1, 110:11-111:1). Finally, the court heard evidence that DFPS's operationalizing of the Abbott Directive was an unprecedented change within the agency.

Appellees Mirabel Voe and Wanda Roe testified to the irreparable harms their families would face without an injunction. In 2020, Antonio Voe began to socially transition with the support of Mirabel. App. E (R.R.-Vol. 1, 34:22-35:13). Within a year, Mirabel noticed that Antonio was becoming more stressed and anxious with the continuation of puberty. App. E (R.R.-Vol. 1, 36:8-36:14). She sought medical advice, and Antonio's pediatrician diagnosed him with gender dysphoria. App. E (R.R.-Vol. 1, 36:8-18). At the pediatrician's recommendation, Antonio also began seeing a therapist, who confirmed the gender dysphoria diagnosis. App. E (R.R.-Vol. 1, 36:19-37:3). At the time, Antonio was attending school remotely due to the pandemic. App. E (R.R.-Vol. 1, 37:7-9). Mirabel testified that Antonio began to revert back to his usual, extroverted self. App. E (R.R.-Vol. 1, 37:10-19) While Antonio was "normally . . . a straight A student" and "served on the student .

. . body council," when in-person schooling resumed, Mirabel noticed anxiety in Antonio due to instances of being misgendered at school. App. E (R.R.-Vol. 1, 37:10-38:14).

On the day Governor Abbott issued his directive, Antonio "ingested . . . an entire bottle of aspirin" in an attempt to take his own life. App. E (R.R.-Vol. 1, 38:19-39:4). When asked why he had done so, Antonio "stated that the political environment," "the directive that Abbott had issued," and "the other issues of being transgender at school, along with just gender dysphoria is what caused him to do what he did." App. E (R.R.-Vol. 1, 39:5-15). After staying two days at the hospital for emergent care, Antonio was discharged to a psychiatric facility for about nine days, where he received therapy. App. E (R.R.-Vol. 1, 39:19-40:2). When Antonio returned home, Mirabel testified that the family was "relieved that he was home" but "beyond anxious" and "stressed beyond measure." App. E (R.R.-Vol. 1, 40:3-10, 48:19-49:1).

On March 11, 2022, a DFPS investigator came to visit the Voes. App. E (R.R.-Vol. 1, 40:16-22, 49:10-12). Mirabel opened the door assuming the investigator "was there to speak of the attempt and treatment he had received," but instead the investigator stated the psychiatric facility where Antonio had received treatment had reported Mirabel for being an alleged perpetrator of "child abuse" due to her alleged provision of gender-affirming

care. App. E (R.R.-Vol. 1, 49:13-23). The investigator noted she "had been instructed to make [the Voe] case—or cases such as [the Voes'] a priority." App. E (R.R.-Vol. 1, 49:13-23). The investigator then asked Mirabel "intrusive" and "very personal" questions, including questions regarding Antonio's medical history. App. E (R.R.-Vol. 1, 49:24-50:3). The investigator also took pictures of Antonio's body, including his arms, legs, and torso, to see if there were any injuries and asked him questions in a separate interview. App. E (R.R.-Vol. 1, 49:24-50:9). During the visit, Antonio began to sweat and "looked scared." App. E (R.R.-Vol. 1, 50:17-24).

Mirabel testified to the severe impacts of the investigation on the Voe family, which include needing to pull Antonio out of in-person schooling, begin therapy sessions for Antonio's sibling, and increase Antonio's medication dosage "because his anxiety and his depression . . . has substantially gone up again." App. E (R.R.-Vol. 1, 53:1-14). Mirabel has looming fear "at all times" that DFPS could come into her home and take her children away from her. App. E (R.R.-Vol. 1, 53:1-14). She has also lost financial income due to the physical toll of the stress from the investigation, which has exacerbated a preexisting medical condition and caused her to miss work and Antonio's sibling to shift to part-time work so someone is home at all times to watch over Antonio. App. E (R.R.-Vol. 1, 53:15-54:2).

After the Texas Supreme Court issued its May 13, 2022 ruling, DFPS resumed its investigation into the Voes. App. E (R.R.-Vol. 1, 52:17-25).

Appellee Wanda Roe testified that after Tommy received a diagnosis of gender dysphoria and began to live openly as a boy, he became "so much happier." App. E (R.R.-Vol. 1, 147:3-5). Whereas Tommy used to walk behind Wanda and avoid eye contact with others, Tommy now "comes out of his room" and is no longer "sad all the time." App. E (R.R.-Vol. 1, 147:5-14). On February 24, 2022, a DFPS investigator pulled Tommy out of class to interrogate him about his family and medical history. App. A, pp. 42-43, ¶¶ 163-68; App. E. (R.R.-Vol. 1, 147:15-148:5). Later that day, the investigator showed up to the Roe family's home, explaining that she needed to interview everyone in the household because a report had been made that Wanda Roe was providing gender-affirming care to her son. App. E (R.R.-Vol. 1, 147:15-148:5, 148:24-149:6). The investigator told Wanda that "she had to investigate because this . . . report was made" and "was given top priority over . . . all other CPS cases." App. E (R.R.-Vol. 1, 149:7-14). According to the investigator, "[a]ny case involving a parent giving gender-affirming therapy to their minor child was to be prioritized above every other case as directed by Governor Abbott." App. E (R.R.-Vol. 1, 149:7-14).

The experience of being investigated has been particularly

"devastating" to Tommy. App. E (R.R.-Vol. 1, 150:6-17). After the investigation began, Wanda testified that the family began to "lose" Tommy again, who "went back in his shell." App. E (R.R.-Vol. 1, 150:6-9). Whereas Tommy used to be "grade A student," Tommy's grades dropped after the launch of the investigation, and he was unable to even finish the school year in person. App. E (R.R.-Vol. 1, 150:6-17). Wanda also testified that the investigation has been "absolutely devastating" for the family. App. E (R.R.-Vol. 1, 150:18-20).

In early June 2022, DFPS requested that the Roe family provide DFPS with a letter from Tommy's doctor stating that hormone therapy was reversible. App. E (R.R.-Vol. 1, 149:20-24). The investigation into the Roe family remains ongoing.

Randa Mulanax, a former investigations supervisor with DFPS, testified that the Abbott Directive and implementation thereof led to immediate changes to DFPS policy and practice. App. E (R.R.-Vol. 1, 135:18-138:8). Prior to the Abbott Directive, Mulanax had never seen an investigation based solely on the alleged provision of gender-affirming care. App. E (R.R.-Vol. 1, 135:23-136:1). After the Directive, however, cases "started to come into Travis County." App. E (R.R.-Vol. 1, 135:18-22). On February 24, 2022, investigations supervisors were told that

communications regarding such cases were not to be put in writing. App. E (R.R.-Vol. 1, 136:2-16; Vol. 2, Pls.' Ex. 15, ¶ 2B). Mulanax also testified that DFPS departed from longstanding policies by making cases based solely on the alleged provision of gender-affirming medical care "not eligible for priority none status" and "not eligible for administrative closure." App. E (R.R.-Vol. 1, 137:21-138:2).

Appellants' witness, Marta Talbert, the Child Protective Investigations Director of Field for DFPS, confirmed that DFPS first received a report involving the provision of gender-affirming health care to a minor in February 2022. App. E (R.R.-Vol. 1, 228:13-17). Prior to February 2022, she had not been personally involved in any cases involving allegations related to gender-affirming medical care or provision of puberty blockers or hormone therapy ("PBHT") to minors. App. E (R.R.-Vol. 1, 266:4-8). Mirroring the testimony of Mulanax, Talbert testified that all 11 reports DFPS had received involving allegations that a minor was taking PBHT were categorized as Priority Two and investigated; none were designated Priority None, which permits DFPS to summarily close the report without investigation because there are no "allegations of abuse or neglect." App. E (R.R.-Vol. 1, 137:21-138.2, 232:6-22, 265:6-10). While Talbert testified that she did not personally direct DFPS employees to avoid putting information

regarding these cases in writing, she did not refute Mulanax's testimony that DFPS staff received such an instruction. App. E (R.R.-Vol. 1, 233:6-8, 136:2-16). Talbert also did not dispute Mulanax's testimony that Mulanax received written guidance on February 24 that cases involving allegations of gender-affirming health care were "not eligible for priority none" nor for "administrative closure." App. E (R.R.-Vol. 1, 232:20-233:5, 137:21-138:2).

The trial court also heard expert testimony that treatments for gender dysphoria are safe, effective, and widely accepted in the medical community. Dr. Cassandra C. Brady, an Assistant Professor of Clinical Pediatrics at Vanderbilt University Medical Center and the Clinic Director of the Differences of Sex Development Clinic and the Pediatric and Adolescent Gender Clinic at Monroe-Carell Jr. Children's Hospital at Vanderbilt, was qualified as an expert by the court. App. E (R.R.-Vol. 1, 83:12-25, 92:1-3). Dr. Brady testified that the Endocrine Society Guidelines for the care of gender dysphoria are evidence-based and "generally accepted by major organizations such as American Academy of Pediatrics and Pediatric Endocrine Society and others." App. E (R.R.-Vol. 1, 95:21-96:12, 101:1-7). Similarly, the World Professional Association for Transgender Health Standards of Care ("WPATH Standards") are generally accepted in the community and are based on peer-reviewed study and research. App. E

(R.R.-Vol. 1, 105:20-106:6). The care recommended by both the Endocrine Society Guideline and the WPATH Standards of Care includes providing puberty blockers or gender-affirming hormone therapy to treat individuals with gender dysphoria. App. E (R.R.-Vol. 1, 101:13-103:7, 104:15-23). Dr. Brady testified that, based on her clinical experience, the evidence-based guidelines, and published, peer-reviewed, and evidence-based studies, the use of puberty blockers and hormone therapy to treat gender dysphoria is both "safe and effective." App. E (R.R.-Vol. 1, 107:20-108:18, 109:14-110:10). In fact, not providing treatment when an adolescent has gender dysphoria can result in severe risks for the adolescent's mental health, including the development of anxiety and depression, which can lead to an increased risk of suicide. App. E (R.R.-Vol. 1, 110:11-17).

In contrast, Appellants presented testimony from their designated expert witness, Dr. James Cantor, who is not a medical doctor and has not provided treatment to any minors with a diagnosis of gender dysphoria or who are recommended for or receiving gender-affirming medical care. App. E (R.R.-Vol. 1, 162:24-163:3, 164:25-165:23). He was offered as an expert in "the science relating to the treatment of gender dysphoria in minors," over objection by Appellees. App. E (R.R.-Vol. 1, 162:5-12, 171:5-21, 179:6-20). Dr. Cantor acknowledged that, in another case involving gender-affirming

health care in which he testified, the court found Dr. Cantor's patients were "on average 30 years old" and he had "never provided care to . . . a transgender minor under the age of 16," "never diagnosed a child or adolescent with gender dysphoria," "never treated a child or adolescent . . . for gender dysphoria," and "had no personal experience with patients receiving transitioning medications" or "personal knowledge of the assessments or treatment methodologies used at any Alabama gender clinic." App. E (R.R.-Vol. 1, 164:25-165:13, 165:21-23). Dr. Cantor also admitted he had no personal knowledge of "of the assessments or treatment methodologies used in Texas gender clinics." App. E (R.R.-Vol. 1, 165:24-166:9). Dr. Cantor did not offer any testimony disputing Dr. Brady's testimony that doctors providing gender-affirming medical care to adolescents are acting consistent with prevailing medical guidelines, such as those from the Endocrine Society and WPATH, or that these guidelines are widely accepted by medical community. App. E (R.R.-Vol. 1, 85:4-12, 93:8-16, 105:20-107:14). To the contrary, Dr. Cantor admitted that there are studies concluding that the provision of gender-affirming medical care, including puberty blockers and hormone therapy, are effective to treat gender dysphoria, and agreed that there are no studies "showing that psychotherapy alone can resolve an adolescent's gender dysphoria." App. E

(R.R.-Vol. 1, 213:5-20, 214:9-12).

B. Trial court findings

Based on Appellees' Application for Temporary Injunction and the evidence presented at the July 6, 2022 temporary injunction hearing, the trial court entered a temporary injunction on behalf of Appellees Mirabel Voe, Antonio Voe, Wanda Roe, and Tommy Roe. App. C at 4. The temporary injunction enjoined the Commissioner and DFPS from "enforcing the DFPS Rule operationalizing Governor Abbott's Directive and Attorney General Paxton's Opinion." App. C at 3. More specifically, Appellants are restrained from:

> (1) investigating MIRABEL VOE or WANDA ROE, individually or as next friends of ANTONIO VOE or TOMMY ROE, for possible child abuse or neglect ***solely*** based on allegations that they have a minor child or are a minor child who is gender transitioning or alleged to be receiving or being prescribed medical treatment for gender dysphoria, and (2) taking any actions, including investigatory or adverse actions, against Plaintiffs VOE and ROE and their minor children, with open investigations solely based on allegations that they have a child who is transgender, gender nonconforming, gender transitioning, or receiving or being prescribed medical treatment for gender dysphoria, except that DFPS shall have the ability to administratively close or issue a "ruled out" disposition in any of these open investigations based on the information DFPS has to date – if this action requires no additional contact with members of the VOE or ROE families.

App. C at 4 (emphasis in original).

C. Appeal of Temporary Injunction Order

Immediately following the trial court's entry of the Temporary Injunction Order, Appellants filed a notice of accelerated interlocutory appeal under Texas Civil Practice and Remedies Code Section 51.014(a)(4), which superseded the injunction. App. D (Defs.' Notice of Appeal from Order Granting Temporary Injunction).

ARGUMENT AND AUTHORITIES

I. This Court should use its inherent powers and equitable authority under Rule 29.3 to reinstate a temporary injunction on the terms set forth by the trial court.

Texas Rule of Appellate Procedure 29.3 authorizes courts of appeals to "make any temporary orders necessary to preserve the parties' rights until disposition of the appeal." Tex. R. App. P. 29.3. Preservation of the status quo is at the heart of Rule 29.3. This Court should exercise its inherent powers as well as its authority under Rule 29.3 to issue a temporary order reinstating the terms of the temporary injunction issued by the trial court, which preserves the status quo ante in this case, protects Appellees' rights, and prevents irreparable and immediate harms to Appellees.

A. A temporary injunction is necessary to preserve the status quo ante in this case.

This Court has "great flexibility in preserving the status quo based on

the unique facts and circumstances presented." *In re Geomet Recycling LLC*, 578 S.W.3d 82, 89 (Tex. 2019) (orig. proceeding). Based on the facts and circumstances of this case, reinstatement of a temporary injunction is necessary to preserve the status quo ante in this case.

"The purpose of supersedeas is 'to preserve the status quo . . . pending the appeal.'" *In re Tex. Educ. Agency*, 619 S.W.3d 679, 683 (Tex. 2021) (orig. proceeding) (quoting *Shell Petroleum Corp. v. Grays*, 62 S.W.2d 113, 118 (Tex. 1933)). And "[i]n the context of injunctions, . . . status quo means the last, actual, peaceable, non-contested status *which preceded the pending controversy*." *Tex. Educ. Agency v. Hous. Indep. Sch. Dist.*, 609 S.W.3d 569, 572 (Tex. App.—Austin 2020, no pet.) (per curiam) (quotation marks and citation omitted) (emphasis added). As such, permitting Appellants to supersede the trial court's temporary injunction in this case would do the opposite of what a supersedeas is meant to do; it would alter and disrupt the status quo ante in this case, rather than preserve it.

The prohibitory temporary injunction issued by the trial court against the Commissioner and DFPS preserves the status quo ante in this case, and this Court should issue an order enjoining Appellants from the actions outlined in the trial court's temporary injunction to similarly preserve the status quo. As the trial court found, "an allegation about the provision of

gender-affirming medical care, such as puberty blockers and hormone therapy, without more, was not investigated as child abuse by DFPS until after February 22, 2022." App. C at 3. The trial court further found that "[t]he DFPS Rule changed the *status quo* for transgender children and their families" and "was given the effect of a new law or new agency rule, despite no new legislation, regulation, or even valid agency policy." App. C at 3.

The Texas Supreme Court has expressly approved this Court's authority to reinstate a temporary injunction to preserve the status quo. In *In re Texas Education Agency*, the appellants filed an interlocutory appeal that "automatically suspended enforcement of the trial court's order," which included a temporary injunction. 619 S.W.3d at 683. As the Supreme Court noted, "[i]nstead of preserving the status quo, however, suspension of the temporary injunction would . . . have the contradictory effect of permitting the status quo to be altered, because if compliance with the injunction were not required," the plaintiff's rights and position "could be changed from 'the last, actual, peaceable non-contested status [that] preceded the pending controversy.'" *Id.* at 683-84.

After *In re Texas Education Agency*, this Court has continued to exercise its authority under Rule 29.3 to preserve the *status quo*. In *Texas Health & Human Services Commission v. Sacred Oak Medical Center LLC*,

the appellees—like Appellees here—asked this Court to reinstate a temporary injunction under Rule 29.3 following an interlocutory appeal by the state agency. No. 03-21-00136-CV, 2021 WL 2371356, at *1 (Tex. App.—Austin June 9, 2021, no pet.). Addressing *In re Texas Education Agency*, this Court explained that "[t]he Texas Supreme Court recently confirmed that courts of appeals have the power to provide relief from the State's automatic right to supersedeas under Rule 29.3," even if procedural rules would prevent the trial court from issuing a counter-supersedeas order. *Id.* at *5.

In deciding whether to reinstate the temporary injunction in *Sacred Oak*, this Court considered the purpose of the relief requested. Specifically, the Court noted that, "as in *In re TEA*, instead of preserving the status quo, the Commission's suspension of the temporary injunction would, in this case, have the contradictory effect of permitting the status quo to be altered." *Sacred Oak*, 2021 WL 2371356, at *5 (quotations and citation omitted); *see also In re Newton*, 146 S.W.3d 648, 651 (Tex. 2004) (orig. proceeding) (explaining "that the continuation of illegal conduct cannot be justified as preservation of the status quo"). The same holds true here.

Under these same principles, this Court reinstated a suspended injunction under Rule 29.3 against the very rule challenged here in *Abbott v. Doe*, 2022 WL 837956 (Tex. App.—Austin Mar. 21, 2022). The district court

had issued a temporary injunction, holding that before adoption of the DFPS Rule on February 22, 2022, gender-affirming care had not been investigated as child abuse and thus the DFPS rule changed the status quo. *Id. at *1.* After defendants' appeal superseded that injunction, this Court reinstated it, noting its own authority under Rule 29.3 "to maintain the status quo and preserve the rights of all parties." *Id.* at *2. In *In re Abbott*, the Supreme Court denied defendants' requested mandamus relief as to this Court's determination that relief was appropriate under 29.3 in order to maintain the status quo for the parties in that case. *In re Abbott*, 645 S.W.3d at 283.

The Court should exercise that same authority here and enter injunctive relief on the terms set forth by the trial court because it is the only way to preserve the status quo while this appeal is considered.

B. Reinstating the trial court's temporary injunction is necessary to protect Appellees' rights and prevent irreparable harm.

The Court also has "the power to preserve a party's right to judicial review of acts that it alleges are unlawful and will cause it irreparable harm." *Sacred Oak*, 2021 WL 2371356, at *5. "Rule 29.3 provides a mechanism by which [this Court] may exercise the scope of [its] authority over parties, including [its] inherent power to prevent irreparable harm to parties properly before [it] pursuant to [its] appellate jurisdiction in an interlocutory

appeal." *Tex. Educ. Agency*, 609 S.W.3d at 578. Here, reinstatement of a temporary injunction is necessary to protect the rights of Appellees, who would suffer irreparable and immediate harms in the absence of such a temporary injunction.

In this way, this case is similar to *Texas Education Agency* and *Sacred Oak*—"both cases involving a trial court's grant of a temporary injunction enjoining a State agency from taking or enforcing final administrative action." *Sacred Oak Med. Ctr. LLC*, 2021 WL 2371356, at *5. In *Texas Education Agency*, the plaintiff-appellee was concerned that failure to issue an order under Rule 29.3 to preserve the status quo "could delay remedial measures designed to protect students and improve academic achievement." 619 S.W.3d at 690. And in *Sacred Oak*, the plaintiff-appellee faced irreparable harm from the suspension of its license and continued closure. 2021 WL 2371356, at *8. In both instances, this Court entered a temporary injunction, pursuant to its inherent powers and authority under Rule 29.3, in order to protect the plaintiffs-appellees' rights and prevent irreparable harm while the appeals were considered.

Like *Texas Education Agency* and *Sacred Oak*, this case presents "compelling circumstances that require the Court to reinstate the trial court's temporary injunction to preserve the parties' rights." *Sacred Oak Med. Ctr.*

LLC, 2021 WL 2371356, at *7 (quotations omitted). As the trial court found, "unless [Appellants] Commissioner Masters and DFPS are immediately enjoined from enforcing the DFPS Rule operationalizing Governor Abbott's Directive and Attorney General Paxton's Opinion, against the VOE and ROE Plaintiffs, [they] will suffer probable, imminent, and irreparable injury in the interim." App. C at 3. Reinstating a temporary injunction is therefore necessary to prevent immediate, ongoing, and irreparable harm to Appellees. Indeed, as recognized by the trial court, Appellants' actions have already caused myriad harms to Appellees, including:

> being subjected to an unlawful and unwarranted child abuse investigation; intrusion and interference with parental decision-making; the deprivation or disruption of medically necessary care for the parents' adolescent children; the chilling of the exercise of the right of Texas parents to make medical decisions for their children relying upon the advice and recommendation of their health care providers acting consistent with prevailing medical guidelines; intrusion into the relationship between patients and their health care providers; gross invasions of privacy in the home and school, and the resulting trauma felt by parents, siblings, and other household members; outing an adolescent as transgender; adverse effects on grades and participation in school activities; fear and anxiety associated with the threat of having a child removed from the home; increased incidence of depression and risk of self-harm or suicide; having to uproot their lives and their families to seek medically necessary care in another state; being placed on the child abuse registry and the consequences that result therefrom; and criminal prosecution and the threat

thereof.

App. C at 3-4.

The unlawful DFPS Rule at issue here, which creates a presumption of abuse whenever medically necessary treatment for gender dysphoria is provided to transgender adolescents, presents Appellees with an impossible choice—either they continue to be subjected to an unwarranted and invasive abuse investigation, or they do not provide prescribed medically necessary treatment to their transgender adolescents who need it for their gender dysphoria. App. C at 2-3.

As this Court previously found, reinstating a temporary injunction to prevent investigations of families for child abuse based solely on the allegation that they are providing prescribed medically necessary treatment for their adolescents' gender dysphoria was necessary to prevent imminent and irreparable harm. *Abbott*, 2022 WL 837956, at *2. And in denying mandamus relief, the Supreme Court found no abuse of this Court's discretion in issuing an injunction pursuant to Rule 29.3 to protect the Doe family from further harmful action by the Commissioner and DFPS. *In re Abbott*, 645 S.W.3d at 283. The Voe and Roe families are identically situated to the Doe family in the imminent and irreparable harm they face from Appellants' adoption and implementation of the DFPS Rule.

This case, too, thus presents the circumstance where, "[a]bsent an appellate court's inherent power to make temporary orders to preserve the parties' rights until disposition of the appeal, the application of Rule 24.2(a)(3) would prevent a party from ever meaningfully challenging acts by the executive branch that the party alleges to be both unlawful and reviewable by courts and that it further alleges will cause it irreparable harm." *Tex. Educ. Agency*, 609 S.W.3d at 578. This Court has already "conclude[d] that under the particular circumstances presented here, where the appellee alleges irreparable harm from ultra vires action that it seeks to preclude from becoming final, to effectively perform [its] judicial function and to preserve the separation of powers, [this Court] must exercise [its] inherent authority and use Rule 29.3 to make orders 'to prevent irreparable harm to parties that have properly invoked [its] jurisdiction in an interlocutory appeal.'" *Id.* (quoting *In re Geomet*, 578 S.W.3d at 90).

Absent immediate relief from this Court, that same imminent and irreparable harm that led the trial court to issue its injunction in the first instance will persist while this appeal is pending. An order from this Court reinstating a temporary injunction on the terms set forth by the trial court would do Appellants "no harm whatsoever," as any interest they may claim "in enforcing an unlawful (and likely unconstitutional)" directive and rule "is

illegitimate." *BST Holdings, L.L.C. v. Occupational Safety & Health Admin., U.S. Dep't of Lab.*, 17 F.4th 604, 618 (5th Cir. 2021).

The Court should enter an order reinstating a temporary injunction on the terms set forth by the trial court in this case, pursuant to Rule 29.3 and its inherent powers, to protect Appellees' rights and prevent irreparable and immediate harms.

II. The Court should consider this emergency motion for temporary injunctive relief on an expedited basis and set an expedited briefing schedule.

Finally, the Court should consider this motion for temporary injunctive relief pursuant to Rule 29.3 on an emergency, expedited basis and set an expedited briefing schedule for its consideration. At stake in this case are, *inter alia*, the health, wellbeing, and very lives of Antonio Voe and Tommy Roe; the ability of Mirabel Voe and Wanda Roe to support, love, and affirm their children; and the integrity of the Voe and Roe families. The trial court already found that a temporary injunction is necessary to preserve the status quo ante, protect Appellees' rights, and prevent irreparable harm. Expedited consideration of this motion is therefore necessary not only to preserve the status quo, protect Appellees' rights, and prevent irreparable harm, but also for this Court "to effectively perform [its] judicial function and to preserve the separation of powers." *Tex. Educ. Agency*, 609 S.W.3d at 578.

Accordingly, Appellees respectfully request that the Court request a response from Appellants to the instant motion by July 21, 2022 at 12:00 p.m. Appellees further respectfully request that Court act on this emergency motion expeditiously.

CONCLUSION AND PRAYER

Appellees respectfully ask this Court to grant this Emergency Motion for Temporary Injunctive Relief and issue an order providing temporary injunctive relief on the terms set forth by the trial court until the disposition of the appeal. Such an order is necessary to preserve the status quo and Appellees' rights. Appellees further request that this Court consider this motion on an expedited basis and that it request a response from Appellants by July 21, 2022 at 12:00 p.m. Finally, Appellees further request that this Court grant any and all other relief to which they may be entitled.

Dated: July 19, 2022

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Texas Rule of Appellate Procedure 9.4(i)(3), I certify that this motion contains 6,664 words, excluding the portions of the reply brief exempted by Rule 9.4(i)(1).

/s/ Maddy R. Dwertman
Maddy R. Dwertman

CERTIFICATE OF CONFERENCE

Pursuant to Texas Rule of Appellate Procedure 10.1(a)(5), I certify that, on July 19, 2022, I conferred and/or made a reasonable attempt to confer with Appellants' counsel, Ms. Courtney Corbello and Mr. Johnathan Stone, via email regarding Appellees' Emergency Motion for Temporary Injunctive Relief pursuant to Texas Rule of Appellate Procedure Rule 29.3. Counsel for Appellants indicated that Appellants are opposed to this Motion and the relief requested therein.

/s/ Maddy R. Dwertman
Maddy R. Dwertman

CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2022, Appellees electronically served a true and correct copy of the foregoing Emergency Motion for Temporary Injunctive Relief pursuant to Texas Rule of Appellate Procedure Rule 29.3 on all known counsel of record by the Court's electronic filing system, as follows:

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APPENDIX
INDEX

Appendix A	Plaintiffs' Original Petition and Application for Temporary Restraining Order, Temporary and Permanent Injunction, and Request for Declaratory Relief (June 8, 2022)
Appendix B	Order Granting Plaintiffs' Application for Temporary Restraining Order (June 10, 2022)
Appendix C	Order Granting Plaintiffs' Application for Temporary Injunction (July 8, 2022)
Appendix D	Defendants' Notice of Accelerated Interlocutory Appeal (July 8, 2022)
Appendix E	Excerpts of Reporter's Record of the July 6, 2022 Temporary Injunction Hearing (July 6, 2022)

Appendix A

CAUSE NO. __________________

<table>
<tr><td>PFLAG, INC.; MIRABEL VOE, individually and as parent and next friend of ANTONIO VOE, a minor; WANDA ROE, individually and as parent and next friend of TOMMY ROE, a minor; ADAM BRIGGLE and AMBER BRIGGLE, individually and as parents and next friends of M.B., a minor,

Plaintiffs,

v.

GREG ABBOTT, sued in his official capacity as Governor of the State of Texas; JAIME MASTERS, sued in her official capacity as Commissioner of the Texas Department of Family and Protective Services; and the TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES,

Defendants.</td><td>§
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TRAVIS COUNTY, TEXAS
_______ JUDICIAL DISTRICT</td></tr>
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PLAINTIFFS' ORIGINAL PETITION, APPLICATION FOR TEMPORARY RESTRAINING ORDER, TEMPORARY AND PERMANENT INJUNCTION, AND REQUEST FOR DECLARATORY RELIEF

Plaintiffs PFLAG, Inc. ("PFLAG"); Mirabel Voe, individually and as parent and next friend of Antonio Voe, a minor; Wanda Roe, individually and as parent and next friend of Tommy Roe; and, Adam Briggle and Amber Briggle, individually and as parents and next friends of M.B., a minor (collectively, "Plaintiffs")[1] file this Original Petition, Application for Temporary

[1] Plaintiffs M.B., Mirabel Voe, Antonio Voe, Wanda Roe, and Tommy Roe proceed pseudonymously in order to protect their right to privacy, particularly that of M.B., Antonio Voe, and Tommy Roe, who are minors. The Texas Rules of Civil Procedure recognize the need to protect a minor's identity. *See* Tex. R. Civ. P. 21c(a)(3). That goal would not be possible if the identities of M.B., Mirabel Voe, Antonio Voe, Wanda Roe, and Tommy Roe were public. Indeed, not only do Texas rules "require the use of an alias to refer to a minor" but courts "may also use an alias 'to [refer to] the minor's parent or other family member' to protect the minor's identity." *Int. of A.M.L.M.*, No. 13-18-00527-CV, 2019 WL 1187154, at *1 (Tex. App. – Corpus Christi Mar. 14, 2019). Moreover, the disclosure of M.B., Mirabel Voe, Antonio Voe, Wanda Roe, and Tommy Roe's identities "would reveal matters of a highly sensitive and

Restraining Order, Temporary and Permanent Injunction, and Request for Declaratory Relief ("Petition") against Defendants Greg Abbott, in his official capacity as Governor of the State of Texas ("Governor Abbott" or the "Governor"), Jaime Masters, in her official capacity as Commissioner of the Texas Department of Family and Protective Services ("Commissioner Masters" or the "Commissioner"), and the Texas Department of Family and Protective Services ("DFPS") (collectively, "Defendants"). In support of their Petition, Plaintiffs respectfully show the following:

I. PRELIMINARY STATEMENT

1. After the Texas Legislature failed to pass legislation criminalizing well-established and medically necessary treatment for adolescents with gender dysphoria, the Texas Governor, Attorney General, and Commissioner of the Department of Family and Protective Services have attempted to legislate by fiat and press release. Governor Abbott's letter instructing DFPS to investigate the families of transgender children is entirely without constitutional or statutory authority; and despite this, the Commissioner nonetheless has implemented a substantive regulatory change, starting with a statement directing DFPS to carry out the Governor's wishes and subsequently carried out through an unauthorized process that defies both the agency's authority and its longstanding policies and practices.

2. The Governor and Commissioner have circumvented the will of the Legislature and, in so doing, they have run afoul of numerous constitutional and statutory limits on their power.

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personal nature, specifically [M.B., Antonio Voe, and Tommy Roe]'s transgender status and [their] diagnosed medical condition—gender dysphoria." *Foster v. Andersen*, No. 18-2552-DDC-KGG, 2019 WL 329548, at *2 (D. Kan. Jan. 25, 2019). "[O]ther courts have recognized the highly personal and sensitive nature of a person's transgender status and thus have permitted transgender litigants to proceed under pseudonym." *Id.* (collecting cases). Furthermore, as courts have recognized, the disclosure of a person's transgender status "exposes them to prejudice, discrimination, distress, harassment, and violence." *Arroyo Gonzalez v. Rossello Nevares*, 305 F. Supp. 3d 327, 332 (D.P.R. 2018); *see also Foster*, 2019 WL 329548, at *2. Such is the case here.

Additionally, by their actions, Defendants have trampled on the constitutional and statutory rights of transgender children and their parents. The Defendants have, without constitutional or statutory authority, acted to create a new definition of "child abuse" that singles out a subset of loving parents for scrutiny, investigation, and potential family separation. Their actions have caused terror and anxiety among transgender youth and their families across the Lone Star State and singled out transgender youth and their families for discrimination and harassment. What is more, the Governor's and Commissioner's actions threaten to endanger the health and well-being of transgender youth in Texas by depriving them of medically necessary care, while communicating that transgender people and their families are not welcome in Texas.

3. The Governor has also declared that teachers, doctors, and the general public should be required, on pain of criminal penalty, to report to DFPS any person who provides or is suspected of providing medical treatment for gender dysphoria, a recognized condition with well-established treatment protocols.[2] And DFPS has launched investigations into families for child abuse based on reports that the families have followed doctor-recommended treatments for their adolescent children. The Commissioner and DFPS have recently resumed these unlawful investigations, which have already caused lasting harm to Plaintiffs in this case.

4. The actions of the Governor, the Commissioner, and DFPS violate the Texas Administrative Procedure Act, are *ultra vires* and therefore invalid, violate the separation of powers guaranteed by the Texas Constitution, and violate equality and due process protections guaranteed by the Texas Constitution. Plaintiffs ask the Court for declaratory and injunctive relief to remedy these violations of Texas law and of the plaintiffs' rights and to immediately return to

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[2] The impact of the Governor's, Attorney General's, and Commissioner's actions on mandatory reporters is not being challenged in this suit, but such claims are raised in *Doe v. Abbott*, Cause No. D-1-GN-22-000977, in the 353rd District Court of Travis County, Texas.

the *status quo ante*. Plaintiffs also seek a temporary restraining order and preliminary injunction only against the Commissioner and DFPS to maintain the *status quo ante* and prevent them from continuing to cause Plaintiffs irreparable harm while this case proceeds.

II. PARTIES

5. Plaintiff PFLAG is the first and largest organization for lesbian, gay, bisexual, transgender, and queer (LGBTQ+) people, their parents and families, and allies. PFLAG is a network comprised of over 250 local chapters throughout the United States, 17 of which are located in the state of Texas. Individuals who identify as LGBTQ+ and their parents, families, and allies join PFLAG directly or through one of its local chapters. Of approximately 250,000 members and supporters nationwide, PFLAG has a roster of more than 600 members in Texas. PFLAG's mission is to create a caring, just, and affirming world for LGBTQ+ people and those who love them. Encouraging and supporting parents and families of transgender and gender expansive people in affirming their children and helping them access the supports and care they need is central to PFLAG's mission. PFLAG asserts its claims in this lawsuit on behalf of its members.[3] The Voe, Roe, and Briggle families are members of PFLAG, and two additional members of PFLAG have submitted declarations in support of this lawsuit. *See* Ex. 1, Decl. of Samantha Poe; Ex. 2, Aff. of Lisa Stanton.

6. Plaintiffs Mirabel Voe, Wanda Roe, and Adam and Amber Briggle are the respective parents and next friends of Antonio Voe, Tommy Roe, and M.B., who are minors (collectively, "Plaintiff Families"). Plaintiffs Antonio Voe, Tommy Roe, and M.B. are

[3] Texas courts readily accept that membership organizations may have standing to sue on behalf of their members, and determine such standing with a three-prong test. *See Texas Ass'n of Businesses v. Texas Air Control Board*, 852 S.W.2d 440 (Tex. 1993); *see also Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333 (1977). The three-prong test set forth in *Texas Ass'n of Businesses* allows organization to sue on behalf of their members when: (1) the members would otherwise have standing to sue in their own right; (2) the interests the organization seeks to protect are germane to the organization's purpose; and (3) neither the claim asserted nor the relief requests requires the participation of individual members in the lawsuit. 852 S.W.2d at 447. Each of these prongs is met here.

transgender; have been diagnosed with gender dysphoria, a medical condition; and have been prescribed medical care for the treatment of gender dysphoria determined by their doctors to be medically necessary. The Plaintiff Families are all residents of Texas.

7. Defendant Greg Abbott is the Governor of the State of Texas and is sued in his official capacity only. He may be served at 1100 San Jacinto Boulevard, Austin, Texas 78701.

8. Defendant Jaime Masters is the Commissioner of the Texas Department of Family and Protective Services and is sued in her official capacity only. She may be served at 701 West 51st Street, Austin, Texas 78751.

9. Defendant Texas Department of Family and Protective Services is a state agency that is statutorily tasked with promoting safe and healthy families and protecting children and vulnerable adults from abuse, neglect, and exploitation. DFPS fulfills these statutory obligations through investigations, services and referrals, and prevention programs. It may be served at 701 West 51st Street, Austin, Texas 78751.

III. JURISDICTION AND VENUE

10. The subject matter in controversy is within the jurisdictional limits of this Court, and the Court has jurisdiction over this action pursuant to Article V, Section 8, of the Texas Constitution and Section 24.007 of the Texas Government Code, as well as the Texas Uniform Declaratory Judgments Act, Texas Civil Practice & Remedies Code Sections 37.001 and 37.003, and the Texas Administrative Procedure Act, Texas Government Code Section 2001.038.

11. This Court has jurisdiction over the parties because all Defendants reside or have their principal place of business in Texas.

12. Plaintiffs seek non-monetary relief.

13. Venue is mandatory and proper in Travis County because Plaintiffs challenge the validity or applicability of a rule, and the rule or its threatened application interferes with or

impairs, or threatens to interfere with or impair, a legal right or privilege of the Plaintiffs. Tex. Gov't Code § 2001.038(a), (b). Additionally, venue is proper because Defendants have their principal office in Travis County. Tex. Civ. Prac. & Rem. Code § 15.002(a)(3).

IV. DISCOVERY CONTROL PLAN

14. Plaintiffs intend for discovery to be conducted under Level 3 of Texas Rule of Civil Procedure 190.

V. FACTUAL BACKGROUND

A. Governor Abbott, Attorney General Paxton, and Commissioner Masters Create New Definitions of "Child Abuse" Under State Law.

15. On February 21, 2022, Attorney General Paxton released Opinion No. KP-0401 ("Paxton Opinion") dated February 18, 2022, which addressed "Whether certain medical procedures performed on children constitute child abuse."[4] The Paxton Opinion was issued in response to Representative Matt Krause's request dated August 23, 2021, about whether certain enumerated "sex-change procedures" when used to treat a minor with gender dysphoria constitute child abuse under state law. Specifically, Representative Krause inquired about and Attorney General Paxton purportedly addressed the following procedures: "sterilization through castration, vasectomy, hysterectomy, oophorectomy, metoidioplasty, orchiectomy, penectomy, phalloplasty, and vaginoplasty; . . . mastectomies; and . . . removing from children otherwise healthy or non-diseased body part or tissue."[5] The Paxton Opinion also responded to Representative Krause's additional inquiries about: whether "the following categories of drugs: (1) puberty-suppression or puberty-blocking drugs; (2) supraphysiologic doses of testosterone to females; and

[4] Ken Paxton et al., Re: Whether Certain Medical Procedures Performed on Children Constitute Child Abuse (RQ-0426-KP), Opinion No. KP-0401, at 1 (Feb. 18, 2022), https://texasattorneygeneral.gov/sites/default/files/global/KP-0401.pdf.
[5] *Id.*

(3) supraphysiologic doses of estrogen to males" when used to treat minors with gender dysphoria could constitute child abuse.[6]

16. In summary, Attorney General Paxton's Opinion concluded that the enumerated procedures *could* constitute child abuse. The Paxton Opinion was based on the premise that "elective sex changes to minors often has [sic] the effect of permanently sterilizing those minor children."[7] The Paxton Opinion specifies that it "does not address or apply to *medically necessary* procedures,"[8] though it did not take into account the medical consensus that certain procedures described in the Paxton Opinion—including puberty blockers and hormone therapy—*are* medically necessary when prescribed to treat gender dysphoria.

17. In response to the Paxton Opinion, Governor Abbott sent a letter to DFPS Commissioner Jaime Masters dated February 22, 2022 (the "Abbott Letter" or "Abbott's Letter") directing the agency "to conduct a prompt and thorough investigation of any reported instances" of "sex-change procedures," without any regard to medical necessity.[9] The Abbott Letter claimed that "a number of so-called 'sex change' procedures constitute child abuse under existing Texas law."[10] In addition to directing DFPS to investigate reports of procedures referenced in the Paxton Opinion, under threat of criminal prosecution, the Abbott Letter directs "all licensed professionals who have direct contact with children" and "members of the general public" to report instances of minors who have undergone the medical procedures outlined in his Letter and the Paxton Opinion.[11]

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[6] *Id.*
[7] *Id.* at 2.
[8] *Id.* at 2 (emphasis added).
[9] Greg Abbott, Letter to Hon. Jaime Masters, Commissioner, Tex. Dep't of Fam. & Protective Servs. (Feb. 22, 2022), https://gov.texas.gov/uploads/files/press/O-MastersJaime202202221358.pdf.
[10] *Id.*
[11] *Id.*

18. During the 87th Regular session, the Texas Legislature considered, but did not pass, proposed legislation that would have changed Texas law to include treatment for gender dysphoria under the definition of child abuse. Specifically, Senate Bill 1646 ("SB 1646") would have amended Section 261.001 of the Family Code to add certain treatments to the definition of "child abuse." The bill would have amended this provision of the law to include within the definition of "child abuse": "administering or supplying, or consenting to or assisting in the administration or supply of, a puberty suppression prescription drug or cross-sex hormone to a child, other than an intersex child, for the purpose of gender transitioning or gender reassignment; or performing or consenting to the performance of surgery or another medical procedure on a child other than an intersex child, for the purpose of gender transitioning or gender reassignment."[12] SB 1646 did not pass. The Legislature considered additional bills that would have prohibited medical treatment for gender dysphoria in minors, including House Bill 68 and House Bill 1339. None of these bills was passed by the duly elected members of the Legislature.

19. On July 19, 2021, after the above-referenced legislation failed to pass, Governor Abbott explained on a public radio show that he had a "solution" to what he called the "problem" of medical treatment for minors with gender dysphoria.[14]

20. Following the issuance of the Paxton Opinion and the Abbott Letter, on February 22, 2022, DFPS announced that it would "follow Texas law as explained in (the) Attorney General opinion" and comply with the Governor's directive to "investigate[]" any reports of the procedures outlined in the new directives ("DFPS Statement"), again, without any regard to medical necessity.[13]

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[12] S.B. 1646, 87th Leg. (Tex. 2021), https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB01646E.pdf.
[13] Isaac Windes, *Texas AG says trans healthcare is child abuse. Will Fort Worth schools have to report*?, Fort Worth Star-Telegram (Feb. 23, 2022), https://www.star-telegram.com/news/local/crossroads-lab/article258692193.html.

21. Commissioner Masters claimed that, prior to the issuance of the Paxton Opinion and Abbott Letter, the agency had "no pending investigations of child abuse involving the procedures described in that opinion."[14]

22. Previously, on September 3, 2021, Commissioner Masters responded to an inquiry from Representative Bryan Slaton about the same underlying medical treatment and explained, "I will await the opinion issued by the Attorney General's office before I reach any final decisions on the matters you raise."[15]

23. On February 24, 2022, DFPS convened a meeting where investigators and supervisors with Child Protective Services (CPS) were told that, for the first time, they would be required to investigate cases involving medical care for transgender youth as "child abuse" in accordance with Paxton's Opinion and Abbott's Letter.

24. Before February 22, CPS investigations teams had discretion to screen out or de-prioritize reports that did not meet the statutory definition of abuse and neglect, nor pose any harm to a child. According to long-established DFPS policy, CPS only "accepts reports for investigation" where "DFPS appears to be the responsible department under the law" and "the child's apparent need for protection warrants an investigation."[16]

25. During the meeting on February 24, CPS investigators were told that they would be required to investigate *all* reports of minors receiving the prescribed treatments of gender dysphoria mentioned in Paxton's Opinion and Abbott's Letter. Investigators were told that they had to treat these "specific cases" differently from all other reports of abuse or neglect and would

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[14] *Id.*

[15] Jaime Masters, Letter to Hon. Bryan Slaton, Representative, District 2, Re: Correspondence (Sept. 3, 2021), http://thetexan.ews/wp-content/uploads/2021/09/Response-Letter_Representative-Slaton_Addressing-Gender-Reassignment-090321.pdf.

[16] DFPS Child Protective Services Handbook, Section 2141, available at https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_2140.asp (last visited June 6, 2022).

not be able to "priority none" these investigations or send them to "alternative response"—both of which are available for other reports that DFPS receives. But following Abbott's Letter and DFPS's Statement, DFPS told investigators to speak directly with their supervisors and the agency's general counsel to discuss "dispositioning these specific cases." Unlike all other reports of alleged abuse or neglect, CPS investigators were told that they no longer had discretion to close out investigations of medically necessary care for gender dysphoria.

26. On and after February 24, CPS investigators and supervisors were also instructed in writing not to discuss anything about these "specific cases" in writing, but instead that "[a]ny communication you have regarding these cases needs to be done in a Teams meeting, telephone call, or face to face. Do not send text messages or emails in regards to these specific cases." This instruction was highly irregular and antithetical to DFPS's longstanding policies and practices, since investigators and supervisors are tasked with documenting every aspect of each investigation to safeguard the interests of Texas children.

27. On or around February 24, DFPS opened investigations into families across Texas for allegedly providing their children with the medically necessary treatments referred to in Paxton's Opinion and Abbott's Letter. A DFPS spokesperson told the media that nine investigations were opened statewide.

28. These sudden and substantive changes reflected in DFPS's new rule, and the sudden shift in longstanding agency policies, along with Abbott's Letter, had immediate and harmful effects across the state. Faced with the purported changed definition of "child abuse" under Texas law, some medical providers temporarily discontinued medically necessary care for transgender adolescents with gender dysphoria. Teachers, social workers, and other mandatory reporters were confused about whether they needed to report their students and clients to CPS. Phone calls and

messages to mental health and suicide crisis hotlines skyrocketed across the state, and incidents of bullying and harassment towards transgender students spiked in Texas schools.

29. On March 1, a family under active CPS investigation and a licensed psychologist sued the Governor, Commissioner, and DFPS in Travis County District Court. *See Doe v. Abbott*, Cause No. D-1-GN-22-000977 in the 353rd District Court of Travis County, Texas (referred to hereinafter as the "*Doe v. Abbott* Litigation"). That action resulted in a temporary injunction from the District Court and a temporary order on appeal from the Court of Appeals blocking statewide DFPS investigations based on DFPS's new rule implementing Paxton's Opinion and Abbott's Letter. Instead of dismissing or closing out these cases following those rulings, DFPS put them on pause, effectively freezing them in place.

30. On May 13, the Texas Supreme Court upheld the Court of Appeals' temporary order but narrowed its scope of relief to apply only to the specific plaintiffs in the *Doe v. Abbott* Litigation based on a technical reading of the scope of relief that may be granted under Texas Rule of Appellate Procedure 29.3. The Defendants' appeal of the temporary injunction remains pending at the Court of Appeals. At this time, only the investigation against the Doe family is enjoined.

31. On May 19, DFPS released a statement to the media that "DFPS treats all reports of abuse, neglect, and exploitation seriously and will continue to investigate each to the full extent of the law."[17] Although this statement was vaguely worded, it was reported in the media that investigations were actually continuing following internal discussions among DFPS, the Governor and Attorney General's offices.[18] Families, including Plaintiffs in this case, have since heard from DFPS about investigations moving forward.

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[17] Madeleine Carlisle, *I'm Just Waiting for Someone to Knock on the Door.' Parents of Trans Kids in Texas Fear Family Protective Services Will Target Them*, Time (May 19, 2022), https://time.com/6178947/trans-kids-texas-familes-fear-child-abuse-investigations/

[18] *Id.*

32. As DFPS resumed investigating families of transgender youth for possible treatment with medically indicated health care for gender dysphoria, upon information and belief, CPS investigators and supervisors were once again told not to put anything about these specific cases in writing—again departing from agency procedures. These investigations are not being conducted pursuant to any Texas statute or duly enacted DFPS policy but are being pushed forward under the purported color of law based on Paxton's Opinion and Abbott's Letter. Through the DFPS Statement, Commissioner Masters and DFPS have established a new rule and created a presumption that the medical care described in Paxton's Opinion and Abbott's Letter constitutes "child abuse", without any regard for medical necessity (hereinafter the "new rule" or "new DFPS rule"). Even though Governor Abbott and Attorney General Paxton have no authority to direct DFPS or to change longstanding agency policies, DFPS is still pushing forward investigations that are unlawful and causing irreparable harm, as if Texas law has substantively changed and without adhering to the requirements of the Texas Administrative Procedure Act.

B. Responses to New Child Abuse Directives

33. Following the recent attempts by Defendants to change the definition of "child abuse" under Texas law, experts in pediatric medicine, endocrinology, mental health care, and social work issued statements condemning these actions and warning that they run counter to established protocols for treating gender dysphoria, could force providers to violate their professional ethics, and cause substantial harm to minors and their families in Texas.

34. In response to the actions taken by Defendants, the National Association of Social Workers issued the following statement: "The continued attempts in Texas to change the definition of child abuse are in direct opposition to social work values, principles, and Code of Ethics and pose an imminent danger to transgender youth and their families. Furthermore, these shameful actions undermine the established truth supported by every credible medical and mental health

organization in the country that the concepts of sexual orientation and gender identity are real and irrefutable components of one's individual identity."[19]

35. The American Academy of Pediatrics and the Texas Pediatric Society condemned the actions of Texas executive officials explaining that "[t]he AAP has long supported gender-affirming care for transgender youth, which includes the use of puberty-suppressing treatments when appropriate, as outlined in its own policy statement, urging that youth who identify as transgender have access to comprehensive, gender-affirming, and developmentally appropriate health care that is provided in a safe and inclusive clinical space in close consultation with parents."[20]

36. The president of the Texas Pediatric Society explained of the efforts to change the definition of "child abuse" under Texas law: "Evidence-based medical care for transgender and gender diverse children is a complex issue that pediatricians are uniquely qualified to provide. This directive undermines the physician-patient-family relationship and will cause undue harm to children in Texas. TPS opposes the criminalization of evidence-based, gender-affirming care for transgender youth and adolescents. We urge the prioritization of the health and well-being of all youth, including transgender youth."[21]

37. The Endocrine Society condemned the efforts to re-define "child abuse" explaining that these efforts "reject[] evidence-based transgender medical care and will restrict access to care

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[19] *NASW Condemns Efforts to Redefine Child Abuse to Include Gender-Affirming Care*, Nat'l Ass'n Soc. Workers (Feb. 25, 2022), https://www.socialworkers.org/News/News-Releases/ID/2406/NASW-Condemns-Efforts-to-Redefine-Child-Abuse-to-Include-Gender-Affirming-Care.

[20] *AAP, Texas Pediatric Society Oppose Actions in Texas Threatening Health of Transgender Youth*, Am. Acad. Pediatrics (Feb. 24, 2022), https://www.aap.org/en/news-room/news-releases/aap/2022/aap-texas-pediatric-society-oppose-actions-in-texas-threatening-health-of-transgender-youth/.

[21] *Id.*

for teenagers experiencing gender incongruence or dysphoria."[22] The Endocrine Society statement went on to explain: "Health care providers should not be punished for providing evidenced-based care that is supported by major international medical groups—including the Endocrine Society, American Medical Association, the American Psychological Association, and the American Academy of Pediatrics—and Clinical Practice Guidelines."[23]

38. The President of the American Psychological Association issued the following statement: "This ill-conceived directive from the Texas governor will put at-risk children at even higher risk of anxiety, depression, self-harm, and suicide. Gender-affirming care promotes the health and well-being of transgender youth and is provided by medical and mental health professionals, based on well-established scientific research. The peer-reviewed research suggests that transgender children and youth who are treated with affirmation and receive evidence-based treatments tend to see improvements in their psychological well-being. Asking licensed medical and mental health professionals to 'turn in' parents who are merely trying to give their children needed and evidence-based care would violate patient confidentiality as well as professional ethics. The American Psychological Association opposes politicized intrusions into the decisions that parents make with medical providers about caring for their children."[24]

39. Prevent Child Abuse America issued the following statement: "Prevent Child Abuse America (PCA America) knows that providing necessary and adequate medical care to your child is not child abuse, and that transgender and non-binary children need access to age-appropriate, individualized medical care just like every other child. Therefore, PCA America

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[22] *Endocrine Society Alarmed at Criminalization of Transgender Medicine*, Endocrine Soc'y (Feb. 23, 2022), https://www.endocrine.org/news-and-advocacy/news-room/2022/endocrine-society-alarmed-at-criminalization-of-transgender-medicine.
[23] Id.
[24] *APA President Condemns Texas Governor's Directive to Report Parents of Transgender Minors*, Am. Psych. Ass'n (Feb. 24, 2022), https://www.apa.org/news/press/releases/2022/02/report-parents-transgender-children.

opposes legislation and laws that would deny healthcare access to any child, regardless of their gender identity. Such laws threaten the safety and security of our nation's most vulnerable citizens—children and youth."[25]

40. The Ray E. Helfer Society, an international, multi-specialty society of physicians having substantial research and clinical experience with all medical facets of child abuse and neglect, likewise condemned Defendants' actions. The Helfer Society "opposes equating evidence based, gender affirming care for transgender youth with child abuse, and the criminalization of such care. The provision of medical and mental health care, consistent with the standard of care, is in no way consistent with our definitions of child abuse."[26]

41. On May 2, 2022, legal and medical experts from Yale Law School, the Yale School of Medicine's Child Study Center and Departments of Psychiatry and Pediatrics, and the University of Texas Southwestern issued a detailed report comprehensively examining the Texas Attorney General opinion targeting medical care for transgender youth. The report, "Biased Science: The Texas and Alabama Measures Criminalizing Medical Treatment for Transgender Children and Adolescents Rely on Inaccurate and Misleading Scientific Statements," strongly refutes the misguided scientific claims that inform Paxton's Opinion and highlights that the Paxton Opinion omitted important evidence demonstrating the benefits of treatment for gender dysphoria and exaggerated potential harms, painting "a warped picture" of the scientific evidence.[27] Among

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[25] Melissa Merrick, *A Message from Dr. Melissa Merrick in Response to Texas AG Opinion on Gender-Affirming Care*, Prevent Child Abuse Am. (Feb. 23, 2022), https://preventchildabuse.org/latest-activity/gender-affirming-care/.

[26] *Position Statement of the Ray E. Helfer Society On Gender Affirming Care Being Considered Child Abuse and Neglect*, Ray E. Helfer Soc'y (Feb. 2022), https://www.helfersociety.org/assets/docs/Helfer%20Society%20Statement%20On%20Texas%20Transgender%20Action%2002.22.pdf.

[27] Susan D. Boulware, M.D.; Rebecca Kamody, PhD; Laura Kuper, PhD; Meredithe McNamara, M.D., M.S., FAAP; Christy Olezeski, PhD; Nathalie Szilagyi, M.D.; and Anne Alstott, J.D., *Biased Science: The Texas and Alabama Measures Criminalizing Medical Treatment for Transgender Children and Adolescents Rely on Inaccurate and Misleading Scientific Claims* (April 28, 2022),

other things, the report by the Yale University and University of Texas Southwestern experts found that:

a. "The Texas Attorney General either misunderstands or deliberately misstates medical protocols and scientific evidence.";

b. "The AG Opinion falsely implies that puberty blockers and hormones are administered to prepubertal children, when, in fact, the standard medical protocols recommend drug treatments only for adolescents (and not prepubertal children).";

c. "The AG Opinion also omits mention of the extensive safeguards established by the standard protocols to ensure that medication is needed and that adolescents and their parents give informed assent and consent, respectively, to treatment when it is determined to be essential care.";

d. "By omitting the evidence demonstrating the substantial benefits of treatment for gender dysphoria, and by focusing on invented and exaggerated harms, the AG Opinion … portray[s] a warped picture of the scientific evidence."; and

e. "The repeated errors and omissions in the AG Opinion are so consistent and so extensive that it is difficult to believe that the opinion represents a good-faith effort to draw legal conclusions based on the best scientific evidence."

42. Defendants' attempts to rewrite Texas law and define medically necessary health care for transgender youth as "child abuse" have also spurred condemnation from current and former DFPS employees. More than half a dozen current employees have resigned or are actively looking for other jobs because they view the targeting of transgender youth and their families as a

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https://medicine.yale.edu/childstudy/policy/lgbtq-youth/report%20on%20the%20science%20of%20gender-affirming%20care%20final%20april%2028%202022_437080_54462_v2.pdf.

betrayal of the agency's values and mission.[28] Fifteen current and former DFPS employees submitted an *amicus* brief to the Texas Supreme Court, in which they described how "[t]he February 22 Directive and new DFPS Rules represent a radical departure from the status quo meaning of the term 'abuse' as it has been interpreted by Texas courts and by DFPS and its predecessor agencies throughout history prior to February 22, 2022."[29] As career DFPS employees, *amici* advised the Court that "DFPS is already deeply in crisis and is failing Texas's most vulnerable children, violating their Constitutional rights, and subjecting them to further abuse," and condemned the agency's "politically motivated decision to compel DFPS employees like themselves to investigate non-abusive loving and supportive families who merely rely in good faith on their doctor's advice."

43. Parents and families across the state of Texas are fearful that if they follow the recommendations of their medical providers to treat their adolescent children's gender dysphoria, they could face investigation, criminal prosecution, and the removal of their children from their custody. As a result, parents are scared to remain in Texas, to send their children to school or to the doctor, and to otherwise meet their basic survival needs. They are also afraid that if they do not pursue this medically prescribed and necessary care for their children in order to avoid investigation and criminal prosecution, their children's mental and physical health will suffer dramatically.

44. DFPS has so broadly implemented its new rule affecting the families of transgender and gender nonconforming youth that even parents whose gender nonconforming children are still

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[28] Eleanor Klibanoff, *Distraught over orders to investigate trans kids' families, Texas child welfare workers are resigning*, Tex. Trib. (Apr. 11, 2022), https://www.texastribune.org/2022/04/11/texas-trans-child-abuse-investigations/.

[29] Brief of Amici Curiae Current & Former Employees of Tex. DFPS, *In re Abbott*, No. 22-0229 (Mar. 30, 2022), available at https://search.txcourts.gov/SearchMedia.aspx?MediaVersionID=5b5a0304-a87e-4482-b153-97bc5350949d

figuring out who they are and/or not receiving any medical care for the treatment of gender dysphoria are scared. Indeed, DFPS has initiated and continued investigations into such families notwithstanding assurances and documentation that their gender nonconforming children are not receiving any medical care for the treatment of gender dysphoria. *See* Ex. 1, Decl. of Samantha Poe.

45. The actions taken by Defendants have already caused severe and irreparable harm to families across the State of Texas, including members of PFLAG and the Voe, Roe, and Briggle families.

C. Treatment for Gender Dysphoria is Well Established and Medically Necessary.

46. The health care that DFPS now considers child abuse, following the issuance of Abbott's Letter and the Paxton Opinion, is medically necessary, essential, and often lifesaving. This medical care is endorsed and adopted by every major medical organization in the United States. *See generally* Ex. 3, Expert Decl. of Dr. Cassandra C. Brady.

47. Doctors in Texas use well-established guidelines to diagnose and treat youth with gender dysphoria. Medical treatment for gender dysphoria is prescribed to adolescents only after the onset of puberty and only when doctors determine it to be medically necessary. Parents, doctors, and minors work together to develop a treatment plan consistent with widely accepted protocols supported by every major medical organization in the United States.

48. "Gender identity" refers to a person's internal, innate, and immutable sense of belonging to a particular gender.

49. Although the precise origin of gender identity is unknown, a person's gender identity is a fundamental aspect of human development. There is a general medical consensus that there is a significant biological component to gender identity.

50. Everyone has a gender identity. A person's gender identity is durable and cannot be altered through medical intervention.

51. A person's gender identity usually matches the sex they were designated at birth based on their external genitalia. The terms "sex designated at birth" or "sex assigned at birth" are more precise than the term "biological sex" because there are many biological sex characteristics, including gender identity, and these may not always be in alignment with each other. For example, some people with intersex characteristics may have a chromosomal configuration typically associated with a male sex designation but genital characteristics typically associated with a female sex designation. For these reasons, the Endocrine Society, an international medical organization of over 18,000 endocrinology researchers and clinicians, warns practitioners that the terms "biological sex" and "biological male or female" are imprecise and should be avoided.[30]

52. Most boys were designated male at birth based on their external genital anatomy, and most girls were designated female at birth based on their external genital anatomy.

53. Transgender youth have a gender identity that differs from the sex assigned to them at birth. A transgender boy is someone who was assigned a female sex at birth but persistently, consistently, and insistently identifies as male. A transgender girl is someone who was assigned a male sex at birth but persistently, consistently, and insistently identifies as female.

54. Some transgender people become aware of having a gender identity that does not match their assigned sex early in childhood. For others, the onset of puberty, and the resulting physical changes in their bodies, leads them to recognize that their gender identity is not aligned

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[30] *See* Wylie C. Hembree et al., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society* Clinical Practice Guideline*, 102 J. Clinical Endocrinology & Metabolism 3869, 3875 (2017), https://academic.oup.com/jcem/article/102/11/3869/4157558 (hereinafter "Endocrine Society Guideline") ("Biological sex, biological male or female: These terms refer to physical aspects of maleness and femaleness. As these may not be in line with each other (e.g., a person with XY chromosomes may have female-appearing genitalia), the terms biological sex and biological male or female are imprecise and should be avoided.").

with their sex assigned at birth. The lack of alignment between one's gender identity and sex assigned at birth can cause significant distress.

55. According to the American Psychiatric Association's Diagnostic & Statistical Manual of Mental Disorders ("DSM-V"), "gender dysphoria" is the diagnostic term for the condition experienced by some transgender people of clinically significant distress resulting from the lack of congruence between their gender identity and the sex assigned to them at birth. In order to be diagnosed with gender dysphoria, the incongruence must have persisted for at least six months and be accompanied by clinically significant distress or impairment in social, occupational, or other important areas of functioning.

56. Being transgender is not itself a medical condition to be cured. But gender dysphoria is a serious medical condition that, if left untreated, can result in debilitating anxiety, severe depression, self-harm, and suicidality.

57. The World Professional Association for Transgender Health ("WPATH") and the Endocrine Society have published widely accepted guidelines for treating gender dysphoria.[31] The medical treatment for gender dysphoria is to eliminate the clinically significant distress by helping a transgender person live in alignment with their gender identity. This treatment is sometimes referred to as "gender transition," "transition related care," or "gender-affirming care." These standards of care are recognized by the American Academy of Pediatrics, which agrees that this

[31] Endocrine Society Guideline; World Prof'l Ass'n for Transgender Health, Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People (7th Version, 2012), https://www.wpath.org/media/cms/Documents/SOC%20v7/SOC%20V7_English2012.pdf?_t=1613669341 (hereinafter, "WPATH SOC").

care is safe, effective, and medically necessary treatment for the health and well-being of youth suffering from gender dysphoria.[32]

58. The precise treatment for gender dysphoria for any individual depends on that person's individualized needs, and the guidelines for medical treatment differ depending on whether the treatment is for an adolescent or an adult. No medical treatment is recommended or necessary prior to the onset of puberty, however.

59. Before puberty, gender transition does not include any pharmaceutical or surgical intervention. Instead, it involves social transition, such as using a name and pronouns typically associated with the child's gender identity and dressing consistently with their gender identity.

60. Under the WPATH Standards of Care and the Endocrine Society Guideline, medical interventions may become medically necessary and appropriate after transgender youth reach puberty. In providing medical treatments to adolescents, pediatric physicians and endocrinologists work in close consultation with qualified mental health professionals experienced in diagnosing and treating gender dysphoria.

61. For many transgender adolescents, going through puberty as the sex assigned to them at birth can cause extreme distress. Puberty-delaying medication allows transgender adolescents to pause puberty, thus minimizing and potentially preventing the heightened gender dysphoria and permanent physical changes that puberty would cause.

62. Under the Endocrine Society Guideline, transgender adolescents may be eligible for puberty-delaying treatment if:

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[32] Jason Rafferty, et al., Am. Academy Pediatrics, *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, 142 Pediatrics (2018), https://publications.aap.org/pediatrics/article/142/4/e20182162/37381/Ensuring-Comprehensive-Care-and-Support-for; Lee Savio Beers, *American Academy of Pediatrics Speaks Out Against Bills Harming Transgender Youth*, Am. Academy Pediatrics (Mar. 16, 2021), https://www.aap.org/en/news-room/news-releases/aap/2021/american-academy-of-pediatrics-speaks-out-against-bills-harming-transgender-youth/.

- A qualified mental health professional has confirmed that:
  - the adolescent has demonstrated a long-lasting and intense pattern of gender nonconformity or gender dysphoria (whether suppressed or expressed),
  - gender dysphoria worsened with the onset of puberty,
  - coexisting psychological, medical, or social problems that could interfere with treatment (e.g., that may compromise treatment adherence) have been addressed, such that the adolescent's situation and functioning are stable enough to start treatment,
  - the adolescent has sufficient mental capacity to give informed consent to this (reversible) treatment,
- And the adolescent:
  - has sufficient mental capacity to give informed consent to this (reversible) treatment,
  - the adolescent has been informed of the effects and side effects of treatment (including potential loss of fertility if the individual subsequently continues with sex hormone treatment) and options to preserve fertility,
  - the adolescent has given informed consent and (particularly when the adolescent has not reached the age of legal medical consent, depending on applicable legislation) the parents or other caretakers or guardians have consented to the treatment and are involved in supporting the adolescent throughout the treatment process,

- And a pediatric endocrinologist or other clinician experienced in pubertal assessment:
    - agrees with the indication for gonadotropin-releasing hormone (“GnRH”) agonist treatment,
    - has confirmed that puberty has started in the adolescent, and
    - has confirmed that there are no medical contraindications to GnRH agonist treatment.

63. Puberty-delaying treatment is reversible. When the adolescent discontinues the medication, puberty will resume. Contrary to the assertions in the Paxton Opinion, puberty-delaying treatment does not cause infertility.

64. For some adolescents, it may be medically necessary and appropriate to initiate puberty consistent with the young person’s gender identity through gender-affirming hormone therapy (testosterone for transgender boys, and estrogen and testosterone suppression for transgender girls).

65. Under the Endocrine Society Guideline, transgender adolescents may be eligible for gender-affirming hormone therapy if:

- A qualified mental health professional has confirmed:
    - the persistence of gender dysphoria,
    - any coexisting psychological, medical, or social problems that could interfere with treatment (e.g., that may compromise treatment adherence) have been addressed, such that the adolescent’s environment and functioning are stable enough to start sex hormone treatment,

    - the adolescent has sufficient mental capacity to estimate the consequences of this (partly) irreversible treatment, weigh the benefits and risks, and give informed consent to this (partly) irreversible treatment,
- And the adolescent:
    - has been informed of the partly irreversible effects and side effects of treatment (including potential loss of fertility and options to preserve fertility),
    - has given informed consent and (particularly when the adolescent has not reached the age of legal medical consent, depending on applicable legislation) the parents or other caretakers or guardians have consented to the treatment and are involved in supporting the adolescent throughout the treatment process,
- And a pediatric endocrinologist or other clinician experienced in pubertal induction:
    - agrees with the indication for sex hormone treatment, and
    - has confirmed that there are no medical contraindications to sex hormone treatment.

66. Gender-affirming hormone therapy is not necessarily sterilizing and many individuals treated with hormone therapy can still biologically conceive children.

67. As with all medications that could impact fertility, transgender adolescents and their parents are counseled on the potential risks of the medical intervention, and treatment is only initiated where parents and adolescents are properly informed and consent to the care.

68. Under the WPATH Standards of Care, transgender young people may also receive medically necessary chest reconstructive surgeries before the age of majority, provided the young person has lived in their affirmed gender for a significant period of time. Genital surgery is not recommended until patients reach the age of majority.

69. Chest reconstructive surgeries have no impact on fertility.

70. Medical treatment recommended for and provided to transgender adolescents with gender dysphoria can substantially reduce lifelong gender dysphoria and can eliminate the medical need for surgery later in life.

71. The treatment protocols for gender dysphoria supported by every major medical organization in the United States are based on extensive research and clinical experience. When existing protocols are followed, no minor is rushed into treatment. Instead, the process requires extensive mental health evaluation and informed consent procedures.

72. Providing gender-affirming medical care can be lifesaving treatment and change the short and long-term health outcomes for transgender youth.

73. All of the treatments used to treat gender dysphoria are also used to treat other conditions in minors with comparable side effects and risks.

74. Many forms of treatment in pediatric medicine and medicine generally are prescribed “off-label.” Use of medication for “off-label” non-FDA approved purposes is a common and necessary practice in medicine.

75. Many forms of medical treatment carry comparable risks and side effects to those that can be present when treating gender dysphoria. Treatment for gender dysphoria is not uniquely risky.

D. Legal Status of Treatment for Gender Dysphoria in the United States

76. No state in the country considers medically recommended treatment for gender dysphoria to be a form of child abuse.

77. And notwithstanding some politicized efforts to the contrary, no state in the country prohibits doctors from treating, or parents from consenting to treatment for, minor patients with gender dysphoria.

78. Arkansas and Alabama are the only states to pass laws prohibiting such treatment, but the laws were enjoined in court and do not classify the treatment as a form of child abuse.[33] When the Arkansas General Assembly passed the bill prohibiting treatment for minors with gender dysphoria, Governor Asa Hutchinson vetoed it, explaining: "I vetoed this bill because it creates new standards of legislative interference with physicians and parents as they deal with some of the most complex and sensitive matters concerning our youths. It is undisputed that the number of minors who struggle with gender incongruity or gender dysphoria is extremely small. But they, too, deserve the guiding hand of their parents and the counseling of medical specialists in making the best decisions for their individual needs. H.B. 1570 puts the state as the definitive oracle of medical care, overriding parents, patients, and health-care experts. While in some instances the state must act to protect life, the state should not presume to jump into the middle of every medical, human and ethical issue. This would be—and is—a vast government overreach."[34]

79. In Arkansas, a simple majority of the General Assembly overrode Governor Hutchinson's veto and nonetheless enacted a ban on health care treatments for minors with gender

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[33] *Eknes-Tucker v. Marshall*, Case No.: 2:22-CV-184-LCB, 2022 WL 1521889 (M.D. Ala. May 13, 2022); *Brandt v. Rutledge*, 551 F. Supp. 3d 882 (E.D. Ark. 2021). Arizona recently passed a law, not slated to take effect until 2023, prohibiting the provision of gender-affirming surgeries for minors in that state. The Arizona law, however, is limited only to surgery and does not classify gender-affirming medical care as a form of child abuse.

[34] Asa Hutchinson, Opinion, *Why I Vetoed My Party's Bill Restricting Health Care for Transgender Youth*, Wash. Post (Apr. 8, 2021), https://www.washingtonpost.com/opinions/asa-hutchinson-veto-transgender-health-bill-youth/2021/04/08/990c43f4-9892-11eb-962b-78c1d8228819_story.html.

dysphoria. In July 2021, that law was enjoined in federal court. Based on an extensive preliminary injunction record, the court found: "If the Act is not enjoined, healthcare providers in this State will not be able to consider the recognized standard of care for adolescent gender dysphoria. Instead of ensuring that healthcare providers in the State of Arkansas abide by ethical standards, the State has ensured that its healthcare providers do not have the ability to abide by their ethical standards which may include medically necessary transition-related care for improving the physical and mental health of their transgender patients."[35] The court further held that the law "cannot withstand heightened scrutiny and based on the record would not even withstand rational basis scrutiny if it were the appropriate standard of review."[36]

80. In Alabama, again based on an extensive preliminary injunction record and after a two-day evidentiary hearing, a federal court enjoined the provisions of S.B. 184 that made it a felony to prescribe or administer puberty blockers and hormone therapies to transgender youth. The court cited the clear legal precedent that "parents have a fundamental right to direct the medical care of their children subject to accepted medical standards" and that "discrimination based on gender-nonconformity equates to sex discrimination."[37] The court found that Defendants "fail[ed] to produce evidence showing that transitioning medications jeopardize the health and safety of minors suffering from gender dysphoria" and that "[p]arents, pediatricians, and psychologists—not the State or this Court—are best qualified to determine whether transitioning medications are in a child's best interest on a case-by-case basis."[38] Without transitioning medications, the minor plaintiffs would "suffer severe medical harm, including anxiety,

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[35] *Brandt*, 551 F. Supp. 3d at 891.
[36] *Id.*
[37] *Eknes-Tucker v. Marshall*, Case No.: 2:22-CV-184-LCB, 2022 WL 1521889, at *1 (M.D. Ala. May 13, 2022).
[38] *Id.* at *8.

depression, eating disorders, substance abuse, self-harm, and suicidality," along with "significant deterioration in their familial relationships and educational performance."[39]

VI. PROCEDURAL HISTORY

81. On March 1, 2022, the parents of a transgender adolescent and Dr. Megan Mooney, a psychologist who treats transgender adolescents (collectively, the "*Doe v. Abbott* Plaintiffs"), challenged Governor Abbott's Letter by filing a Petition and Application for Temporary Restraining Order (TRO), Temporary Injunction, and Permanent Injunction, and Request for Declaratory Relief against Greg Abbott, in his official capacity as Governor of the State of Texas, Jaime Masters, in her official capacity as Commissioner of DFPS, and DFPS itself. *See Doe v. Abbott*, Cause No. D-1-GN-22-000977 in the 353rd District Court of Travis County, Texas.

82. The *Doe v. Abbott* Plaintiffs' underlying causes of action included: (1) a claim for a declaratory judgment that the DFPS Statement constitutes an invalid rule under the Texas APA; (2) a claim for a declaratory judgment that the Governor and the Commissioner engaged in ultra vires conduct that exceeded their authority; and (3) claims of various constitutional violations arising from the *Doe v. Abbott* Plaintiffs' fundamental parental rights and other equality and due process guarantees of the Texas Constitution.

83. In their petition, the *Doe v. Abbott* Plaintiffs requested a temporary restraining order, temporary injunction, permanent injunction, and declaratory judgment.

84. Their application for a temporary restraining order was heard on March 2, 2022. Minutes before the hearing, Defendants filed a plea to the jurisdiction but did not request it be set for submission or considered at hearing. At the TRO hearing, neither the trial court nor the parties addressed the merits of the plea to the jurisdiction.

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[39] *Id.* at *12.

85. At the conclusion of the hearing, the trial court granted the TRO enjoining Defendants from, *inter alia*, taking any employment action or investigating reports against the *Doe v. Abbott* Plaintiffs based solely on facilitating or providing gender-affirming care to transgender adolescents based on the fact that they are transgender, gender transitioning, or receiving or being prescribed gender-affirming medical treatment. The trial court also set a temporary injunction hearing to consider granting state-wide injunctive relief for March 11, 2022. The trial court did not rule on Defendants' plea to the jurisdiction, which Defendants filed mere minutes before the TRO hearing was set to begin.

86. Within hours of the Court granting the *Doe v. Abbott* Plaintiffs' TRO application, Defendants took an interlocutory appeal to the Third Court of Appeals in Austin, arguing that the trial court's grant of the TRO application "implicitly denied" Defendants' plea to the jurisdiction.

87. On March 3, 2022, the *Doe v. Abbott* Plaintiffs filed an emergency motion to dismiss the appeal for want of jurisdiction, for expedited briefing, and for reinstatement of the TRO under Texas Rule of Appellate Procedure 29.3 ("Rule 29.3"). The *Doe v. Abbott* Plaintiffs argued that, unlike temporary injunctions, TROs are not appealable and that the TRO makes no determination as to the Defendants' plea to the jurisdiction.

88. On March 9, 2022, after reviewing the parties' arguments, the Third Court of Appeals concluded that the TRO was neither an implied ruling on Defendants' jurisdictional plea nor an appealable temporary injunction. *Doe v. Abbott*, No. 03-22-00107-CV, 2022 WL 710093, at *2-3 (Tex. App.—Austin, Mar. 9, 2022) (mem. op.).

89. On March 11, 2022, the trial court held a temporary injunction hearing to consider the *Doe v. Abbott* Plaintiffs' request for statewide relief. The substantial record before the trial court showed that the new DFPS ule and unauthorized actions by Defendants have caused severe

and ongoing harms to transgender youth and those who care for them by triggering unwarranted investigations into families, threatening providers and mandatory reporters with criminal prosecution, cutting off medically necessary health care to adolescents who rely on it, and infringing upon the fundamental rights of parents to direct the custody and care of their minor children.

90. Based on the evidence presented, the trial court entered a temporary injunction and denied Defendants' plea to the jurisdiction. The trial court found that the *Doe v. Abbott* Plaintiffs had met their burden of showing a probable right of relief. The trial court specifically found that "there is substantial likelihood that [the *Doe v. Abbott* Plaintiffs] will prevail after a trial on the merits because the Governor's directive is ultra vires, beyond the scope of his authority, and unconstitutional." *Doe v. Abbott*, No. D-1-GN-22-000977, 2022 WL 831383 *1 (353rd Dist. Ct., Travis Cty., Mar. 11, 2022). The trial court also found that "gender-affirming care was not investigated as child abuse by DFPS until after February 22, 2022." *Id.* As a result, "[t]he series of directives and decisions by the Governor, the [Commissioner], and other decision-makers at DFPS, changed the status quo for transgender children and their families, as well as professionals who offer treatment, throughout the State of Texas." *Id.* Therefore, the trial court found "[t]he Governor's Directive was given the effect of a new law or new agency rule, despite no new legislation, regulation or even stated agency policy" and that "Governor Abbott and Commissioner Masters' actions violate separation of powers by impermissibly encroaching into the legislative domain." *Id.*

91. Immediately following the entry of the orders granting the temporary injunction and denying Defendants' plea to the jurisdiction, Defendants filed a notice of accelerated interlocutory appeal, wherein they asserted that by perfecting the appeal, the temporary injunction

had been superseded pursuant to Texas Civil Practice and Remedies Code § 6.001(b) and Texas Rule of Appellate Procedure 29.1(b).

92. The *Doe v. Abbott* Plaintiffs then moved for temporary relief under Rule 29.3. On March 21, 2022, finding it "necessary to maintain the status quo and preserve the rights of all parties," the Third Court of Appeals reinstated the temporary injunction. *Abbott v. Doe*, No. 03-22-00126-CV, 2022 WL 837956, at *2 (Tex. App.—Austin, Mar. 21, 2022).

93. On March 23, 2022, Defendants petitioned the Texas Supreme Court for a writ of mandamus directing that the Third Court of Appeals vacate its Rule 29.3 order reinstating the temporary injunction entered by the district court.

94. On May 13, 2022, the Texas Supreme Court denied mandamus relief as to the portion of the order applicable to the *Doe v. Abbott* Plaintiffs while the appeal remains pending. *In re Abbott*, No. 22-0229, 2022 WL 1510326, at *4 (Tex. May 13, 2022). However, the Texas Supreme Court found that given Rule 29.3's specific language referencing "the parties' rights," the Third Court of Appeals abused its discretion by affording relief to nonparties throughout the state. Without opining on the District Court's authority to issue a statewide injunction, the Texas Supreme Court held that the Defendants were entitled to mandamus relief as to the portions of the Third Court of Appeals' order that purport to have statewide application. Further, the Court conditionally granted relief with respect to the order's injunction against the Governor because the Governor lacks the authority to undertake—and has not threatened or attempted to undertake—the enforcement actions the order enjoins.

95. In denying further mandamus relief, the Texas Supreme Court upheld the appeals court's order finding that the *Doe v. Abbott* Plaintiffs had established a probable right to recovery on their claims and that "allowing appellants to follow the Governor's directive pending the

outcome of this litigation would result in irreparable harm." *Abbott v. Doe*, No. 03-22-00126-CV, 2022 WL 837956, at *3 (Tex. App.—Austin, Mar. 21, 2022). Declining to reach Defendants' jurisdictional arguments, the Texas Supreme Court also noted that "DFPS's press statement [] suggests that DFPS may have considered itself bound by either the Governor's letter, the Attorney General's Opinion, or both . . . but neither the Governor nor the Attorney General has statutory authority to directly control DFPS's investigatory decisions." *In re Abbott*, No. 22-0229, 2022 WL 1510326, at *3 (Tex. May 13, 2022).

96. On May 25, 2022, Defendants submitted their brief on the merits of their appeal of the trial court's issuance of the temporary injunction and denial of Defendants' plea to jurisdiction to the Third Court of Appeals. The *Doe v. Abbott* Plaintiffs will file their response brief in the coming weeks.

97. At present, there is no injunction or temporary relief for Plaintiffs in this action, and the *Doe v. Abbott* Litigation is currently stayed in the trial court pending resolution of the appeal.

VII. PLAINTIFFS

A. PFLAG

98. Founded in 1973, Plaintiff PFLAG is the first and largest organization for LGBTQ+ people, their parents and families, and allies. Ex. 4, Decl. of Brian K. Bond.

99. PFLAG is a 501(c)(3) nonprofit membership organization whose mission is "to create a caring, just, and affirming world for LGBTQ+ people and those who love them." PFLAG has chapters in every state and the District of Columbia.

100. Supporting LGBTQ+ young people and strengthening their families has been central to PFLAG's work since its founding, and that objective includes encouraging and

supporting parents and families of transgender and gender expansive people in affirming their children and helping them access the social, psychological, and medical supports they need.

101. PFLAG carries out that commitment through supporting the development and work of PFLAG's chapter network, engaging in policy advocacy, forming coalitions with organizations who share PFLAG's goals, developing trainings and educational materials, and engaging with the media. More specifically, it includes working with PFLAG families to encourage love for and support of their transgender and gender expansive children and to help them ensure that the children's needs are met.

102. PFLAG has seventeen chapters across the state of Texas with over 600 members. Those members include parents of transgender adolescents who are directly impacted by the Governor Abbott's Letter and DFPS's new rule and resulting changes in policy and practice.

103. The issuance of the Paxton Opinion caused immediate harm to PFLAG members and constituents, which was only exacerbated by Governor Abbott's Letter and DFPS's new rule as announced in the DFPS Statement and resulting substantive change in its policies and practices. The order to investigate parents for child abuse based solely on helping their children access medically necessary care turned the very thing PFLAG has long held up as critical for LGBTQ+ children—supporting and loving your child for who they are and ensuring they receive care they need to thrive—into a reason to be reported and subjected to an intrusive and traumatic investigation, or worse.

104. In response, PFLAG provided its members with information and support about the opinion and directive. Local PFLAG chapters heard from members who were parents of transgender children and wondered if they would soon be investigated, and these members asked PFLAG for assistance and about their rights as parents. Members of PFLAG had their children's

appointments and access to health care cut off, as providers mistakenly viewed Abbott's Letter and DFPS's new rule as criminalizing medically necessary health care in Texas. Other PFLAG members have left the state, or contemplated leaving Texas, so as not to risk family separation or criminal penalties for providing their children access to the prescribed, medically necessary care they need.

105. PFLAG, its chapters, and its members have experienced the ebb and flow of fear as the *Doe v. Abbott* Litigation resulted in the investigations being halted, only to have the statewide injunction narrowed by the Texas Supreme Court. PFLAG chapters heard from members that the investigations of parent members that had been paused were suddenly restarted and are being pushed forward contrary to Texas law and longstanding DFPS policies. Members who are parents of transgender children who had not yet been investigated live in fear that they soon could be investigated and have their privacy invaded at home and in their children's schools. Members also worry that their right as parents to provide the best possible health care for their children has been usurped by the state and that their children could lose access to lifesaving health care that they need.

106. Given the scope of the Governor's directive, the breadth of DFPS's investigations, and the current lack of a statewide injunction preventing their pursuit, every one of PFLAG's Texas members with a transgender child, or those with children still learning who they are, is at substantial risk of harm. PFLAG has members who are being harmed right now by these actions and have standing to assert claims in their own right, including the Voe, Roe, and Briggle Plaintiffs and the Poe and Stanton families (*see* Ex. 1, Decl. of Samantha Poe; Ex. 2, Aff. of Lisa Stanton), whether because they are facing active investigations, have had their medically necessary health care disrupted, or were otherwise forced to alter their interactions with schools, care

providers, supportive services, or others in order to avoid being reported for child abuse by mandated reporters, all solely because they are or are suspected of seeking the established course of medically necessary care for their transgender children.

107. Other current and future PFLAG members with transgender or nonbinary children face a substantial risk of being harmed by the directive and its implementation because their care for and affirmation of their children may include seeking gender affirming care for them.

108. Abbott's Letter and DFPS's new rule are contrary to PFLAG's mission, subjecting those who affirm their child's gender identity by seeking the established medically necessary care that has been prescribed for them to the peril and stigma of being labeled a "child abuser" and having the child removed from the parent's care. Defendants' actions threaten drastic penalties on PFLAG members for doing the very things PFLAG encourages as in the best interests of transgender and nonbinary children.

109. PFLAG seeks to vindicate these members' interests in challenging Defendants' actions. The directive and its implementation create a default equation of gender-affirming care with child abuse in a manner that harms all of PFLAG's members who affirm their transgender and nonbinary children, no matter the particular circumstances of those members.

B. The Voe Family

110. Plaintiff Mirabel Voe is the proud parent of Plaintiff Antonio Voe, a 16-year-adolescent. Ex. 5, Decl. of Mirabel Voe. The Voe family are members of PFLAG.

111. Texas is the only home Plaintiffs Mirabel and Antonio have ever known. They reside in Texas along with Antonio's older and younger siblings.

112. Antonio is a kind and empathetic young man who enjoys reading, drawing, and running. Before February 2022, he was a straight-A student and a leader in student government.

113. Antonio is transgender. When he was born, his sex was designated as "female," but he is a boy.

114. Growing up, Antonio presented as a tomboy. Indeed, throughout his childhood, Antonio expressed himself and behaved in a manner that did not conform with the stereotypes associated with the sex he was assigned at birth.

115. When Antonio began puberty, physical changes began causing him intense distress.

116. In 2020, Antonio informed his mom that he was transgender.

117. Thereafter, Mirabel and Antonio did research as a family and decided as an initial step that Antonio would socially transition. Antonio began to socially transition by using a name, pronouns, and gender expression that matched his gender identity.

118. After a year of living as his true and authentic self, Antonio felt happier, but the onset of puberty still caused him significant stress.

119. In the summer of 2021, the Voe family began consulting a physician. The physician diagnosed Antonio with gender dysphoria and determined that it was medically necessary for Antonio to begin puberty blockers to help alleviate some of Antonio's symptoms.

120. Then, in January 2022, after six months of sessions with a therapist, Antonio's physician recommended he be provided with additional medical care to treat and alleviate his gender dysphoria.

121. In consultation with Antonio's therapist and physician, and after extensive discussions about the benefits and potential side effects of hormone therapy, this treatment was prescribed by Antonio's doctor in accordance with medical best practices and standards of care.

122. As Antonio was prescribed this medical treatment, his mood and anxiety improved, and he looked forward to a brighter future. Being able to be affirmed as his true self promised Antonio significant relief.

123. DFPS's new rule to investigate medically necessary gender-affirming care as child abuse, following the issuance of Paxton's Opinion and Abbott's Letter, has upended the Voe family's lives.

124. On February 22, the same day as Abbott's Letter, Antonio attempted to die by suicide by ingesting a bottle of aspirin. Antonio said that the political environment, including Abbott's Letter, and being misgendered at school, led him to take these actions.

125. Following the attempt, Antonio was admitted to a local hospital, which referred him to an outpatient psychiatric facility. He was transported to that facility on February 24.

126. While at that outpatient facility, the staff there learned that Antonio had been prescribed hormone therapy for the treatment of gender dysphoria. During a family therapy session, staff at the facility told Antonio and his mom that their family might be reported for "child abuse" because of Abbott's Letter and DFPS's new rule.

127. Antonio was discharged from the psychiatric facility on March 5.

128. On March 11, an investigator from CPS visited the family's home to interview Antonio and Mirabel.

129. Mirabel assumed the investigator was there for the suicide attempt. But the investigator told her that she was only there because Mirabel was an "alleged perpetrator" of child abuse as the parent of a transgender adolescent who had been reported for allegedly providing her son with treatment for gender dysphoria.

130. Being called an "alleged perpetrator" in her own living room was a shock for Mirabel and imposed immense harm and stigma upon Mirabel to know that she had been accused of harming her own child simply for providing him with medically necessary health care.

131. The investigator told her that the report of "child abuse" originated from the outpatient psychiatric facility where Antonio had been seeking help.

132. The investigator interviewed both Antonio and Mirabel and asked them private, intimate, and invasive questions about Antonio's medical treatment for gender dysphoria. The investigator also took pictures of Antonio's arms, torso, back, and legs to see if he had any injuries.

133. The CPS investigator asked Mirabel to sign a release to obtain Antonio's medical records. Mirabel initially signed the release.

134. On March 14, Mirabel received a call from the investigator, who told her that the medical release form was deficient and needed to be signed again. The investigator had tried to send the release to Antonio's health care provider to obtain all of Antonio's private and confidential medical records, but that provider sent it back because of problems with the form. The investigator called Mirabel multiple times and visited her home unannounced, but only Mirabel's oldest child was home at the time.

135. On March 21, the investigator called Mirabel again and asked that she re-sign the form so that DFPS could obtain all of Antonio's medical records. Mirabel said that she would not re-sign the form and was seeking legal counsel.

136. As of today, DFPS's investigation of Mirabel for child abuse remains open.

137. Antonio is receiving mental health care and is recovering from the attempt, but these events have devastated his life. He has been forced to drop out of in-person school and

stay at home so that Mirabel can more closely monitor his health and wellbeing, but she is a single mom who works two jobs. Mirabel loves her son unconditionally, and she can think of nothing worse than losing him.

138. Should DFPS incorrectly issue a finding that Mirabel has committed "child abuse" due to DFPS's new rule based on Abbott's Letter and Paxton's Opinion, Mirabel could be placed on a child abuse registry, have Antonio taken away from her, and be barred from volunteering or participating in her children's activities.

139. Antonio also faces a grave threat to his mental health, and he and his family live in fear that they will face further interrogations and invasions of privacy from DFPS—or be split apart—due to DFPS's new rule following Paxton's Opinion and Abbott's Letter.

140. Threatening or forcing Antonio to forego the ability to obtain the medically necessary medical treatment that he has been prescribed is also life-threatening. Mirabel's only wish is to ensure the health, safety, and wellbeing of her son, and to ensure that he lives to become a happy and successful adult.

C. The Roe Family

141. Plaintiff Wanda Roe is the proud parent of Plaintiff Tommy Roe, a 16-year-adolescent. Ex. 6, Decl. of Wanda Roe; Ex. 7, Decl. of Tommy Roe.

142. For over 12 years, Plaintiffs Wanda and Tommy have called Texas their home. They reside in Texas along with Tommy's three older brothers and stepdad, Wanda's husband.

143. Plaintiff Wanda Roe and the Roe family are members of PFLAG.

144. Tommy is transgender. When he was born, his sex was designated as "female," even though he is a boy.

145. Growing up, Tommy presented as a tomboy. Indeed, throughout his childhood, Tommy expressed himself and behaved in a manner that did not conform with the stereotypes associated with the sex he was assigned at birth.

146. As he got closer to puberty, Tommy started to wonder if everyone felt the same panic and revulsion that he did when he looked at his changing body, a body that seemed wrong and inconsistent with who he is.

147. Researching online, he discovered the term "gender dysphoria," which he realized described the discomfort and distress that he felt.

148. While Tommy knew he was not a girl, he also felt cautious and apprehensive about learning that he was transgender.

149. Tommy worried about the judgment he would face and was aware that states, like his home state of Texas, were seeking to pass laws and policies to take away the rights from transgender people. Tommy had read stories about people getting kicked out of their homes, losing their friends, and facing stigma in their communities.

150. In the end, Tommy could not ignore how right it felt when he thought of himself living as the boy that he is.

151. For Tommy, it brought him a great sense of relief to be able to live as his true self—a boy—and so he became more comfortable telling close friends and one of his older brothers that he was transgender.

152. On or about mid-2020, Tommy informed his mom, Plaintiff Wanda Roe, that he was transgender. Upon learning of this, Wanda hugged Tommy, told him she loved him, and cried. After telling his mom, Tommy told the rest of his brothers and his stepdad.

153. Because she was unfamiliar with what being transgender meant, Wanda sought to become more informed. Wanda sought guidance from a counselor and Tommy's doctor on the best way to support Tommy and ensure his wellbeing.

154. Thereafter, Tommy began to socially transition by presenting as male publicly beyond the few people to whom he had disclosed he was transgender.

155. The Roe family also began consulting medical professionals and Tommy began working with a therapist. Tommy's doctors diagnosed him with gender dysphoria and recommended as appropriate and medically necessary for Tommy to start undergoing gender-affirming hormone therapy.

156. In consultation with these doctors and after extensive discussions about the benefits and potential side effects of this treatment, Plaintiffs Wanda and Tommy Roe jointly decided they should initiate treatment for Tommy's gender dysphoria. The treatment has been prescribed by Tommy's doctors in accordance with what they believe are best medical practices and what the Roe family understands will be the best course of action to protect Tommy's physical and mental health.

157. As Tommy moved further into puberty, he felt even more distressed and anxious about the conflict between his body and who he is. In public, Tommy would hide behind his mom, worried that someone would misgender him as a girl. Tommy would also worry about whether he was walking femininely or whether his breathing sounded masculine enough. Tommy avoided speaking in class and hid from his family and friends, staying alone in his bedroom, because his voice felt wrong. Even in his room, however, Tommy would still feel uncomfortable, a constant feeling he describes as horrible.

158. Plaintiff Wanda Roe observed the distress and anxiety that Tommy exhibited as he began undergoing puberty.

159. When sophomore year started, Tommy attended high school presenting and living as the boy that he is. This was Tommy's first year of high school that was in-person, as his entire freshman year was virtual due to the COVID-19 pandemic.

160. Being able to present and live as a boy allowed Tommy to thrive, both academically and socially. He felt more confident in his everyday life. Wanda also witnessed Tommy's transformation; being able to present and be perceived as the boy that he is allowed Tommy to go from an uncomfortable, fearful child to a confident, self-assured young man.

161. DFPS's new rule to investigate medically necessary gender-affirming care as a child abuse based on the Paxton Opinion and Abbott Letter has wreaked havoc on the Roe family.

162. Tommy first learned of the Paxton Opinion and Abbott's Letter online. When he first learned of them, Tommy was shocked and upset as he felt this was an attack on him and others like him.

163. On February 24, 2022, Tommy was pulled out of class and called to the school administration's office to meet with a CPS investigator. Coincidentally, earlier that same day, Tommy had texted Wanda about the Paxton Opinion and Abbott Letter.

164. When he was called out of class, Tommy was not told whom he would be speaking with but was simply sent to the office as if he were in trouble. When he arrived, a CPS investigator was waiting for him. Tommy was shocked and confused by what was happening. The only people in the room were Tommy and the CPS investigator.

165. The investigator proceeded to interview Tommy and asked him a series of deeply personal questions. He was told the interview was related to his home life but was not told the reason a call to CPS was made.

166. The questions were very personal and asked about Tommy's family and medical history.

167. Tommy sought to answer the investigator's questions as best he could, but he was nervous and scared. Tommy suspected the investigator was there because of the Paxton Opinion and Abbott Letter, and Tommy did not want it to seem like his family had actually done anything to him because they had not. Tommy also worried that the investigator might try to twist his words.

168. After the interview, Tommy was shaking and upset. He had missed close to half an hour of class time and did not know what to tell others about why he had been called to the office. Tommy texted Wanda that he needed to talk with her but did not text her what had happened because he felt it should be discussed in person.

169. Later that afternoon, Wanda picked Tommy and several of his friends up from school. Before Tommy could tell Wanda what had occurred at school, Wanda received a call from one of her other sons that there was someone waiting outside their home.

170. After dropping off Tommy's friends, Wanda and Tommy arrived at their home. When they arrived, a CPS investigator, who upon information and belief was the same investigator who had interviewed Tommy at school, was waiting outside and asked to speak with Wanda. Wanda and Tommy's stepdad decided to let them into the house.

171. The investigator told Wanda that DFPS had been instructed to prioritize investigations into parents who provide gender-affirming medical care to their children over all other child abuse and neglect cases.

172. The investigator interviewed Wanda, Tommy's stepdad, and Tommy's brothers. Tommy was not present for these interviews, as he was so upset by what was going on that he had to go to his room.

173. The questions related to the Roe family's treatment of Tommy and probed whether they had ever abused him (they have not), forced him to transition (they did not), or forced him to take any drugs in support of his transition (they have not).

174. The investigator also asked about Tommy's medical history. Understanding she had done nothing but be loving and supportive of Tommy, as well as consulted with and relied upon the advice from medical and health professionals, Wanda signed a release to allow DFPS to collect and review Tommy's medical records.

175. The interview lasted for approximately an hour.

176. Following the interview, Wanda secured legal representation and days later revoked the release to allow DFPS to collect and review Tommy's medical records.

177. DFPS's new rule to investigate medically necessary gender-affirming care as a "child abuse" based on the Paxton Opinion and Governor Abbott's Letter has caused the Roe family a significant amount of stress, fear, and anxiety. For example, Tommy has been traumatized by the prospect that he may be separated from his family, while Wanda, Tommy's stepdad, and Tommy's brothers are also filled with anxiety and worry.

178. Since the interview, Wanda has noticed that Tommy appears to be anxious and nervous more often than previously. He now worries that his statements to the investigator

may be used as a pretext to take him away from his family, used to otherwise punish Wanda or his siblings, or that he will not have access to the care his doctors have recommended as medically necessary and that would enable him to live more authentically as himself.

179. Following the interview, Tommy's performance at school took a dive and he became more reserved.

180. Tommy has had difficulty focusing during school and tests, and his grades deteriorated significantly since the investigation. He struggled not only to focus on studying but also struggled in general to pay attention to his surroundings as a direct result of the stress he has experienced because of this investigation.

181. The Roe family found a measure of solace knowing that DFPS's investigation had been stopped as a result of the temporary orders issued in the *Doe v. Abbott* Litigation. However, when the appellate court's order was narrowed to not protect their family, Wanda and Tommy began to fear the worst again.

182. Indeed, in May 2022, DFPS contacted Wanda's attorney again and indicated that it is continuing with its investigation, asking for access to Tommy's doctors and medical records and, consistent with the erroneous framing from the Paxton Opinion, seeking assurances that any form of treatment be reversible.

183. Both Wanda and Tommy feel that the investigation has violated the privacy of their family. The investigation intruded upon Tommy at his school, entered the Roe family's home, and has made Tommy fear that harm may befall his family.

184. The implementation of DFPS's new rule to investigate medically necessary gender-affirming care as a child abuse based on the Paxton Opinion and Abbott Letter has terrorized the Roe family and inflicted ongoing and irreparable harm.

185. Should DFPS incorrectly issue a finding that there is reason to believe that Wanda or the Roe family have committed "child abuse" due to DFPS's new rule as announced in the DFPS Statement based on Governor Abbott's and Attorney General Paxton's erroneous and misguided missives and understanding of medical treatment for gender dysphoria, they would automatically be placed on a child abuse registry and be improperly subject to all of the effects that flow from such placement.

186. The implementation of DFPS's new rule to investigate medically necessary gender-affirming care as child abuse based on the Paxton Opinion and Abbott Letter has caused a significant amount of stress, anxiety, and fear for the Roe family.

187. The Roe family is living in constant fear about what will happen to them due to the actions by DFPS, the Governor, and the Attorney General.

188. Not providing Tommy with the medically necessary health care that he needs is not an option for Wanda, as her utmost desire is to ensure the health, safety, and wellbeing of Tommy, whom she loves and supports.

D. The Briggle Family

189. Plaintiffs Adam and Amber Briggle are the proud parents of Plaintiff M.B., a 14-year-old adolescent. Ex. 8, Aff. of Adam Briggle. Both Briggle parents are members of PFLAG.

190. The Briggles have called Texas their home for nearly 13 years, and Texas is the only home M.B. has ever really known. M.B. is shy, a good student, and is well-liked among his peers. M.B. is also a gifted musician.

191. M.B. is transgender. When he was born, his sex was designated as "female," even though he is a boy.

192. From a very young age, M.B. expressed himself and behaved in a manner that does not conform with the stereotypes associated with the sex he was assigned at birth.

193. M.B.'s parents have been supportive and accepting of him, giving him the space to express himself and explore who he is.

194. When M.B. told his parents that he was a boy, they began to educate themselves about what it means to be transgender, when a person's gender identity differs from the sex they were designated at birth.

195. The Briggles also consulted with doctors and mental health providers about the best way they could support M.B. M.B.'s doctors diagnosed him with gender dysphoria around the age of seven. At that time, M.B.'s doctors did not recommend any medical treatment. However, M.B. is still being seen by his doctors and the Briggles are following the doctors' advice, as any loving and supportive parent would, to ensure their adolescent's health, safety, and well-being.

196. In addition to taking steps to affirm M.B. personally, the Briggles have become very involved in efforts to fight legislative and other government actions that would harm M.B. and other LGBTQ+ youth and to support measures that would protect them. They have been vocal advocates for their son and have worked to help others understand the experiences of transgender youth, including by inviting Texas Attorney General Ken Paxton into their home to share a meal with their family.

197. Following the issuance of the Paxton Opinion, Abbott Letter, and the new rule announced in DFPS's Statement, the Briggles' lives were turned upside down.

198. Within forty-eight (48) hours of Abbott's directive that DFPS begin investigating families, the Briggles were contacted by a CPS investigator. They were terrified at the prospect of their son being taken away from his family, his friends, and the life that he loves.

199. The CPS investigator came to the Briggles' home and asked them very intimate, personal, and invasive questions to determine if the parents had committed "abuse" by affirming M.B.'s identity and following the advice of his medical and mental health care professionals. During her visit, the CPS investigator disclosed to the Briggles that the sole allegation against them is that they have a transgender son and that they allowed their son to undergo "treatment for gender transition."

200. After the CPS investigator left, the Briggle family was shaken, including M.B. Adam Briggle has found it difficult to concentrate at work, has trouble sleeping, and can hardly eat without getting sick to his stomach. Adam and Amber worry about keeping their family intact and keeping M.B. safe and healthy.

201. For over three months, the CPS investigation into the Briggles has been open and is still ongoing. After the Texas Supreme Court's decision limiting the temporary injunction to only those plaintiffs named in the *Doe v. Abbott* Litigation, DFPS has continued its investigation into the Briggles. This is despite the Briggles having been public about M.B.'s transgender identity since 2016 and having never been investigated by DFPS until its change in policy in response to Abbott's Letter.

202. The issuance of the Paxton Opinion and the Abbott Letter, along with DFPS's new rule and substantive policy changes based on the Paxton Opinion and the Abbott Letter, has terrorized the Briggle family and inflicted ongoing and irreparable harm.

203. The implementation of DFPS's new rule to investigate medically necessary gender-affirming care as child abuse based on the Paxton Opinion and Abbott Letter has caused a significant amount of stress, anxiety, and fear for the Briggle family.

204. The Briggles are terrified for M.B.'s physical and mental health, safety, and well-being, and for their family. They live in constant fear every day that one or both of our children will be taken away from them. They are also worried that if M.B. is taken away from them, being separated from his sibling would cause him significant harm.

205. Before the CPS investigation into the Briggle family, M.B. was typically playful, joyful, and happy. Now M.B. is scared, anxious, and worried that he will be removed from his home, taken away from his parents, his sibling, his friends, his school, and the life and activities he loves. M.B. has also had a hard time sleeping, is moodier now, and has stayed home from school. His grades have suffered, which has never before been an issue.

206. In addition, since the Paxton Opinion and Abbott Letter, and the investigation into their family, both M.B. and his sibling have been in therapy to help them cope with the stress of thinking that they will be taken away from their parents.

207. The Briggles further worry about the potential short-term and long-term physical and mental health consequences if they were to not follow the advice, guidance, and counseling of M.B.'s physicians and mental health professionals with respect to medically necessary treatment as is appropriate for his gender dysphoria. They do not want to risk M.B.'s health, safety, or well-being and instead want to make sure that he continues to thrive.

208. The Briggle family is living in constant fear about what will happen to them due to the actions by DFPS, the Governor, and the Attorney General.

209. Since the Paxton Opinion and the Abbott Letter, the Briggles have been called criminals, child abusers, and "groomers" on social media. For the first time, they have installed cameras outside of their home. And since the Governor's Directive, they have been followed in their car, and yelled at by a person in another vehicle.

210. Should DFPS incorrectly issue a finding that the Briggle parents committed "abuse" due to the new rule announced in the DFPS Statement based on Governor Abbott's and Attorney General Paxton's erroneous and misguided missives and understanding of medical treatment for gender dysphoria, they would automatically be placed on a child abuse registry and be improperly subject to all of the effects that flow from such placement.

211. Not providing M.B. with the medically necessary health care that he needs is not an option for the Briggle parents, as their utmost desire is to ensure the health, safety, and wellbeing of M.B., whom they love and support.

VIII. CAUSES OF ACTION

A. Request for Declaratory Relief Under the Texas Administrative Procedure Act – By All Plaintiffs Against Defendants Commissioner Masters and DFPS

212. Plaintiffs incorporate the foregoing paragraphs in support of the following causes of action.

213. Plaintiffs request declaratory relief under the Texas Administrative Procedure Act ("APA"). *See* Tex. Gov't Code § 2001.038(a) ("The validity or applicability of a rule, including an emergency rule adopted under Section 2001.034, may be determined in an action for declaratory judgment if it is alleged that the rule or its threatened application interferes with or impairs, or *threatens to interfere with or impair, a legal right or privilege of the plaintiff.*") (emphasis added).

214. The APA contains a waiver of sovereign immunity to the extent of creating a cause of action for declaratory relief regarding the validity or applicability of a "rule." *Id.*

<u>The DFPS Statement Constitutes a Rule, and Commissioner Masters Bypassed Mandatory APA Procedures for Rule Promulgation.</u>

215. Under the APA, a rule

> (A) means a state agency statement of general applicability that: (i) implements, interprets, or prescribes law or policy; or (ii) describes the procedure or practice requirements of a state agency; (B) includes the amendment or repeal of a prior rule; and (C) does not include a statement regarding only the internal management or organization of a state agency and not affecting private rights or procedures.
>
> *Id.* § 2001.003(6) (line breaks omitted).

216. As DFPS Commissioner, Commissioner Masters is statutorily authorized to "provide protective services for children" and "develop and adopt standards for persons who investigate suspected child abuse or neglect at the state or local level" via rulemaking. Tex. Hum. Res. Code § 40.002(b); Tex. Fam. Code § 261.310(a).

217. As a state agency, DFPS is required to follow APA rulemaking procedures when adopting or changing rules. The APA's procedural requirements for promulgating agency rules, including public notice, comment, and a reasoned justification for the rule, are mandatory. *See* Tex. Gov't Code §§ 2001.023, .029, .033. To be valid, a rule must be adopted in substantial compliance with these procedures. *See id.* § 2001.035. The February 22, 2022, DFPS Statement conveys the Department's official position with respect to the investigation of gender-affirming care as child abuse. The DFPS Statement, issued in accordance with Abbott's Letter, is a statement of general applicability that is (1) directed at a class of all persons similarly situated and (2) affects the interests of the public at large. The statement sets forth a new rule and provides that DFPS *will* implement Abbott's "directive" and *will* investigate allegations relating to gender-affirming medical care as "child abuse" according to the new definition formulated by the Paxton Opinion. The DFPS Statement thus applies to and affects the private rights of a class of persons—all parents

of transgender children—as well as members of the general public. *El Paso Hosp. Dist. v. Tex. Health & Human Servs. Comm'n*, 247 S.W. 3d 709, 714 (Tex. 2008) (holding that statement of Health and Human Services Commission had "general applicability" because it applied to "all hospitals"); *Combs v. Entm't Publ'ns, Inc.*, 292 S.W.3d 712, 721-22 (Tex. App.—Austin 2009, no pet.) (holding that Comptroller's statements constituted "rule" under the APA because it applied to all persons and entities similarly situated"); *see also Teladoc, Inc. v. Tex. Med. Bd.*, 453 S.W.3d 606, 615 (Tex. App.—Austin 2014, pet. denied) ("Agency statements of 'general applicability' refer to those 'that affect the interest of the public at large such that they cannot be given the effect of law without public comment,' as contrasted with statements 'made in determining individual rights.'" (citation omitted)).

218. The DFPS Statement prescribes a new DFPS rule and enforcement policy with respect to the investigation of gender-affirming care to minors as child abuse, which changes DFPS policy and constitutes a rule for purposes of the APA. *See Texas Alcoholic Beverage Comm'n v. Amusement & Music Operators of Texas, Inc.*, 997 S.W.2d 651, 657-58 (Tex. App.—Austin 1999, writ dism'd w.o.j.) (holding that memoranda constituted a "rule" because they "set out binding practice requirements" that "substantially changed previous enforcement policy" with respect to eight-liner machines).

219. Prior to the DFPS Statement, DFPS had not promulgated any rule pertaining to the investigation of gender-affirming care as child abuse.[40] The DFPS Commissioner explicitly disavowed pursuing these investigations last September, stating "I will await the opinion issued by the Attorney General's office before I reach any final decisions" relating to investigations of gender-affirming care as child abuse. The agency has now adopted a new rule that it *will* conduct

[40] Even if DFPS had previously promulgated a rule providing for the investigation of gender-affirming medical care as "child abuse," such a rule would have exceeded the bounds of DFPS's authority. *See infra* ¶¶ 223-229.

investigations in accordance with the Paxton Opinion, while stating that there were "no pending investigations of child abuse involving the procedures described in [the Paxton Opinion]" when DFPS announced this policy change on February 22. Before the Commissioner's announcement, there were *no* pending investigations being pursued by DFPS. But now there are investigations targeting Plaintiffs and the Commissioner's statement prescribed a new rule and policy that greatly expands DFPS's scope of enforcement. *See John Gannon, Inc. v. Tex. Dep't of Transp.*, No. 03-18-00696-CV, 2020 WL 6018646, at *5 (Tex. App.—Austin Oct. 9, 2020, pet. denied) (mem. op.) (agency statements that "advise third parties regarding applicable legal requirements" may "constitute 'rules' under the APA" (quoting *LMV-AL Ventures, LLC v. Texas Dep't of Aging & Disability Servs*., 520 S.W.3d 113, 121 (Tex. App.—Austin 2017, pet. denied))).

220. In addition, DFPS's actions since the Statement evidence a new rule and substantive change in policy. Prior to DFPS's Statement, DFPS had refused to investigate reports regarding the provision of gender-affirming medical treatment as child abuse. *See Doe v. Abbott*, 2022 WL 831383, at *1; *see also* Ex. 2, Aff. of Lisa Stanton. In fact, such reports were treated as "priority none" and closed without further investigation. Now, however, following DFPS's Statement, DFPS has opened investigations into the Voe, Roe, and Briggle families in this suit, the Doe family in the *Doe v. Abbott* Litigation, and at least five other families based on allegations that just a few months before would have been treated as "priority none" and not investigated. Moreover, CPS investigators and supervisors have been told to pursue these cases in a manner that departs from longstanding agency procedures and lacks transparency. For example, upon information and belief, DFPS has instructed CPS investigators and supervisors to not put anything about these specific cases in writing. And despite the *Doe v. Abbott* court's finding that these actions are likely unlawful, DFPS has now resumed investigations into Plaintiffs in this case.

221. In declaring that investigations would be initiated based on a non-binding opinion from the Attorney General and an unauthorized directive from the Governor, and now having resumed them, the Commissioner has entirely bypassed the APA's mandatory procedural requirements for promulgating agency rules. The Commissioner did not provide public notice or an opportunity for and full consideration of comments from the public. Additionally, the Commissioner provided no reasoned justification for the new rule announced in the DFPS Statement, nor for the implementation of the Abbott Letter, which goes even further than Paxton's Opinion by making no mention of medical necessity. Neither the non-binding Paxton Opinion nor the Abbott Letter—both of which conflict with well-established medical standards of care—are a legitimate basis for the rule and drastic change in DFPS policies. This agency action, therefore, is arbitrary and capricious.

222. A rule that is not properly promulgated under mandatory APA procedures is invalid. *El Paso Hosp. Dist.*, 247 S.W.3d at 715. As such, the DFPS Statement is invalid and should not be given effect, and DFPS enforcement activity implementing the DFPS Statement should be enjoined.

The DFPS Statement Conflicts with DFPS's Enabling Statute, Exceeding its Authority.

223. DFPS's new rule, based on Abbott's Letter and the Paxton Opinion, and as announced on the DFPS Statement, is also invalid because it stands in direct conflict with DFPS's enabling statute and, as such, is an overreach of DFPS's power as established by the legislature.

224. "To establish the rule's facial invalidity, a challenger must show that the rule: (1) contravenes specific statutory language; (2) runs counter to the general objectives of the statute; or (3) imposes burdens, conditions, or restrictions in excess of or inconsistent with the relevant statutory provisions." *Gulf Coast Coal. Of Cities v. Pub. Util. Comm'n*, 161 S.W.3d 706, 712 (Tex. App.—Austin 2005, no pet.).

225. The new rule announced in the DFPS Statement contravenes specific language in DFPS's enabling statute. Section 40.002 of the Texas Human Resources Code specifies that DFPS "*shall* . . . provide family support and family preservation services *that respect the fundamental right of parents to control the education and upbringing of their children*." Tex. Hum. Res. Code § 40.002 (emphasis added). As demonstrated herein, the new rule announced in the DFPS Statement infringes on the rights of parents to direct the custody and care of their children, including by providing them with needed medical care. *See infra*, Section VIII.E. The new DFPS rule thus conflicts with the obligations imposed on DFPS by its enabling statute and, therefore, is invalid.

226. In addition to conflicting with specific statutory language, the new rule announced in the DFPS Statement also conflicts with the general objectives of DFPS's enabling statute. *See Gulf Coast Coal. Of Cities*, 161 S.W.3d at 711-12. These general objectives are informed by the specific duties imposed on DFPS by the Legislature and encompass the objective of protecting children against abuse while respecting parents' fundamental right to control the upbringing of their children. *See* Tex. Hum. Res. Code § 40.002(b). Not only does the new rule announced in the DFPS Statement infringe on parents' fundamental rights, it also *causes* immense harm to minor children with gender dysphoria who have a medical need for treatment that is now considered "child abuse" under the new agency rule.

227. Pursuant to the new rule announced in the DFPS Statement and implementation thereof, the Voe, Roe, and Briggle parents, as well as other parents who are members of PFLAG (together, "Plaintiff Parents"), cannot provide medically necessary and doctor-recommended medical treatment to their adolescent children without exposing themselves to criminal liability. Precisely because this medical treatment is necessary, if the Plaintiff Parents

ceased providing this care, their children will be greatly and irreparably harmed, including by being forced to undergo endogenous puberty with the permanent physical changes that can result. The new DFPS rule, though cloaked under the guise of protecting children, actually *causes* harm where none existed in the first place. Furthermore, the mere *threat* of enforcement has already impacted Antonio Voe, Tommy Roe, and M.B., as well as other transgender youth whose families are members of PFLAG, by causing them immeasurable anxiety and distress. These young people are now forced to choose between the medical care that they need and exposing their parents to criminal liability and potentially being removed from their care or, alternatively, abstaining from such medically necessary care and suffering the physical and mental consequences, all in order to protect their families from DFPS investigation. As such, the new DFPS rule cannot be harmonized with DFPS's general objectives as set forth in its enabling statute. *See R.R. Comm'n of Tex. v. Lone Star Gas Co*., 844 S.W.2d 679, 685 (Tex.1992); *Gerst v. Oak Cliff Sav. & Loan Ass'n*, 432 S.W.2d 702, 706 (Tex. 1968).

228. Every major medical organization in the United States considers the treatment now effectively banned and criminalized by DFPS to be medically necessary. And none of the alleged concerns about the now-prohibited gender dysphoria treatment is unique to the prescribed treatments but is rather targeted only at families who are seeking this care for the treatment of gender dysphoria. Transgender young people and their families are therefore uniquely singled out and threatened by Texas officials. Such a radical disregard of medical science and the medical needs of a subset of minors in Texas cannot be squared with the agency's authority as prescribed by Statute.

229. Finally, nothing in DFPS's enabling statute authorizes it to expand the scope of statutory definitions established by the Legislature. The definition of "child abuse" is provided

by statute and is not within DFPS's jurisdiction. Because the DFPS Statement is not rooted in any rulemaking authority provided by the Legislature, it is invalid. *See Williams v. Tex. State Bd. Of Orthotics & Prosthetics*, 150 S.W.3d 563, 568 (Tex. App.—Austin 2004, no pet.) ("An agency rule is invalid if [] the agency had no statutory authority to promulgate it . . . .").

Implementation of the DFPS Statement Interferes with Plaintiffs' Constitutional Rights.

230. Separate and apart from the procedural and substantive defects set forth above, the new DFPS rule is also invalid because its application interferes with Plaintiffs' fundamental parental rights and other equality and due process guarantees of the Texas Constitution.

231. Under the APA, an action for declaratory judgment can be sustained if a "rule or its threatened application interferes with or impairs, or threatens to interfere with or impair, a legal right." Tex. Gov't Code § 2001.038(a). Agency rules that are unconstitutional can be invalidated through declaratory judgment. *See Williams*, 150 S.W.3d at 568.

232. The new rule announced in the DFPS Statement and DFPS's implementation thereof interferes with Plaintiff Parents' fundamental right to care for their children guaranteed by the Texas State Constitution. *Wiley v. Spratlan*, 543 S.W.2d 349, 352 (Tex. 1976). The Texas Legislature has codified its acknowledgement that parents possess fundamental, constitutional rights beyond those expressly provided for by statute. Tex. Fam. Code § 151.001(a)(11) (concluding enumerated list of parental rights and obligations by stating that a parent has "any other right or duty existing between a parent and child by virtue of law").

233. A parent's right to control the care of their child is one of the most ancient and natural of all fundamental rights. *See Holick v. Smith*, 685 S.W.2d 18, 20 (Tex. 1985) ("This natural parental right has been characterized as essential, a basic civil right of man, and far more precious than property rights." (citation and quotations omitted)).

234. By, in effect, cutting off the ability of parents to treat their minor adolescent children in accordance with doctor-recommended and clinically appropriate care, the agency's new rule infringes on the parental rights of Plaintiff Parents. The agency's new rule substitutes parents' judgment as to what medical care is in the best interests of their children for the judgment of the government. There is no justification—let alone one that is compelling—to warrant such a gross and arbitrary invasion of parental rights. The new DFPS rule creates a presumption that certain medical treatments must be uniquely denied to transgender youth, even where those treatments are medically necessary and commonly prescribed for diagnoses other than gender dysphoria. This political interference with essential health care "run[s] roughshod over the important interests of both parent and child." *Stanley v. Illinois*, 405 U.S. 645, 657 (1972).

235. As such, the new DFPS rule must be declared invalid because it conflicts with Plaintiff Parents' fundamental rights as parents under the Texas Constitution, as well as other equality and due process guarantees of the Texas Constitution.

B. *Ultra Vires* Claims – By All Plaintiffs Against Defendants Governor Abbott and Commissioner Masters

236. Plaintiffs incorporate the foregoing paragraphs in support of the following causes of action.

237. Plaintiffs request declaratory relief under the Uniform Declaratory Judgments Act ("UDJA").

238. The UDJA is remedial and intended to settle and afford relief from uncertainty and insecurity with respect to rights under state law and must be liberally construed to achieve that purpose. Tex. Civ. Prac. & Rem. Code. § 37.002. The UDJA waives the sovereign immunity of the State and its officials in actions that challenge the constitutionality of government actions and that seek only equitable relief.

239. Pursuant to the UDJA, Plaintiffs seek a declaratory judgment of the Court that Abbott's Letter, the DFPS Statement directing DFPS to investigate families for providing their children with medically necessary health care, and DFPS's new rule and substantive change in policy regarding the investigation of gender-affirming care as child abuse:

a. Is *ultra vires* and exceeds the Governor's and the Commissioner's authority under the Texas Family Code; and

b. Contravenes separation of powers established by Article II of the Texas Constitution.

240. A government official commits an *ultra vires* act when the officer "act[s] without legal authority or fail[s] to perform a purely ministerial act." *City of El Paso v. Heinrich*, 284 S.W.3d 366, 372 (Tex. 2009). An officer acts without legal authority "if he exceeds the bounds of his granted authority or if his acts conflict with the law itself." *Houston Belt & Terminal Ry. Co. v. City of Houston*, 487 S.W.3d 154, 158 (Tex. 2016).

241. In this case, both Governor Abbott and Commissioner Masters have acted without legal authority in directing DFPS to initiate investigations for any reported instances of the enumerated medical procedures in the Abbott Letter. For the reasons discussed below, there is a "probable right to relief" here on the *ultra vires* claims. *See Abbott v. Harris Cty.*, No. 03-21-00429-CV, 2022 WL 92027, at *10 (Tex. App.—Austin Jan. 6, 2022, pet. filed) (finding that plaintiffs had established "a probable right to relief on their claim that the Governor's issuance of [an executive order] constitutes an ultra vires act" in granting injunctive relief).

Governor Abbott Has Exceeded His Authority.

242. Governor Abbott has exceeded his authority by unilaterally redefining child abuse and then ordering "prompt and thorough investigation[s]" based on his redefinition.[41]

243. In contrast to the Governor's past executive orders, *see, e.g.*, Executive Order GA-38 (citing Tex. Gov't Code. § 418.016), Governor Abbott issued this directive without citing any gubernatorial authority.

244. Instead, the Abbott Letter cites only to the Texas Family Code. The Texas Family Code, however, does not give Governor Abbott any authority to define the contours of "child abuse" or to "direct the agency to "conduct . . . investigation[s]," as he attempted to do in his letter.[42] The Texas Family Code itself defines child abuse and outlines DFPS's investigatory authority. *See* Tex. Fam. Code §§ 261.001, 261.301. These laws also specifically task the DFPS Commissioner with establishing procedures for investigating abuse and neglect, based on the definitions of abuse and neglect under Texas law and in accordance with the APA. Thus, the Governor has no authority to define the contours of what constitutes child abuse under Texas law or to unilaterally change any DFPS procedures. Indeed, even the Paxton Opinion merely identified what *could* be considered "child abuse." Governor Abbott then took that non-binding analysis and directed DFPS to presume, in all cases, that a minor adolescent with gender dysphoria with medical treatment consistent with well-established medical guidelines amounted to abuse.

245. Furthermore, the Texas Constitution makes clear that the Governor only administers the law pursuant to the general grant to "cause the laws to be faithfully executed." Tex. Const. art. 4, § 10. The Governor neither makes the law nor possesses the authority to suspend

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[41] Greg Abbott, Letter to Hon. Jaime Masters, Commissioner, Tex. Dep't of Fam. & Protective Servs. (Feb. 22, 2022), https://gov.texas.gov/uploads/files/press/O-MastersJaime202202221358.pdf.
[42] *Id.*

laws under the Texas Constitution. *See* Tex. Const. art. 1, § 28 ("No power of suspending laws in this State shall be exercised except by the Legislature.").

246. Even where a state agency like DFPS has been delegated the power to make rules, the Governor cannot lawfully order the Commissioner to adopt a particular rule, much less order her to do so without following the proper rulemaking process. *See* Tex. Hum. Res. Code § 40.027(c)(3) (tasking the Commissioner, not the Governor, with "oversee[ing] the development of rules relating to the matters within the department's jurisdiction").

247. In the *Doe v. Abbott* Litigation, the Texas Supreme Court held that "neither the Governor nor the Attorney General has statutory authority to directly control DFPS's investigatory decisions." *In re Abbott*, 2022 WL 1510326 at *3. However, the Court also acknowledged that there are "many informal mechanisms by which a governor or an attorney general may validly seek to influence the behavior of state agencies as part of the normal give-and-take between departments of state government." *Id*. at *2, n. 3.

248. Governor Abbott's Letter went beyond these "informal mechanisms" by which a governor may seek to influence the behavior of a state agency. Indeed, Governor Abbott very clearly stated: "I hereby ***direct*** [DFPS] to conduct a prompt and thorough investigation of any reported instances of [minors being provided gender-affirming care] in the State of Texas."[43] By the plain meaning of the language he used, Governor Abbott sought to directly control DFPS despite having no authority to do so.

249. In addition, the Governor's directive must be viewed within the context that Commissioner Masters's appointment as Commissioner expired in late 2021, and the continuation of her tenure is entirely at the Governor's discretion. Abbott's Letter set forth his clear expectation

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[43] Greg Abbott, Letter to Hon. Jaime Masters, Commissioner, Tex. Dep't of Fam. & Protective Servs. (Feb. 22, 2022), https://gov.texas.gov/uploads/files/press/O-MastersJaime202202221358.pdf (emphasis added).

of what the Commissioner should do going forward, and given her expired term, left her with limited options.

250. And so, despite the Governor's lack of authority, Commissioner Masters and DFPS nonetheless heeded his instruction. The Texas Supreme Court observed that the statement issued by DFPS in response to Abbott's Letter "suggests that DFPS may have considered itself bound by either the Governor's letter, the Attorney General's Opinion, or both." *In re Abbott*, 2022 WL 1510326 at *3. In its response, DFPS referred to Abbott's Letter as a "directive," implying that DFPS was acting solely at the behest of Governor Abbott.

251. Regardless of whether DFPS was statutorily or legally bound by Abbott's Letter, the end result is still the same: Governor Abbott "directed" DFPS to investigate the families of transgender adolescents, and DFPS complied with that "directive." Abbott's Letter thus constituted an *ultra vires* act because, as the Texas Supreme Court has noted, the Governor does not have authority to "direct" DFPS.

Commissioner Masters Has Exceeded Her Authority.

252. Commissioner Masters has also exceeded her authority and acted *ultra vires* by implementing Governor Abbott's unlawful redefinition of child abuse. In accordance with the DFPS Statement issued soon after the Abbott Letter, Commissioner Masters has already directed her department to investigate any reports of minors who have undergone the medical procedures outlined in the Abbott Letter. Although DFPS is not, in fact, bound by Abbott's Letter—which has no legal force or effect—Commissioner Masters continues to press forward with the investigation of families of transgender adolescents.

253. These actions contravene Commissioner Masters's limited statutory authority to "adopt rules and policies for the operation of and the provision of services by the department." Tex. Hum. Res. Code § 40.027(e). As set forth in Section VIIII.A. above,

Commissioner Masters has completely ignored the APA's mandatory rulemaking process. Therefore, the issuance and implementation of DFPS's new rule is *ultra vires* of the Commissioner's statutory rulemaking authority. *See City of El Paso v. Public Util. Comm'n,* 839 S.W.2d 895, 910 (Tex. App.—Austin 1992) ("[I]f there is no specific express authority for a challenged [agency] action, and if the action is inconsistent with a statutory provision or ascertainable legislative intent, we must conclude that, by performing the act, the agency has exceeded its grant of statutory authority."), *aff'd in part & rev'd in part,* 883 S.W.2d 179 (Tex. 1994). Furthermore, the Commissioner lacked authority to issue the new rule announced in the DFPS Statement as new law or policy because it is the Legislature's constitutional mandate to "provide for revising, digesting and publishing the laws." Tex. Const. art. 3, § 43.

254. Moreover, the new DFPS rule contradicts DFPS's enabling statute, which requires the department to "provide protective services for children" and "provide family support and family preservation services that respect the fundamental right of parents to control the education and upbringing of their children." Tex. Hum. Res. Code § 40.002(b). Rather than support children and respect the right of parents to raise their children and the rights of transgender minors to receive medically necessary treatment available to similarly situated non-transgender minors, Commissioner Masters's actions has already directly caused harm to loving families across Texas. This harm will become even more irreparable as investigations turn into family separations and medically necessary treatments are terminated.

255. Finally, this sequence of events, in which a Commissioner agrees to follow a Governor's unlawful directive—issued not as an executive order but as a letter—has never before been recognized by a court as a proper execution of government authority, further underscoring the *ultra vires* nature of both officials' actions here.

C. Separation of Powers Claims – By All Plaintiffs Against Defendants Governor Abbott and Commissioner Masters

256. Plaintiffs incorporate the foregoing paragraphs in support of the following causes of action.

257. Defendants' actions violate the separation of powers established by Article II of the Texas Constitution. Defendants' actions run afoul of Article II in two ways:

258. *First*, the Governor's directive, which criminalizes conduct by adding a new definition of "child abuse" under Section 261.001 of the Texas Family Code, unduly interferes with the functions of the state Legislature, which possesses *sole* authority to establish criminal offenses and designate applicable penalties. *See Martinez v. State*, 323 S.W.3d 493, 501 (Tex. Crim. App. 2010).

259. *Second*, all Defendants seek to adopt and enforce an overbroad interpretation of "child abuse." They do this in contravention of the plain meaning of the statute, and despite the state Legislature's recent decision not to adopt such a definition. This too represents an overreach by the executive branch into the legislative function.

260. The Texas Constitution prohibits one branch of state government from exercising power inherently belonging to another branch. Tex. Const. art. II, § 1; *see also Gen Servs. Comm'n v. Little-Tex. Insulation Co.*, 39 S.W.3d 591, 600 (Tex. 2001) (superseded by statute on other grounds).

261. A separation of powers constitutional violation occurs when: (1) one branch of government has assumed or has been delegated a power more "properly attached" to another branch, or (2) one branch has unduly interfered with another branch so that the other branch cannot effectively exercise its constitutionally assigned powers. *Jones v. State*, 803 S.W.2d 712, 715 (Tex. Crim. App. 1991) (citing *Rose v. State*, 752 S.W.2d 529, 535 (Tex. Crim. App. 1987)).

262. The "power to make, alter, and repeal laws" lies with the state Legislature, and such power is plenary, "limited only by the express or clearly implied restrictions thereon contained in or necessarily arising from the Constitution." *Diaz v. State*, 68 S.W.3d 680, 685 (Tex. App.—El Paso 2000, pet. denied) (citations omitted).

263. In particular, the Legislature possesses the *sole* authority to establish criminal offenses and designate applicable penalties. *See Martinez,* 323 S.W.3d at 501; *see also Matchett v. State*, 941 S.W.2d 922, 932 (Tex. Crim. App. 1996) (en banc) (the authority to define crimes and prescribe penalties for those crimes is vested exclusively with the Legislature).

264. Governor Abbott's directive unduly interferes with the state Legislature's sole authority to establish criminal offenses and penalties. First, the Abbott Letter outright claims that "a number of so-called 'sex change' procedures constitute child abuse under existing Texas law," despite the fact that the Legislature has failed to pass nearly identical legislation.

265. The Abbott Letter also violates separation of powers by inventing a separate crime when it directs, under the threat of *criminal prosecution*, "all licensed professionals who have direct contact with children" as well as "members of the general public" to report instances of minors who have undergone the medical procedures outlined in the Letter and the Paxton Opinion. This, too, is without legislative approval and represents an overreach by the executive into the core legislative function of establishing crimes and criminal penalties.

266. Second, separate and apart from the criminalization of conduct that has heretofore been legal, all Defendants violate separation of powers by seeking to adopt and enforce an overbroad interpretation of "child abuse" under the Family Code.

267. Texas law mandates that the executive branch and the courts must, in construing statutes, take them as they find them. *See Tex. Highway Comm'n v. El Paso Bldg. &*

Const. Trades Council, 234 S.W.2d 857, 863 (Tex. 1950); *Simmons v. Arnim*, 220 S.W. 66, 70 (Tex. 1920); *City of Port Arthur v. Tillman*, 398 S.W.2d 750, 752 (Tex. 1965). In particular, the other branches are not empowered to "substitute what [they] believe is right or fair for what the legislature has written," *Vandyke v. State*, 538 S.W.3d 561, 569 (Tex. Crim. App. 2017) (citations omitted), or to give meanings to statutory language that contravene their plain meaning or clear legislative intent. *See Burton v. Rogers*, 492 S.W.2d 695 (Tex. Civ. App.—Beaumont 1973, writ granted), *judgment rev'd on other grounds*, 504 S.W.2d 404 (Tex. 1973) (finding that words employed by the Legislature must be taken in their ordinary and popular acceptation). To do otherwise would once again violate the core legislative power to make, alter, and repeal laws.

268. Defendants violate separation of powers when they attempt to create new and novel definitions for "child abuse" under the Family Code. Defendants endeavored to redefine "child abuse" in spite of the state legislature's recent refusal to adopt Senate Bill 1646, which would have included certain treatments for gender dysphoria in adolescents under the definition of child abuse, and bills like it, such as House Bills 68 and 1339. In expanding the definition of child abuse beyond the limits permitted by the plain meaning of the Family Code, and in clear defiance of legislative intent, the Defendants impermissibly invade the legislative field. *See Brazos River Auth. v. City of Graham*, 354 S.W.2d 99, 109 (Tex. 1961).

269. Finally, there has been no delegation of powers from the state Legislature to the executive that would in any way cure the separation of powers violation. While the Legislature may not generally delegate its law-making power to another branch, it may designate some agency to carry out legislation for the purposes of practicality or efficiency. *See Tex. Boll Weevil Eradication Found., Inc. v. Lewellen*, 952 S.W.2d 454, 466 (Tex. 1997). Separation of powers requires that in statutes delegating such power, the Legislature must provide definite

guidelines and prescribe sufficient standards to circumscribe the discretion conferred. *See State v. Rhine*, 255 S.W.3d 745, 749 (Tex. App.—Fort Worth 2008, pet. granted), *aff'd*, 297 S.W.3d 301. Such standards must be reasonably clear and acceptable as standards of measurement. Tex. Const. art. II § 1.

270. In the instant case, the Texas Family Code provides no such delegation in any way from the state Legislature to the executive of the power to expand—unilaterally and without legislative approval—the definition of "child abuse." Recent decisions by the state Legislature in fact signal that the Legislature does not intend and has explicitly declined to expand the definition of child abuse to include certain gender-affirming care for minors.

271. For the foregoing reasons, Defendants' actions violate state constitutional separation of powers.

D. Due Process Vagueness Claims – By All Plaintiffs Against Defendants Governor Abbott and Commissioner Masters

272. Article 1, Section 19 of the Texas Constitution states: "No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land." Under this guarantee, a governmental enactment is unconstitutionally vague if it fails to provide a person of ordinary intelligence fair notice of what is prohibited or is so standardless that it authorizes or encourages seriously discriminatory enforcement. *See Ex parte Jarreau*, 623 S.W.3d 468, 472 (Tex. App.—San Antonio 2020, pet. ref'd) (quoting *Sessions v. Dimaya*, 138 S. Ct. 1204, 1212 (2018)). Governmental enactments are unconstitutionally void for vagueness when their prohibitions are not clearly defined.

273. Criminal enactments are subject to an even stricter vagueness standard because "the consequences of imprecision are . . . severe." *Vill. of Hoffman Estates v. Flipside,*

Hoffman Estates, Inc., 455 U.S. 489, 498-99 (1982). Each ground—a lack of fair notice and a lack of standards for enforcement—provides an independent basis for a facial vagueness challenge. *Ex parte Jarreau*, 623 S.W.3d at 472.

274. The Abbott Letter and the DFPS Statement announcing a new rule adopting and enforcing an overbroad interpretation of "child abuse" under the Family Code create precisely this type of unconstitutional vagueness. These vague prohibitions leave parents of transgender youth like Plaintiffs Mirabel Voe, Wanda Roe, Adam and Amber Briggle, and those who are members of PFLAG, uncertain how to avoid criminal penalty in their efforts to provide for the medical needs of the children they love. Under the text of the Family Code itself, a parent is liable for neglect for "failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting an immediate danger of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child." Tex. Fam. Code § 261.001(4)(A)(ii)(b). Failing to seek medically necessary treatment for an adolescent's gender dysphoria would seemingly fall within this statutory definition. But if parents pursue the medical care necessary for their transgender adolescent's growth, development, and functioning, Defendants' recent actions make them liable for abuse. These parents are left without fair notice of how their actions will be assessed and what standards will apply.

E. Deprivation of Parental Rights Due Process Claims – By Plaintiff Parents Against Defendants Governor Abbott and Commissioner Masters

275. Plaintiffs incorporate the foregoing paragraphs in support of the following causes of action.

276. Plaintiff Parents' right to care for their children is a fundamental liberty interest protected by the Texas Constitution and acknowledged by the Legislature. *See Wiley*, 543 S.W.2d at 352; *see also* Tex. Fam. Code § 151.001(a)(11).

277. Under substantive due process, the government may not infringe parental rights unless there exist exceptional circumstances capable of withstanding strict scrutiny. *See Wiley*, 543 S.W.2d at 352. The state must have a compelling state interest, and the state action in question "*must* be narrowly drawn to express *only* the legitimate state interests at stake." *Gibson v. J.W.T.*, 815 S.W.2d 863, 868 (Tex. App.—Beaumont 1991, writ granted), *aff'd and remanded In re J.W.T.*, 872 S.W.2d 189 (Tex. 1994) (citations omitted).

278. In the present case, there are no exceptional circumstances that would justify Defendants' complete negation of Plaintiff Parents' fundamental liberty interests in parental autonomy. There is perhaps no right more fundamental than the right of parents to care for their children. *See Holick v. Smith*, 685 S.W.2d 18, 20 (Tex. 1985). Defendants have trampled on Plaintiff Parents' right to care for their children by effectively criminalizing the act of providing medically necessary care to their children in consultation with medical professionals in accordance with applicable standards of care. Defendants' actions cause immeasurable harm to both parents and young people, threaten family separation, and lack any legitimate justification at all, let alone a constitutionally adequate one. This is not a "narrowly drawn" policy that respects Plaintiff Parents' fundamental due process rights to parent their children.

F. Violation of the Guarantee of Equal Rights and Equality Under the Law – By Minor Plaintiffs Against Defendants Governor Abbott and Commissioner Masters

279. The Abbott Letter, DFPS's Statement, and DFPS's implementation of these through its new rule violate the Texas Constitution by denying transgender youth equal protection under law. Under the Texas Constitution, all persons "have equal rights," Tex. Const. art. I, § 3,

and "[e]quality under the law shall not be denied or abridged because of sex." Tex. Const. art. I, § 3a.

280. The Abbott Letter, incorporated into the DFPS Statement, classifies based on both transgender status and sex. The Abbott Letter specifically designates "*gender*-transitioning procedures" to be abusive and refers to the Paxton Opinion by noting that it deems "'*sex* change' procedures [to] constitute child abuse." The Abbott Letter, incorporated into the DFPS Statement, explicitly uses sex-based terms, making plain that the discrimination at issue here is based on sex, including failure to conform to sex stereotypes. Moreover, it discriminates against transgender youth, like Antonio Voe, Tommy Roe, M.B., and the children of PFLAG members, because they are transgender. By definition, transgender people undergo "gender transition" and by targeting medical care related to gender transition, Texas officials are discriminating against transgender people as such.

281. As the United States Supreme Court has explained, "discrimination based on . . . transgender status necessarily entails discrimination based on sex." *Bostock v. Clayton Cty., Georgia*, 140 S. Ct. 1731, 1747 (2020); *cf. Tarrant Cty. Coll. Dist. v. Sims*, 621 S.W.3d 323, 329 (Tex. App.—Dallas 2021, no pet.) ("[W]e conclude we must follow Bostock and read the TCHRA's prohibition on discrimination 'because of ... sex' as prohibiting discrimination based on an individual's status as a . . . transgender person.") (citing *Bostock*, 140 S. Ct. at 1738-43). Likewise, discrimination based on transgender status is independently unconstitutional. *See Brandt*, 551 F. Supp. 3d at 889 ("The Court concludes that heightened scrutiny applies to Plaintiffs' Equal Protection claims because Act 626 rests on sex-based classifications and because 'transgender people constitute at least a quasi-suspect class.'" (quoting *Grimm v. Gloucester Cty.*

Sch. Bd., 972 F.3d 586, 607 (4th Cir. 2020))); *Eknes-Tucker v. Marshall*, 2022 WL 1521889, at *1.

282. The Abbott Letter, DFPS Statement, and DFPS's implementation of these directives therefore unlawfully discriminate against transgender youth by deeming the medically necessary care for the treatment of their gender dysphoria as presumptively abuse because they are transgender when the same treatment is permitted for non-transgender youth. The law also singles out for prohibition only medical treatment for gender dysphoria when many other forms of care carry the same or comparable risk and are supported by the same or less evidence of efficacy. In so doing, the Abbott Letter, DFPS Statement, and DFPS's implementation of these directives through its new rule place a stigma and scarlet letter upon transgender youth and subject them to immense harms. Defendants' actions do nothing to protect transgender youth, yet subject them to invasive investigations simply because of who they are, while triggering an unimaginable choice between being forced to forego medically necessary care or being separated from their families or having their loving parents criminalized.

IX. APPLICATION FOR EMERGENCY TEMPORARY RESTRAINING ORDER, TEMPORARY INJUNCTION AND PERMANENT INJUNCTION

283. In addition to the above-requested relief, Plaintiffs seek: (1) a temporary restraining order and a temporary injunction against Commissioner Masters and DFPS (not Governor Abbott) solely on the grounds that DFPS's new rule, expanding the definition of "child abuse" violates the APA; and (2) a permanent injunction against Commissioner Masters and DFPS (not Governor Abbott) on each of the grounds asserted by Plaintiffs herein.

284. The purpose of a temporary restraining order and temporary injunction is to maintain the status quo pending trial. The status quo is "the last actual, peaceable, non-contested status which preceded the pending controversy." *In re Newton*, 146 S.W.3d 648, 651 (Tex. 2004)

(quoting *Janus Films, Inc. v. City of Fort Worth*, 358 S.W.2d 589, 589 (Tex. 1962) (per curiam) (citation omitted)). Until a permanent injunction can be decided on the merits, Plaintiffs are entitled to a temporary restraining order and a temporary injunction pursuant to Texas Civil Practice and Remedies Code section 65.011 and Texas Rules of Civil Procedure 680 *et seq.* to preserve the status quo before the unconstitutional enactment of Abbott's Letter and the DFPS Statement, which incorporate and reference the Paxton Opinion.

285. As determined by the Court in *Doe v. Abbott*, "gender-affirming care was not investigated as child abuse by DFPS until after February 22, 2022" and "[t]he series of directives and decisions by the Governor, the [Commissioner], and other decision-makers at DFPS, changed the *status quo* for transgender children and their families, as well as professionals who offer treatment, throughout the State of Texas." *Doe v. Abbott*, 2022 WL 831383, at *1.

286. Moreover, as a result of temporary orders from the Travis County District Court and the Third Court of Appeals, DFPS and Commissioner Masters were "enjoined from investigating reports of child abuse by persons, providers or organizations facilitating or providing gender-affirming care to transgender minors where the only grounds for the purported abuse or neglect are either the facilitation or provision of gender-affirming medical treatment or the fact that the minors are transgender, gender transitioning, or receiving or being prescribed gender-affirming medical treatment; prosecuting or referring for prosecution such reports" until at least mid-May 2022.

287. The Commissioner's and DFPS's actions since the Texas Supreme Court's decision narrowing the Third Court of Appeals' order demonstrate that the agency is continuing to conduct investigations based solely on the suspected provision of gender affirming care for adolescent minors with gender dysphoria, as directed by Abbott's Letter and explained in Paxton's

Opinion. DFPS never conducted these investigations before February 22 but is now violating Plaintiffs' rights and threatening medically necessary health care for transgender youth based on an invalid agency rule.

288. Plaintiffs meet all the elements necessary for temporary injunctive relief with respect to their APA claims. Plaintiffs state a valid cause of action against the Commissioner and DFPS and have a probable right to the relief sought. For the reasons detailed above, a bona fide issue exists as to Plaintiffs' right to ultimate relief because the Commissioner and DFPS violated the APA by adopting and enforcing a new rule, namely a significant expansion of the definition of "child abuse", without following the statutorily required procedures. Plaintiffs have already been injured by these actions and will continue to experience imminent and irreparable harm without injunctive relief.

289. Plaintiffs in this suit have suffered and will continue to suffer probable, imminent, and irreparable harms before a trial on the merits, absent intervention by the Court. Antonio Voe, Tommy Roe, M.B., and transgender youth whose parents are members of PFLAG have already had their lives upended by the Commissioner and DFPS's actions.

290. Antonio Voe attempted death by suicide in response to Texas leaders targeting transgender youth. Following that attempt, he faced intrusive invasions of his and his family's privacy from DFPS. Antonio was questioned and photographed by an investigator at home and his mom was called an "alleged perpetrator" of child abuse, interrogated, and asked to turn over private and confidential medical records for her son. Because of the trauma and harm caused by Defendants' actions, Antonio has stopped going to school in-person and is seeking additional mental health care.

291. Tommy Roe felt his world cave in when he was pulled out of class and questioned by a CPS investigator at school about his medically necessary health care. He suffered the trauma and anxiety of seeing CPS question his mother, stepdad, and brothers in their home. M.B. also suffered this same invasion of his privacy, as his family was questioned by CPS in their home based solely on allegations relating to the medically necessary health care. PFLAG members across Texas have suffered these same harms and are living in fear, anxiety, and apprehension that CPS could at any moment knock on their door or pull their kids out of class to interrogate them about the medically necessary health care that they receive.

292. Plaintiffs who are parents of PFLAG, Mirabel Voe, Wanda Roe, and Adam and Amber Briggle also face lasting harm—the prospect of losing their children. Commissioner Masters and DFPS's efforts to continue investigations into families that love and support their children by providing them with medically necessary care threaten to rip families apart and trample on Plaintiffs' parental rights. Because DFPS is pursuing these investigations contrary to law and in flagrant violation of the APA, Plaintiffs live in fear that their children could be taken away from them with little or no notice. Even an investigation that does not result in a removal can still stay on a parent's record and curtail a parent's rights and freedom. And the worst harm of all is that Plaintiffs fear that their children could attempt to take their own lives because Defendants' actions have baselessly portrayed gender-affirming care as a crime and transgender youth as a burden on their families.

293. Defendants' unlawful actions have also threatened the availability of medically necessary health care for gender dysphoria that Plaintiffs need, which if abruptly discontinued can cause severe physical and emotional harms, including anxiety, depression, and suicidality. If placed on the child abuse registry, Plaintiff Parents like Mirabel Voe, Wanda Roe,

Adam and Amber Briggle, and PFLAG members would be barred from ever working with children, including as volunteers in their community. Plaintiffs also face the prospect of criminal penalties, as threatened in Abbott's Letter.

294. For the reasons above, Plaintiffs request the Court issue a temporary restraining order now and a temporary injunction following a hearing within 14 days and a permanent injunction after a trial on the merits. Since there is no adequate remedy at law that is complete, practical, and efficient to the prompt administration of justice in this case, equitable relief is necessary to enjoin the enforcement of the Commissioner's and DFPS's unlawful new rule, preserve the status quo, and ensure justice.

295. In balancing the equities between Plaintiffs and the Commissioner and DFPS, Plaintiffs will suffer probable, imminent, irreparable, and ongoing harm including the deprivation of their medical treatment and their constitutional rights, whereas the injury to the Commissioner and DFPS is nominal pending the outcome of this suit. In fact, enjoining the Commissioner and DFPS's unlawful implementation of Paxton's Opinion and Abbott's Letter will simply allow the agency to follow existing Texas law and longstanding DFPS policies and practices, while not diverting resources to unlawfully investigate loving families for the provision of medically necessary health care.[44]

296. Plaintiffs are willing to post a bond for any temporary injunction if ordered to do so by the Court, but request that the bond be minimal because the Commissioner and DFPS are acting in a governmental capacity, have no pecuniary interest in the suit, and no monetary damages can be shown. Tex. R. Civ. P. 684.

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[44] Reese Oxner & Neelam Bohra, *Texas foster care crisis worsens, with fast-growing numbers of children sleeping in offices, hotels, churches*, Tex. Trib. (July 19, 2021), https://www.texastribune.org/2021/07/19/texas-foster-care-crisis/.

X. CONDITIONS PRECEDENT

297. All conditions precedent have been performed or have occurred.

XI. RELIEF REQUESTED

298. For the foregoing reasons, Plaintiffs request the Court grant the following relief:

a. A temporary restraining order prohibiting Commissioner Masters and DFPS from implementing or enforcing the new rule announced in the DFPS Statement, implementing the Abbott Letter and the Paxton Opinion, or otherwise investigating for possible child abuse or taking any actions against Plaintiffs and other members of PFLAG solely based on allegations that they have a child that is transgender or that they have a minor child with gender dysphoria who is being treated with medically prescribed treatment for that condition;

b. Upon hearing, a temporary injunction prohibiting Commissioner Masters and DFPS from implementing or enforcing the new rule announced in the DFPS Statement, implementing the Abbott Letter and the Paxton Opinion, or otherwise investigating for possible child abuse or taking any actions against Plaintiffs and other members of PFLAG solely based on allegations that they have a child that is transgender or that they have a minor child with gender dysphoria who is being treated with medically prescribed treatment for that condition;

c. After trial, a permanent injunction prohibiting Commissioner Masters and DFPS from implementing or enforcing the new rule announced in the DFPS Statement, implementing the Abbott Letter and the Paxton Opinion as

announced in the DFPS Statement, or otherwise investigating for possible child abuse or taking any actions against any person, including Plaintiffs and other members of PFLAG, solely based on allegations that they have a child that is transgender or that they have a minor child with gender dysphoria who is being treated with medically prescribed treatment for that condition;

d. Declaratory judgment that the Commissioner's and DFPS's new rule, as announced in the DFPS Statement and subsequent actions implementing it, violates the Texas Administrative Procedure Act;

e. Declaratory judgment that Abbott's Letter and the Commissioner's and DFPS's new rule, as announced in the DFPS Statement and subsequent actions implementing it, are *ultra vires* and unconstitutional;

f. Reasonable and necessary attorneys' fees and costs as are equitable and just under Texas Civil Practice and Remedies Code section 37.009; and

g. All other relief, general and special, at law and in equity, as the Court may deem necessary and proper.

[Signature Page Follows]

Dated: June 8, 2022

Respectfully submitted:

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**Pro hac vice* forthcoming

CERTIFICATE OF CONFERENCE

I certify that Plaintiffs have notified Defendants pursuant to the Local Rules of the District Courts of Travis County and will file the certification for requested temporary restraining order hearing.

/s/ Paul D. Castillo
Paul D. Castillo

EXHIBIT 1

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PFLAG, ***et al.***	§	**IN THE DISTRICT COURT OF**
Plaintiffs	§	
v.	§	**TRAVIS COUNTY, TEXAS**
	§	**_____ JUDICIAL DISTRICT**
GREG ABBOTT, ***et. al*****,**	§	
Defendants.	§	

DECLARATION OF SAMANTHA POE

I, Samantha Poe,[1] hereby declare and state as follows:

1. I am over 18 years of age, of sound mind, and fully capable of making this declaration. I have personal knowledge of the facts set forth in this declaration, they are true and correct, and I would testify competently to those facts if called to do so.

2. I am a member of PFLAG and mother of an adolescent, Whitley, who is currently exploring the idea of transitioning and to whom I will refer to using they/them pronouns.

3. We both reside in Texas along with my older child.

4. Whitley, who is 13 years old and was assigned the sex of "male" at birth, is in midst of exploring what a social transition feels like. I love and support them and only want what is best for them.

5. Whitley is not receiving medical care related to gender identity.

6. Whitley received a diagnosis of gender dysphoria in 2021 from a psychologist. They see a separate psychologist who specializes in Eye Movement Desensitization and

[1] Samantha Poe and Whitley are pseudonyms. My daughter and I are proceeding under pseudonyms to protect our right to privacy and ourselves from discrimination, harassment, and violence for seeking to protect our rights.

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Reprocessing ("EMDR") and provides therapy to them related to a traumatic event when Whitley was younger. They also see a psychiatrist and receive additional support by seeing another therapist regularly, as they have done for a few years.

7. Whitley participates in the GLBT-Straight Alliance ("GSA") at their middle school, which supports them. I have done research on other support groups for transgender youth and youth exploring their identity and plan to discuss these groups with Whitley in hopes that they will participate and join other activities this summer organized by our local LGBTQ+ youth organization.

8. I have always permitted Whitley to express themselves and have supported them. Whitley is my child, and I accept them unconditionally. My topmost commitment as a parent is to ensure the health, safety, and wellbeing of my teenager, whom I love and support.

9. Texas Attorney General Paxton's February 18, 2022, opinion and Governor Abbott's February 22, 2022, directive, followed by the Department of Family and Protective Services' ("DFPS") decision to implement them and investigate parents who facilitate the provision of medically necessary gender-affirming health care for their transgender children as "abuse," has substantially disrupted our lives.

10. I am terrified for Whitley's wellbeing, and for our family. I feel betrayed by my home state, which has turned its back on a group of Texas children who already face serious obstacles in society and poor health and life outcomes due to bias and discrimination.

11. Days after Governor Abbot's directive, on February 25, 2022, I was contacted by a DFPS Child Protective Services ("CPS") investigator and informed that my family would be investigated, in accordance with Governor Abbott's directive, to determine if I had committed

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"child abuse." CPS immediately requested an interview with the family, and I did not consent. Then CPS proposed a "walk through" of our home, and I did not consent.

12. Shortly thereafter, in early March 2022, I provided the CPS investigator with a letter from Whitley's psychiatrist, whom Whitley has seen for several years, confirming that Whitley is not receiving any gender-affirming medical care. Although this letter should have ended the investigation and the additional intrusion into our privacy and family integrity and my parental rights, it did not.

13. After I provided the letter confirming Whitley is not receiving gender-affirming medical care, CPS continued to investigate. Without my prior knowledge, a CPS investigator contacted a teacher at Whitley's middle school to ask about Whitley. The teacher told me they were contacted and that they told the investigator Whitley is well cared for and Whitley's every need is being met. They also shared that they told the investigator that they had called CPS about other students they suspected were suffering from abuse at home, but received no response, and that they were worried about those students and not Whitley.

14. I worked as a schoolteacher for a number of years throughout my career, including in Texas schools. I have received dozens of trainings on a teacher's obligations as a mandatory reporter, including those in Texas. I know firsthand how important it is for children who are suffering from abuse to be safe at school and to see school personnel as safe people to whom they can disclose if they are experiencing harm by a parent. As a teacher, I relied on CPS to help students who suffered from abuse at home.

15. The Attorney General's opinion, the Governor's directive, and DFPS's actions have damaged this critical role of teachers and the school as safe spaces. Now with DFPS's decision to persecute parents who are loving and affirming of their children, and Governor Abbott's attempt

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to weaponize mandatory reporters, children no longer know whether teachers and school personnel are safe people to share with or whether merely talking about or questioning who they are at school will result in an investigation into their parents. These actions by our top government officials, and the head of our child welfare agency, have caused me to lose faith in a process I trusted as a teacher, parent, and community member. The whole situation has flipped the child welfare system on its head.

16. Given the pending investigation looming over our family, I was extremely relieved when the Travis County District Court issued a statewide injunction in the *Doe v. Abbott* lawsuit. When the Texas Supreme Court recently limited the injunction to only the plaintiffs in *Doe v. Abbott*, my panic and fear for the welfare of Whitley came rushing back.

17. Soon after the statewide injunction was limited, on May 19, 2022, a CPS investigator contacted my attorney and asked me to schedule a "viewing" of Whitley. The investigator proposed that I take Whitley to a public place, such as a public park, so that CPS investigators could observe Whitley from afar. According to them, I could somehow do so without Whitley knowing. I refused. I have no idea what possible purpose this "viewing" could serve other than further harassing my family and intruding into our privacy.

18. All this crystalized for me, that I, unbelievably, really was still subject to investigation and, according to DFPS, I would have to subject my family to additional harm and intrusion into our lives for them to move forward. That would include DFPS making a determination whether I am "abusive" and possibly removing Whitley or closing the case in some other way.

19. Through my attorney, I anxiously await the investigation's next steps, which, as I understand it, may include DFPS seeking a court order to contact or interview Whitley or to obtain

further information or records without my consent. This prospect terrifies me. I have not informed Whitley about the investigation because it is wholly unwarranted, and prior to this most recent call from CPS, I hoped it would not require Whitley's involvement and I could protect them from the harm of unwarranted and invasive, highly personal questions about their exploration of transitioning and whether they are receiving health care. Now it appears it will, unless the investigation is stopped through this litigation by PFLAG on behalf of members like me. My attorney has regularly contacted DFPS and asked them to cease the investigation but has not received a written response to those requests. As of today, DFPS's investigation of my family for child abuse remains open.

20. Also, and most importantly, Whitley has been doing better, which is a positive change. About a year ago, they made an attempt to take their own life due to past trauma, challenges around identity exploration, and societal expectations and response to gender identity. Whitley's EDMR therapist has told me that, in their professional medical opinion, Whitley's participation in the investigation would be traumatic and pose a significant risk of a crisis for them. This would undermine all the substantial progress they have made over the past year.

21. While Whitley has improved so much since last year, the Attorney General's opinion and Governor's directive, along with DFPS's implementation of these, have caused a significant amount of stress, anxiety, and fear for our family. Whitley has been traumatized by the prospect that they could be prevented from obtaining gender-affirming care if that moment presents itself and is necessary and recommended by Whitley's medical providers at some point in the future. Both of my children repeatedly ask me if we must move or if they will be both be removed from my care. The stress has taken a noticeable toll on both of them. Whitley is now

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moodier, stressed, and overwhelmed rather than the joyful, happy Whitley I so love to see and was seeing regularly before Attorney General Paxton's opinion and Governor Abbott's directive.

22. For example, approximately one week after the Governor's directive was issued, Whitley suddenly stopped dressing in stereotypically feminine attire at school. When I asked why they had changed their style of dress, they told me that they did not feel safe, and they were afraid that someone would report me to CPS if they continued to wear stereotypically feminine clothing.

23. I am similarly filled with anxiety and worry. I am in constant fear that CPS investigators will show up at Whitley's school or our home and notify Whitley of the investigation, which will cause them further stress and trauma. I was particularly concerned about DFPS's proposal that Whitley would not have to know about a "viewing" by CPS. I believe that there must be trust between a parent and their child, and if I took Whitley to a public place to be secretly observed by a CPS official, it would forever harm our bond and their trust in me to know I had deceived them. Also, it is absurd to think that we would be able to "stage a viewing" without Whitley knowing that something is happening.

24. I have lived in Texas my whole life apart from five years in another state. Whitley and my other child were born in Texas. We do not wish to move out of the state if it can be avoided. Moving would negatively impact my employment and separate Whitley from the doctors and therapists that have provided them so much support. They would also have to change their school, which has been supportive. Texas is our home. We are part of a community, comprised of family and friends that have been supportive and affirming of Whitley's exploration of their identity. Our family is as much a part of Texas as any other family, and Whitley has the same right to be themselves as any other youth in this state.

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25. I worry not only about the multitude of harms caused to my own family through implementation of the Attorney General's opinion and Governor's letter. I also worry about the effect that the action by DFPS, the Governor, and the Attorney General will have on transgender youth and their families, including the other members of PFLAG who, like me, have children who are learning about who they are or identify or express themselves in ways that are viewed by society as inconsistent with their sex assigned at birth.

26. The actions by DFPS, the Governor, and the Attorney General threaten the health and wellbeing of transgender and nonbinary youth and those, like Whitley, trying to safely explore their identity, and the integrity of other families like ours.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of June 2022 in Travis County, Texas.

DocuSigned by:

Samantha Poe

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Samantha Poe

<u>EXHIBIT 2</u>

CAUSE NO. ________________

PFLAG, Inc., *et al.*,	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	
v.	§	TRAVIS COUNTY, TEXAS _____ JUDICIAL DISTRICT
GREG ABBOTT, *et. al*,	§	
Defendants.	§	

AFFIDAVIT OF LISA STANTON

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1. "My name is Lisa Stanton. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct. I would testify competently to these facts if called to do so.

2. My husband and I, Jeffrey Stanton, have two children.

3. We are members of PFLAG.

4. Jeffrey and I have been married for 18 years and have made Texas our home for the past 11 years.

5. Our daughter, M.S., is 11 years old.[1] Jeffrey and I love and support her and only want what is best for her. We feel the same way about our son, M.S.'s twin brother. Our highest priority is to ensure the health, safety, and wellbeing of our children, whom we love and support with everything we have. We want to give our children all the tools they need to live happy, healthy, and productive lives.

6. M.S. is transgender. When she was born, she was assigned the sex of "male" at

[1] Because M.S. is a minor, we are referring to her by initials only.

birth, even though she is a girl.

7. From the outset, Jeffrey and I noticed differences between M.S. and her brother. M.S. took little interest in the types of toys that boys stereotypically play with and instead, gravitated toward dolls and toys that girls stereotypically play with.

8. As soon as M.S. began speaking, she told her father and I that she was "born in the wrong body." She asked us "why can't I be a girl" and "why did G-d put me in this body?"

9. By the age of two, M.S. was persistently and consistently asking for girl clothes and girl toys and was creating makeshift girl outfits for dress-up at home. As early as I can remember she drew pictures of herself as a girl that included bright colors, flowers, and rainbows. When her father and I tucked the twins in at night, we would say "goodnight boys," but M.S. began asking us to say "goodnight, boys and girls."

10. By the age of three, M.S. was asking questions related to her anatomy.

11. M.S.'s twin brother is living with cerebral palsy and other developmental disabilities that he was diagnosed with shortly after his birth. He is treated by a team of doctors at Texas Children's Hospital in Houston, Texas.

12. When M.S. told us that she was a girl and started asking questions about her body, we asked her brother's physicians questions about how M.S. expressed herself to us. They referred us to a psychologist in childhood pediatrics at Texas Children's Hospital.

13. The psychologist informed us that M.S. was gender nonconforming and told us that she might be transgender. The psychologist and other healthcare providers told Jeffrey and me that it was important to let M.S. explore her gender and to "let her be the one to lead that exploration."

14. Jeffrey and I began to educate ourselves about what it means to be transgender:

when a person's gender identity differs from the sex they were designated at birth. When M.S. was about five years old, one step that M.S.'s team of doctors at Texas Children's Hospital suggested was that we allow M.S. to wear a dress to school. When she wore a dress to school for the very first time, which she was so excited to do, the other students made fun of her. But even though the other kids made fun of her, she said she would rather dress in girls' clothes and be bullied than dress in boys' clothes. After that, her father and I allowed her to wear dresses to school and to grow her hair long.

15. As M.S. continued her therapy, M.S.'s psychologist and team of healthcare providers at Texas Children's Hospital also diagnosed her with gender dysphoria.

16. After a year and a half of therapy, M.S. told us that she wanted to change her name and go by female pronouns and dress in girls' clothes full time. In 2017, my husband and I changed her legal name to M.S. to align with her gender identity. We also corrected her social security records and obtained a social security card in her new name.

17. Prior to our allowing M.S. to transition, she was extremely depressed, anxious, and cried a lot. She would bite her fingernails all the way down and lick around her upper and lower lips so much that the skin stayed red and irritated. When we began allowing her to be her true and authentic self, it was like a light turned on. She was a completely different child; she was happier and healthier—emotionally, mentally, and physically. She stopped biting her nails and licking her lips, and became much more outgoing and enthusiastic about playing with other children, whereas before she had been very withdrawn and disinterested in playing with other children.

18. However, allowing her to transition was a long, arduous, and thoughtful process. Jeffrey and I consulted with many experts, and every doctor or therapist we saw, from her

pediatrician to a neurologist to an endocrinologist and therapists, all agreed that the right thing to do for M.S. was to allow her transition to be who she knew herself to be. The doctors and specialists told us that transgender youth who face rejection and repression are far more likely to attempt suicide and self-harm. Faced with her depression, anxiety, and continued insistence that she was a girl, her father and I considered our decision to allow her to transition, or not, as a matter of life or death. The change in her behavior after we allowed her to transition and change her name was like night and day. M.S. told us that she has always thought of herself as a girl and that she finally "felt right" in her body after we allowed her to transition. We are incredibly grateful to the doctors and therapists who walked us through our decision.

19. After educating ourselves about what it means to be transgender, going through the decision-making process of affirming our child's gender, seeing how it has made such a profound difference in her life for the better, and watching her thrive as her true self, Jeffrey and I decided to advocate for M.S. and kids like her. At first, we were torn over whether to speak publicly about M.S.'s journey. We ultimately decided to speak out to bring awareness about transgender people within the Jewish community, of which we are a part, including in a 2017 article in Houston's Jewish newspaper. Our community is a very important foundation for our lives. We believe the best way to remove stigma is to talk openly about an issue and to empower people with knowledge instead of fear. We also wanted to help other families who find themselves in the same situation. When we were grappling with this, we did not know anyone who was going through anything remotely similar with a child as young as ours. Having a support system is so crucial, so, by telling our story, we were hoping that we could be a resource to anyone in the future who might need it.

20. During the Texas legislative session in 2021, M.S. and I both appeared and

testified against anti-transgender legislation, including legislation that would have prohibited and/or severely restricted medically necessary gender affirming care for transgender youth. M.S. testified that being transgender is "not a choice and that she "would rather die than be a boy." None of the of the anti-gender affirming care legislation passed, which was a huge sigh of relief for us and other families with transgender kids like M.S.

21. M.S. is 11 years old and is not currently undergoing medical treatment for her gender dysphoria. She is currently under the care of a team of physicians and mental health providers. M.S.'s doctors may recommend she take medication to block puberty once she enters puberty. While we do not know for sure when she will enter puberty, her team of doctors has recommended routine checkups to determine when she begins puberty, which could be as soon as the early fall.

22. After the issuance of Attorney General Paxton's opinion dated February 18, 2022 ("Opinion") and Governor Abbott's letter dated February 22, 2022 ("Directive"), directing the Texas Department of Family and Protective Services ("DFPS") to investigate the provision of medically necessary gender-affirming health care as "abuse," our lives have been full of uncertainty, stress, anxiety, and fear.

23. We had a doctor's appointment at Texas Children's Hospital scheduled for one of M.S.'s routine checkups to see if she needs treatment for her gender dysphoria during the third week of March 2022. On Friday March 4, 2022, we received a notification through the portal cancelling M.S.'s appointment. At that point, I did not know that Texas Children's Hospital had stopped providing gender affirming medical care to transgender youth. I tried to reschedule the appointment through the portal, but it would not let me reschedule it.

24. I immediately began to panic because I knew about the Paxton Opinion and the

Governor's Directive. I frantically reached out to several of M.S.'s doctors, asking them what we should do. Based on their advice, my husband and I began to look for healthcare options for M.S. outside of Texas. We contacted health care providers in other states to try to schedule appointments for M.S. but the waiting lists were long and travelling to another state to obtain care would have been expensive and time-consuming. Texas Children's Hospital later announced it would start seeing patients for gender affirming care again and we were able to reschedule M.S.'s March appointment to late April 2022.

25. After Texas Children's Hospital cancelled M.S.'s appointment, Jeffrey and I began making plans to move away from Texas. Jeffrey set up meetings with a potential employer on the east coast and we scheduled an appointment to meet with a realtor to look at places to live. Moving to another part of the country would be an extreme financial hardship for our family; it would be as if my husband and I were both starting over from scratch. Jeffrey has worked in commercial real estate and construction for over twenty years, the last eleven (11) of which in Texas. He has established relationships that he relies upon to make his business successful through hard work, integrity and trust. Picking up and moving at this stage of our lives would require him to build new relationships and new networks as well as trust. That takes time. The same thing holds true for me as a consultant and development officer for nonprofit organizations. Our businesses are similar in that they rely on relationships, networks, hard work, follow-through, integrity, and trust. Separate and aside from our careers, we are a part of, and have established deep roots in the community where we live, and in the Jewish community. I am on three different committees for our synagogue and four nonprofit boards in our community, including the Advisory Board of Volunteer Houston. Moving away when our lives are grounded here would tear us away from the relationships and community we rely upon, feel a part of, and love.

26. Furthermore, M.S.'s and our son's healthcare teams are at Texas Children's Hospital. M.S.'s twin brother who lives with cerebral palsy and other developmental disabilities has a good relationship with his doctors and finally has a psychiatrist that he trusts and has bonded with. It would be devastating to separate him from his care team if we were forced to move out of state. Finding new healthcare providers for M.S. and our son in another city would be a great hardship for them. Moving is a last resort that would change the trajectory not just of our careers, but all of our lives. Nonetheless, we will seriously consider whether and when to move if DFPS opens an investigation into our family for providing gender-affirming treatment to M.S. that her doctors recommend and deem medically necessary.

27. As a result of DFPS's change in policy implementing the Paxton Opinion and the Governor's Directive, my family has gone through extraordinary mental and emotional stress and hardship. The psychological impact has been devastating for the entire family. Our anxiety levels are at an all-time high. I experience terrible headaches and insomnia. I am kept awake at night by anxiety about my family's well-being and am not able to fall asleep without the help of prescription medication, which is not something I have needed before. Jeffrey has difficulty concentrating at work. Each new announcement about executive actions that impact transgender youth and their families creates uncertainty about how we can continue to make the best decisions for M.S. and our family.

28. We are nervous and fearful to take our kids out in public after the Paxton Opinion and Governor's Directive**.** We have isolated ourselves at home and do not leave the house other than to go to work**.** We are also fearful that if M.S. sprains her ankle again, which she has done before, taking her to the emergency room near our home could result in a report to DFPS's Child Protective Services division ("CPS") simply because we have a transgender kid.

29. After the Governor issued his Directive, we attended a seminar for parents with transgender kids. During the seminar, the speakers suggested that kids carry a card with them to school that they could hand to a CPS investigator if an investigator came to school to interview them. The card was something the youth could hand to the investigator indicating they were unwilling to speak without a lawyer or their parents present. That evening we printed out the card and sat down with M.S. to give her the card and explain its purpose. She immediately became upset and started crying—we all did. Since then, one of us needs to be with her each night as she falls asleep, or she cannot sleep. While M.S. used to sleep well, now she takes melatonin each night to help her settle down.

30. Jeffrey and I also bought her a cell phone because we want her to be able to contact us if she needs us. M.S. will not leave the house without the phone and worries that it is not fully charged. She does not like to be at home alone or just with her brother, even if it is for a very short time.

31. While M.S. is normally an excellent student, her studies have suffered. M.S. often feels sick and misses school, which she loves. She wants to spend her time and energy focusing on school and her extracurriculars like her music magnet program, advanced choir, and piano lessons, but she has been distracted and is having trouble concentrating. M.S. is also on a private, co-ed swim team and is fearful that she will be forced to give it up, which is something that she loves and helps her manage her anxiety.

32. M.S. is fearful that she will be taken away from us and from her brother. She is also worried that we will be forced to move away from the only home she has ever known. Our son feels the same way.

33. M.S. told us that she feels "othered" and dehumanized by the Paxton Opinion and

the Governor's Directive. Since the opinion and directive came out, M.S. has asked to go to therapy more frequently. For a long time, she only met with her therapist quarterly, but she asked to see her therapist at least five or six times since March. The one thing that we can point to for the sudden change in her is the Paxton Opinion and the Governor's Directive and the fear these have created for families with transgender kids.

34. The threat of being reported to DFPS when we have done nothing but love and support our children causes particular stress for Jeffrey and me because it has happened before. Last summer, our son attended a summer camp in another state. After some negative interactions with other campers, he tried to run away and the camp personnel could not find him for about four and half hours. CPS contacted us stating that they had received a report that our son had left our home in Texas and was missing, despite that our son's brief disappearance occurred in another state while he was not in our physical custody. CPS designated the matter as warranting an "alternative response" given the lack of actual risk to our son and closed it within ten days.

35. When we met with CPS as part of its investigation, CPS informed us that there had been a prior report against us a couple of months before, of which we were unaware. Someone had anonymously reported us for "transgendering" M.S. CPS designated that report as "priority none" without opening a new case and without advising us that a report had been made.

36. Despite our doing nothing wrong, we are extremely fearful of what a third report could do to our family. Our understanding is that CPS keeps records of certain reports in a family's file. When multiple reports are made, it makes it more likely that another later report will result in an investigation. We are also keenly aware that although the agency recognized that our affirming our daughter did not involve any risk of harm to her then, DFPS's change in policy as a result of the Paxton Opinion and the Governor's Directive would foreclose investigators from

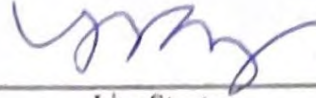
exercising the same discretion to designate a similar complaint against us as either "priority none" or warranting an "alternative response" despite our doing nothing different at all.

37. Since the Paxton Opinion and the Governor's Directive, we have faced constant criticism for our parenting and doxing on social media, when all we have ever done is to affirm M.S., take care of our family, contribute to our community, and follow the advice of experts and medical professionals.

38. Our family, like other families with transgender youth in Texas, has been harmed by DFPS's change in policy implementing Paxton's Opinion and the Governor's Directive. Texas Children's Hospital stopped providing gender affirming medical care to transgender youth in early March as a direct result of the Opinion and Directive. When Texas Children's Hospital stopped providing care, it cancelled M.S.'s previously scheduled routine appointment to determine whether gender-affirming treatment was medically necessary for her. We want to be able to continue to follow the advice and recommendations of M.S.'s medical and mental health providers and to provide her with the medically necessary care that she needs, including puberty blockers, if that is what her healthcare team recommends. Our decision to follow the advice of her healthcare team is especially acute because M.S. testified before the Texas Legislature last summer that she would rather die than be a boy. If CPS investigates us, which is more likely given the past two CPS reports, and if M.S. is taken away from us, she will not have access to the medically necessary healthcare she needs.

39. Further Affiant Sayeth Not."

Signed on this the 6th day of June 2022.



Lisa Stanton

State of Texas

County of Harris

Before me, a notary public, on this day personally appeared Lisa Stanton, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

Sworn to and subscribed before me on the 6th day of June 2022, by Lisa Stanton.

(Personalized Seal)

Notary Public's Signature

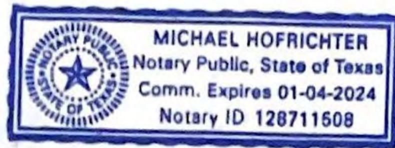


EXHIBIT 3

CAUSE NO.

PFLAG, Inc., *et al.*,	§	
Plaintiffs,	§	IN THE DISTRICT COURT OF TRAVIS COUNTY, TEXAS _____ JUDICIAL DISTRICT
v.	§	
GREG ABBOTT, *et. al*,	§	
Defendants.	§	

EXPERT DECLARATION OF DR. CASSANDRA C. BRADY, MD

I, Cassandra C. Brady, MD, hereby declare and state as follows:

1. I am over 18 years of age, of sound mind, and in all respects competent to testify.

2. I have been retained by counsel for Plaintiffs as an expert in connection with the above-captioned litigation. The opinions expressed herein are my own and do not express the views or opinions of my employer.

3. I have actual knowledge of the matters stated herein. If called to testify in this matter, I would testify truthfully and based on my expert opinion.

BACKGROUND AND QUALIFICATIONS

4. I am an Assistant Professor of Clinical Pediatrics at Vanderbilt University Medical Center ("VUMC") in Nashville, Tennessee, and the Clinical Director of the Differences of Sex Development Clinic and the Pediatric and Adolescent Gender Clinic at Monroe-Carell Jr. Children's Hospital at Vanderbilt.

5. I obtained my undergraduate degree at Indiana University in Bloomington, Indiana with a BS in Biology. I received my medical degree from Indiana University School of Medicine

and completed my residency in General Pediatrics at Monroe-Carell Jr. Children's Hospital at Vanderbilt. Thereafter, I completed a fellowship in Pediatric Endocrinology at Cincinnati Children's Hospital Medical Center in Ohio.

6. I have been licensed to practice medicine in the state of Tennessee since 2015.

7. I am board certified in both General Pediatrics and Pediatric Endocrinology by the American Board of Pediatrics.

8. I am a member of the American Academy of Pediatrics, the Endocrine Society, and the Pediatric Endocrine Society. I am also a member of the World Professional Association for Transgender Health ("WPATH").

9. I have extensive experience working with children with endocrine disorders, and I am an expert in the treatment of children with intersex traits, also known as differences or disorders of sex development, and in the treatment of adolescents with gender dysphoria. I have been treating patients with gender dysphoria since 2012.

10. The Differences of Sex Development Clinic at Vanderbilt ("Vanderbilt DSD Clinic") sees patients with differences of sex development ("DSDs") and intersex conditions prenatally up to 23 years of age. I have been its Clinic Director since 2017. At the Clinic, we treat all conditions related to differences in sex development, including: 5-alpha reductase deficiency; androgen insensitivity (CAIS/PAIS); congenital adrenal hyperplasia (CAH); gonadal dysgenesis; micropenis; and ovotesticular DSDs. I have thus extensive experience caring for youth with DSDs by way of working in a multidisciplinary clinic with genetics and urology. Our team sees inpatient consultations, prenatal consultations, and individuals presenting at all ages. Our team has a special interest in identifying genetic causes for presentations. We also have a clinical psychologist and

social worker, given the importance of incorporating psychosocial care into these visits. I have treated over 100 pediatric patients with DSDs.

11. I am also one of the founders and the Clinic Director of the Vanderbilt Pediatric and Adolescent Gender Clinic ("Vanderbilt Gender Clinic"), a multi-disciplinary clinic that provides care to gender variant and transgender children and adolescents. The Vanderbilt Gender Clinic sees patients between the ages of 6 and 22 who have gender dysphoria. My clinical duties include providing gender-affirming care such as puberty blocking and hormone treatments to transgender youth with gender dysphoria.

12. I have over 200 transgender patients under my care, with a 3-4 month waitlist to be seen for services. The majority of my patients reside in Tennessee, Alabama, Kentucky, Mississippi, Indiana and Georgia.

13. I have taught courses on differences of sex development, the care of transgender patients, sexual medicine, and pediatric endocrinology, among other subjects, at VUMC and the Vanderbilt School of Nursing since 2016.

14. In addition to the above, I regularly provide guidance to physicians who care for transgender patients at Vanderbilt and elsewhere. I do this by giving grand rounds, presentations to medical students and residents, and training to various community providers.

15. As part of my practice, I stay current on medical research and literature relating to the care of transgender persons and patients suffering with gender dysphoria. I am a manuscript reviewer for *Transgender Health*, *Pediatrics*, and *Obesity*. I have published a number of peer-reviewed scientific articles and presented numerous abstracts and presentations at scientific meetings, including regarding the care of transgender and gender diverse youth.

16. Additional information about my professional background and experience is outlined in my curriculum vitae, a true and accurate copy of which is attached as **Exhibit A** to this declaration.

17. I have never testified as an expert at trial or in deposition.

18. I am being compensated at an hourly rate of $250 per hour for preparation of expert declarations and reports, and $400 per hour for time spent preparing for or giving deposition or trial testimony. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I provide.

BASES FOR OPINIONS

19. This declaration sets forth my opinions in this case and the basis for my opinions. The materials I have relied upon in preparing this declaration are the same types of materials that experts in my field of study regularly rely upon when forming opinions on the subject.

20. In preparing this declaration, I also reviewed Attorney General Ken Paxton's Opinion No. KP-0401, dated February 18, 2022, and Governor Greg Abbott's Letter Directive to Texas Department of Family and Protection Services ("DFPS") Commissioner Jaime Masters, dated February 22, 2022, as well as materials listed in the bibliography attached as **Exhibit B** to this declaration. I may rely on those documents as additional support for my opinions.

21. I have also relied on my years of research and caring for transgender youth, patients with gender dysphoria, and patients with DSD conditions, as well as my professional knowledge, as set out in **Exhibit A** and the materials listed therein.

22. The materials I have relied upon in preparing this report are the same types of materials that experts in my field of study regularly rely upon when forming opinions on the subject. I may wish to supplement these opinions or the bases for them as a result of new scientific

research or publications or in response to statements and issues that may arise in my area of expertise.

23. I have not met or spoken with the Plaintiffs for purposes of this declaration.

EXPERT OPINIONS

A. Gender Identity and Gender Dysphoria

24. Individuals are given a sex at birth based typically on their genital anatomy.

25. Research, however, has shown that determination of sex is far more complex than what is seen on genital exam. Instead, sex is a complex compilation of multiple factors, including one's chromosomal make up (XX or XY, for example), gonadal sex (presence of ovaries or testes), fetal hormonal sex (production of sex hormones by the fetus or exogenous exposure of sex hormones to the developing fetus), pubertal hormonal sex (the change in hormonal milieu that results in the development of secondary sexual characteristics, such as facial hair and deep voice for those assigned male at birth, or breasts and menstrual cycles for those assigned female at birth), hypothalamic sex (variations in brain structure and function as a result of embryonal exposure of sex hormones), and gender identity.

26. For each of the above factors that contribute to the development of sex, there can be variations. Sex related characteristics do not always align as either completely male or completely female. These variations are common. The DSD Clinic at Monroe Carrell Children's Hospital at Vanderbilt, in which I work, caters to the medical needs of this patient population.

27. Gender identity is an individual's inner sense of belonging to a particular gender. Individuals whose sex and gender identity align are cisgender (1). Individuals whose sex and gender identity do not match are transgender/gender diverse (1). Research has shown that gender identity has a strong biological basis and cannot be voluntarily changed (2).

28. Research has shown that children begin to develop the self-awareness of their gender identity during their toddler years, as young as 2 years of age. By 3-7 years of age, many children have a clear sense of their own gender identity (3,4). However, there are some individuals for whom it may be later into pubertal age/adolescence when their sense and awareness of what their gender identity is (4).

29. Gender identity is innate and cannot be voluntarily altered. Experts agree that being transgender is a normal variation of human development. The medical community at large considers attempts at changing one's gender identity to be a futile, harmful, and unethical treatment approach (49).

30. While all individuals have a gender identity, not everyone's gender identity is that of their sex assigned at birth. When this happens in transgender individuals (i.e., a lack of alignment of assigned sex and gender identity), it can cause significant distress which is referred to as gender dysphoria (5).

31. The term "gender dysphoria" is the distress related to the incongruence between one's gender identity and one's sex assigned at birth.

32. The World Health Organization's International Classification of Diseases, the diagnostic and coding compendia for mental health and medical professionals, codifies Gender Incongruence as the diagnosis resulting from the incongruity between one's gender identity and sex assigned at birth (32). The Gender Incongruence diagnosis is part of a new "Conditions related to sexual health" chapter in the ICD-11. This reflects evidence that transgender and gender diverse identities are not conditions of mental ill health and classifying them as such can cause enormous stigma.

33. Gender Dysphoria (capitalized) is the medical diagnosis for the significant distress that results from the incongruity between one's gender identity and sex assigned at birth. It is a serious medical condition, and it is codified in the American Psychiatric Association's Diagnostic Manual of Mental Disorders, Fifth Edition (DSM-5) (5). The DSM-5 is a trusted manual that mental health providers use to diagnose many conditions including eating disorders, depression, and anxiety. It has been developed since 1952 with most recent update in 2013.

34. The DSM-5 defines gender dysphoria as a: "marked difference between the individual's expressed/experienced gender and the gender others would assign him or her, and it must continue for at least six months. In children, the desire to be of the other gender must be present and verbalized. This condition causes clinically significant distress or impairment in social, occupational, or other important areas of functioning."

35. The DSM-5 also states that: "gender dysphoria is manifested in a variety of ways, including strong desires to be treated as the other gender or to be rid of one's sex characteristics, or a strong conviction that one has feelings and reactions typical of the other gender." (5)

36. "Gender Dysphoria in Children" is a diagnosis applied only to pre-pubertal children in the DSM-5. The criteria are:

A. A marked incongruence between one's experienced/expressed gender and assigned gender, of at least 6 months duration, as manifested by at least six of the following (one of which must be Criterion A1):

    1. A strong desire to be of the other gender or insistence that one is the other gender (or some alternative gender different from one's assigned gender)

    2. In boys (assigned gender), a strong preference for cross-dressing or simulating female attire; or in girls (assigned gender), a strong preference for wearing only typical masculine clothing and a strong resistance to the wearing of typical feminine clothing.

    3. A strong preference for cross-gender roles in make-believe play or fantasy play.

4. A strong preference for the toys, games, or activities stereotypically used or engaged in by the other gender.

5. A strong preference for playmates of the other gender.

6. In boys (assigned gender), a strong rejection of typically masculine toys, games, and activities and a strong avoidance of rough-and-tumble play; or in girls (assigned gender), a strong rejection of typically feminine toys, games, and activities.

7. A strong dislike of one's sexual anatomy.

8. A strong desire for the primary and/or secondary sex characteristics that match one's experienced gender.

B. The condition is associated with clinically significant distress or impairment in social circles, school, or other important areas of functioning.

37. The DSM-5 has a separate diagnosis of "Gender Dysphoria in Adolescents and Adults". The criteria are:

A. A marked incongruence between experienced/expressed gender and assigned gender, of at least 6 months' duration, as manifested by at least two of the following:

1. A marked incongruence between one's experienced/expressed gender and primary or secondary sex characteristics (or in young adolescents, the anticipated secondary sex characteristics).

2. A strong desire to be rid of one's primary and/or secondary sex characteristics because of a marked incongruence with one's experienced/expressed gender (or in young adolescents, a desire to prevent the development of the anticipated secondary sex characteristics).

3. A strong desire for the primary and/or secondary sex characteristics of the other gender.

4. A strong desire to be of the other gender (or some alternative gender different from one's assigned gender).

5. A strong desire to be treated as the other gender (or some alternative gender different from one's assigned gender).

6. A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one's assigned gender).

B. The condition is associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning.

38. Given that gender dysphoria can cause such distress, many transgender individuals face depression, anxiety, and higher rates of suicidality than cisgender people. This is noted both in adults and adolescents (6). However, these risks do decline when transgender individuals are supported and live according to their gender identity (7). Not only is this documented in scientific literature and published data, but I witness this each time I see my patients being supported by their community, family, school, and medical providers.

B. Evidence-Based Guidelines for Treatment of Gender Dysphoria

39. Evidence-based clinical practice guidelines are established to treat individuals with gender dysphoria. These protocols are published by the Endocrine Society and WPATH.

40. The Endocrine Society is an organization of over 18,000 physicians and scientists across the world who provide and research endocrine care. The Endocrine Society publishes clinical practice guidelines for many endocrine conditions including, for example, osteoporosis, obesity, and diabetes. In 2017, the Endocrine Society published the current, evidence-based practice guideline for treating gender dysphoria—"Endocrine Treatment of Gender Dysphoric/Gender Incongruent Persons: A Clinical Practice Guideline" (2). This evidence-based guideline was developed using the "Grading of Recommendations, Assessment, Development, and Evaluation approach to describe and the strength of the recommendations and the quality of evidence" (8). This has been published in a peer-reviewed scientific journal (9) and appears in other medical literature.

41. WPATH is an international multi-specialty professional organization that publishes the widely adopted medical *Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People* ("WPATH Standards of Care"). The first WPATH Standards of

Care were published in 1979 (10). The current version is WPATH SOC 7, with WPATH SOC 8 due out in spring 2022. The WPATH Standards of Care provide guidelines for the multidisciplinary care of transgender individuals, including children and adolescents, and describes criteria for medical interventions to treat gender dysphoria, including hormone treatment when medically indicated.

42. The WPATH and Endocrine Society recommend similar protocols and evaluations. The goal of treatment is to alleviate gender dysphoria and prevent severe harm including possible death from suicide.

43. The protocols and policies set forth by the Endocrine Society Guidelines and the WPATH Standards of Care are endorsed and cited as authoritative by the major professional medical and mental health associations in the United States, including the American Academy of Pediatrics (44), the American Medical Association (43), the American Psychological Association (47), the American Psychiatric Association (45-46), among others (e.g., 48).

44. The Endocrine Society Guideline focus on the evaluation of youth and adults, treatment of adolescents, hormonal therapy for transgender adults, adverse outcome prevention and long-term care, and surgery. As a board-certified pediatric endocrinologist, I follow the Guideline when treating my patient.

45. The Endocrine Society advises that only trained mental health providers should make the diagnosis of gender dysphoria in youth/adolescence. The mental health provider should have the following:

- competence in the DSM;
- ability to diagnose gender dysphoria and distinguish it between it and other mental health conditions;

- have training in other psychiatric conditions; and
- participate in meetings relevant to this topic (for continued competence--a typical recommendation from many organizations and societies).

46. The transition process begins with mental health providers. In pre-pubertal youth there are no medical treatments. For pre-pubertal children, interventions are directed at supporting the child with family, peers, and at school, as well as supportive individual psychotherapy for the child as needed. Treatment includes supporting them in a social transition with the help of a mental health provider. A social transition may include letting them choose which clothing they want to wear, supporting them in their pronouns and name, allowing them to participate in activities for the gender they identify. It is not recommended to begin medication management therapy in prepubertal minors, and I am unaware of any licensed pediatric endocrinologist who specialize in this treatment who would ever initiate medical interventions to treat gender dysphoria prior to the onset of puberty.

47. Once a patient enters puberty, treatment options include pubertal suppression therapy and gender affirming hormones. Pubertal blocking involves methods of temporarily suppressing endogenous puberty to alleviate gender dysphoria and give the patient more time to work with their mental health providers to assess treatment needs. These blockers are reversible medications and once stopped, a patient immediately returns to the stage of pubertal development that had begun when the treatment was initiated.

48. If a patient is assessed to have a medical need for and capacity to consent to hormone therapy, gender affirming hormones such as testosterone in transgender male individuals and estrogen in transgender female individuals may be used to treat gender dysphoria later in

puberty. This treatment allows patients to have pubertal changes and development consistent with their gender identity.

49. Adolescents are eligible for treatment with pubertal blocking therapy when:

- a mental health provider has confirmed;
  - the adolescent has long standing and intense gender dysphoria;
  - the gender dysphoria has worsened with pubertal onset;
  - any other psychological, medical, or social concerns are stable at time of treatment;
  - they have been informed of the effects and side effects of treatment and options to preserve fertility;
  - they are able to provide informed consent and parents have consented; and
  - they also will be informed of the side effects and will have opportunity to provide informed consent with parents; and
- the endocrinologist has confirmed there are no interfering medical conditions, agrees with the indication for the pubertal blocking therapy, and the adolescent is in puberty at least Tanner Stage 2.

50. Some patients at my clinic are never treated with pubertal suppression because they arrive already well into their endogenous puberty and only evaluated for gender-affirming hormones like testosterone or estrogen. Others are evaluated and treated first with pubertal suppression and then assessed for gender-affirming hormones.

51. We typically begin to assess patients for gender-affirming hormones around 14 years of age to allow for pubertal onset to occur in line with patient's peers. The timing of treatment is individualized for the patient based on their endogenous puberty, their mental health needs, and

the ongoing evaluations that occur with mental health providers and endocrinologists. Typical pubertal development ranges significantly and is generally earlier for those assigned female at birth.

52. Per Endocrine Society Guidelines, these are the steps to initiate gender affirming hormones. The mental health provider:

- confirms the persistence of gender dysphoria;
- ensures that any other coexisting psychological, medical, or social problems that could interfere with treatment are stable;
- the adolescent has sufficient mental capacity for consent and understanding of risks;
- the adolescent and parents should be thoroughly educated/informed on all the side effects of treatment; and
- they should be able to provide informed consent.

53. The pediatric endocrinologist should agree with the indication for sex hormone treatment and confirm that there are no medical contraindications to sex hormone treatment.

C. Treatment with Pubertal Blocking Therapy

54. For many transgender adolescents with gender dysphoria, going through endogenous puberty can cause extreme distress. Pubertal blocking therapy allows them to avoid going through their endogenous puberty thereby avoiding the heightened gender dysphoria and permanent physical changes that puberty would cause. This fully reversible treatment also gives a young person time to further understand their gender identity without the distress caused by the changes to their body that result from puberty and before initiating gender-affirming hormone therapy if it becomes medically indicated.

55. Pubertal suppression, as noted above, is most commonly provided in the form of a GnRH agonist.

56. Treatment of gender dysphoria with pubertal suppression has been shown beneficial in psychological functioning and decreasing suicidal ideation (11-13). This can save many lives given that reports of suicidality in trans youth are as high as 40% (14).

57. Pubertal blocking agents are medications that have been for over 30 years for the treatment of central precocious puberty. These medications are fully reversible allowing one to proceed with their endogenous puberty once the medication is stopped. These blocking treatments have been studied for years especially in central precocious puberty (34).

58. Puberty is considered early under the age of 8 years in individuals whose birth-assigned sex is female and under the age of 9 years in individuals whose birth-assigned sex is male. Puberty is staged based on secondary sex characteristics noted on exam and confirmed with laboratory evaluation. Tanner Stage 2 is considered entrance into puberty (15) based on breast development in those whose birth-assigned sex is female and testicular enlargement in those whose birth-assigned sex is male. Normal age ranges of puberty include the following:

- Assigned male at birth: 9-15 years of age
- Assigned female at birth: 8-14 years of age

59. Pubertal blocking therapy works by pausing endogenous puberty at the stage it has reached when the treatment begins. This has the impact of limiting the influence of a person's endogenous hormones on the body. For example, after the initiation of puberty-delaying treatment, a girl who is transgender will stop experiencing the impacts of testosterone on her body for the duration of the treatment.

60. There are some adolescents who are further into puberty (examples include transgender males who are already menstruating and adolescents whose growth plates are already closed, and for whom puberty is complete). For these adolescents a traditional pubertal blocker (GnRH agonist) may not be as effective or necessary. Other forms of pubertal blocking that are offered include medications such as those that can stop menses. These are also reversible therapies that are commonly used for contraception and menstrual regulation. As with all medical interventions, there are some risks involved with this treatment but the risks are comparable when used for transgender and non-transgender patients alike (16). These medications have been around for a number of years and are commonly used. Gynecologists offer these medications for individuals who may not be able to tolerate estrogen-containing contraceptives or to nursing mothers.

61. For transgender female individuals a medication known as spironolactone can be used to block testosterone. This is a diuretic with the additional feature of blocking the testosterone receptor and perhaps interfering with testosterone hormone production (17). This medication is not only used to treat gender dysphoria but is a commonly used medication in the treatment of hirsutism (unwanted hair growth on the body) in individuals with polycystic ovary syndrome (PCOS). In my clinic I treat transgender female patients with gender dysphoria, intersex patients who may have excess endogenous testosterone production, and PCOS patients with this treatment. I treat with equivalent dosages for these populations. The use of spironolactone in these populations is for the same purpose, prevention of unwanted hair growth. I have also had many patients visit dermatology clinics who offer spironolactone as a treatment for acne.

D. Treatment with Gender Affirming Hormones

62. For some adolescents with gender dysphoria, initiating puberty consistent with their gender identity through gender-affirming hormone therapy may also be medically necessary. When prescribed gender-affirming hormone therapy to treat gender dysphoria—testosterone for transgender males and testosterone suppression and estrogen for transgender girls—the adolescent will go through hormonal puberty consistent with their gender identity on a comparable timeline to their non-transgender peers.

63. Gender affirming hormones include testosterone for transgender males and estrogen therapy for transgender females. The Endocrine Society Guideline provides clear evidence-based protocols for this treatment which are similar to protocols to initiate hormonal puberty in individuals with hypogonadism (inability to secrete sex steroids) such as primary ovarian insufficiency, Turner Syndrome or Klinefelter Syndrome. Individuals are closely monitored for any side effects based on these protocols. The monitoring parameters and recommendations for patients with gender dysphoria are quite extensive and conservative. It is advised under the Guidelines to monitor for side effects both physically and biochemically every 3-6 months. I monitor my patients every 3 months and obtain labs and vitals each visit. It is quite rare for patients to have any side effects at all from these therapies.

E. Surgical Treatment

64. Patients who have continued gender dysphoria following treatment with the medications described above, may need surgical intervention after the age of 18 years in order to treat their gender dysphoria.

65. Per the current Endocrine Society guidelines, it is recommended that patients should have the following when pursuing such surgical treatment:

- persistent, well-documented gender dysphoria;

- legal age of majority in the given country;
- having continuously and responsibly used gender-affirming hormones for 12 months;
- successful continuous full time living in the new gender role for 12 months;
- mental health concerns must be considered; and
- demonstrate knowledge of all practical aspects of surgery.

66. These surgeries are recommended after the age of 18 years. Most patients over 18 years in my clinic that seek surgeries are transmasculine and require top surgery (breast removal). These individuals commonly use a device known as a binder prior to these surgeries. They begin binding sometimes as early as their first sign of breast tissue. This can occur as early as 8 years of age. Despite manufacturing that provides flexibility and give, these binders can cause chest wall discomfort, musculoskeletal pain, and back pain. A binder is tighter than a sports bra and can lead to chest pain, rib pain, and difficulty breathing if worn too long (18). Some individuals will wear these daily for excess hours given significant dysphoria with their chest. Despite the side effects of the binders, alternate routes of binding breast tissue include unsafe practices such as tape and bandages. Chest surgeries will alleviate the distress, reduce risk for unsafe practices which can harm the skin, chest wall and musculature, and reduce the ongoing musculoskeletal pain.

F. Safety of Pubertal Blocking Therapy

67. As noted above, great care, diligence, and evidence-based assessment, evaluations, and treatment occur at every step of the transition process for adolescents with gender dysphoria. Labeling these therapies as child abuse is incredibly dangerous and inconsistent with the existing medical literature and one should consider the alternative, that withholding these therapies can lead to worsened mental health outcomes and suicide.

68. Physicians providing these therapies are highly trained and qualified individuals. They have dedicated their careers to saving lives of children and adolescents. One may argue that these therapies in transgender youth already require more gatekeeping, oversight, and painstaking steps than when these same therapies are offered in other populations treated. It is also important to note the extensive mental health evaluation that occurs for these individuals. When starting pubertal suppression in individuals with precocious puberty, I do not require a mental health provider prior to initiation of this reversible therapy. But my gender dysphoric patients have longstanding, frequent interactions with their mental health providers.

69. It is known that pubertal blocking therapy in the form of an implant (histrelin) or injection (leuprolide) have rare side effects. I counsel my transgender and precocious puberty patients similarly regarding these side effects. Mild effects include injection site irritation or sterile abscess formation (19) weight gain, hot flashes, abdominal pain and headaches (20). These effects are seen in both populations and in my experience, weight gain appears most often. However other contributing factors such as lack of physical activity and poor nutrition are typically present. Claims of other long-term effects that are considered include decreased bone mineral density and infertility.

70. Given that pubertal blockers are reversible, permanent sterility is not a side effect (34). There is no data to support that patients who have been treated with blockers for central precocious puberty are "sterilized" following its use. In fact, some studies have shown that assigned males had normal sperm function following treatment and cisgender women treated as children did not need assisted reproductive techniques (19).

71. Though pubertal suppression alone does not impair fertility, because proceeding from pubertal suppression to gender-affirming hormones can impair fertility, for our transgender

patients with gender dysphoria, we counsel extensively with the patient and the patient's parents regarding fertility preservation. Should one desire to preserve fertility while on therapy, the blocker can be discontinued, and the patient can progress into puberty further for fertility preservation. Of note, one study (21) has reported fertility preservation in an earlier stage of puberty in a transgender male (oocyte cryopreservation) thus allowing for blocking therapy to be restarted. Should a transgender male desire to become pregnant later in life this remains a possibility. Through fertility preservation or naturally, patients with gender dysphoria are able to conceive biological children later in life and the treatment is not automatically sterilizing.

72. Pubertal blocking agents in transmasculine individuals also allow for decreased chest development and thus reduce the need for a binder or surgical intervention later in life. I see a significant amount of pain in the chest musculoskeletal structures secondary to binder use as described above. A decrease in the need for binder wear and chest surgery is an added benefit of this treatment.

73. For transgender female patients with gender dysphoria, pubertal suppression can limit hair growth and bone structure development in ways that greatly minimize later in life distress and potentially the need for surgery like facial feminization surgery.

74. During the course of treatment with pubertal suppression, there is some loss in bone density, which is a side effect that we discuss with all patients and their families. However, studies show that with removal of the blocking agent or addition of gender affirming hormone therapy, bone mineral density begins to improve (22, 23). Typically, patients treated with pubertal suppression for precocious puberty are on pubertal blockades without affirming hormones for longer periods of time and the same risks are present.

75. Scientific studies published in highly regarded medical journals do in fact support that these therapies are greatly beneficial to children and adolescents with gender dysphoria (11-13, 24, 35-37). My patients have benefitted significantly from these life-saving therapies; they become successful in school, reduce their need for psychological pharmacotherapy, and thrive.

76. As an experienced pediatric endocrinologist, I treat patients with these same medications for both precocious puberty and gender dysphoria and in both cases the side effects are comparable and easily managed. And for both patient populations the risks are greatly outweighed by the benefits of treatment.

G. Safety Profiles of Gender Affirming Hormones

77. As described above, adolescents with gender dysphoria who need gender affirming hormones must meet a number of mental and physical health criteria prior to initiating this care.

78. Although Attorney General Paxton's Opinion states that there are concerns for "serious mental health effects, venous thrombosis/thromboembolism, increased risk of cardiovascular disease, weight gain, decreased libido, hypertriglyceridemia, elevated blood pressure, decreased glucose tolerance, gallbladder disease, benign pituitary prolactinoma, lowered and elevated triglycerides, increased homocysteine levels, hepatotoxicity, polycythemia, sleep apnea, insulin resistance, chronic pelvic pain, and increased cancer and stroke risk," these side effects are not unique to the use of these hormones in transgender individuals. And these risks are extremely rare to nonexistent. Moreover, these rare side effects are considered in *ALL* individuals seeking hormone therapy of testosterone or estrogen. These therapies are used in hypogonadism such as Turner Syndrome or Klinefelter Syndrome.

79. A majority of my patients with differences of sex development, require some form of gender affirming hormones throughout life as well.

80. The claim that treating gender dysphoria with medically supervised and recommended hormone treatment causes serious mental health effects is not supported by data. Research shows and my clinical experience confirms that these treatments are highly beneficial for adolescents with gender dysphoria (37-40) and that harmful side effects occur when this treatment is withheld from those who need it. Like all medical treatment, these medications can cause side effects, but all mental health and mood-related effects are better managed in the population of gender dysphoric patients who are under ongoing supervision and treatment by mental health providers. By contrast, other diagnoses do not require the ongoing support of mental health providers while on these treatments. In fact, this treatment monitoring in youth with gender dysphoria would actually be considered a safer protocol than those for other diagnoses.

81. Venous thromboembolism is a known side effect of estrogen therapy in all individuals placed on it (26). It has been shown as well that this can occur in transgender women. Again, the venous thromboembolism risk is not unique to treating gender dysphoria. And this risk is managed by ongoing clinical supervision of the treatment. When the patients are cut off from their providers, they are more likely to seek treatment on the Black Market and these risks increase dramatically.

82. The other side effects noted, again, are not unique to transgender individuals placed on these therapies.

83. Fertility preservation is offered to all transgender patients prior to the initiation of gender affirming hormones. However, data shows that treatment with testosterone is not sterilizing (27). And many transgender men become pregnant on their own.

84. PubMed searches regarding the risk of cancer in gender affirming care, yields limited data. However, the use of testosterone in adult men for low testosterone may increase their

risk for prostate cancer. Long term use of unopposed estrogen in cisgender women can increase their risk for uterine and breast cancer. Again, any risk of long-term use of medication can be mitigated with supervision and is not unique to the population of patients with gender dysphoria.

85. The risk for benign pituitary prolactinoma is controversial. Some studies question whether monitoring prolactin is even necessary in this population, given that they found no rise in levels (28). While I have not seen a prolactinoma in a transgender individual in my practice, I have a limited number of patients in my general endocrine practice that do present with prolactinomas.

86. It is important to note that when these risks are reported, they are rare risks. They are also the risks associated with these hormones whether they are endogenous or exogenous. While starting a transgender individual with gender dysphoria on these medications does raise their risk from their natal sex, at times, the risk profile remains similar to their cisgender counterparts (venous thromboembolism risk in cisgender and transgender women on estrogen). Many times, the lipid profiles, hematologic profiles, and findings are equivalent to that of the gender these individuals identify as opposed to that of their sex they were born. I note this often when the medical record and lab utilize laboratory data ranges for the sex assigned as opposed to the gender identity and do not align with the true physiologic milieu of the patient. I take this into consideration for all my patients.

87. I have a large population of patients on blockers and gender affirming hormone therapy. It is very rare for me to see any of these side effects despite extensive monitoring. Most side effects that I see can be treated with lifestyle changes (i.e., weight gain and lipid changes in transgender men).

88. Overall, as a pediatric endocrinologist that treats many conditions, treatment for gender dysphoria is in no way the riskiest or potentially harmful. Insulin, if used inappropriately,

can cause death. Some endocrine patients may require pituitary surgeries or adrenal tumor removals. The postoperative management of these individuals is crucial to their care and avoidance of severe complications that could result in mortality.

H. Surgical Care

89. Gender affirming surgeries that can result in sterilization as a side effect are not recommended for and are not typical practice in minors with gender dysphoria. As per the current guidelines of care, transgender individuals must be over the age of majority to make this decision in consultation with their medical providers.

90. Chest surgery (breast reduction) in transgender males is the most common surgical procedure in my patient population as they reach appropriate age for surgery. Given the concerns noted above regarding binder wearing, these patients are supported in their decision when it is medically indicated and must meet all Endocrine Society recommendations. Research also shows that gender-affirming chest surgery is beneficial for transgender males with gender dysphoria where medically indicated (41-42). Chest surgery does not "sterilize" an individual, however. Breast tissue is not necessary in the reproductive process. Chest surgery for cisgender males with a condition called gynecomastia (breast tissue) is a common practice. These cisgender males may not have to wait until they reach 18 years before these surgeries if family is supportive and puberty is complete. These surgeries are supported because they allow these cisgender males to live more fully in their gender identity. This is similar to transgender male individuals who need chest surgery to live more fully in their gender identity.

91. The surgeries described as sterilizing surgeries are not conducted in individuals under the age of 18 years in the gender diverse population. However, at times, I am seeing individuals with differences of sex development who had sterilizing gonadal removal during

infancy without their consent. These individuals did not reach an age where they could discuss their diagnosis, treatment, and consider their gender identity.

I. Prohibiting and Discontinuing These Therapies is Dangerous

92. When legislation or regulation penalizes and proscribes evidence-based medical practice, it is dangerous. In the case of penalizing practitioners who provide gender affirming care, it puts the lives of young, already marginalized youth at risk.

93. The American Academy of Pediatrics and the Texas Pediatric Society "strongly oppose" the actions undertaken as a result the Governor's Directive and Attorney General Paxton's Opinion because they "directly threaten the health and well-being of transgender youth" (50). Similarly, the American Medical Association has denounced similar laws as "dangerous governmental intrusion into the practice of medicine" and "detrimental to the health of transgender children across the country" (51). So have numerous other major medical organizations (52-55).

94. Passing bills like the Governor's Directive and Attorney General Paxton's Opinion has increased emergency room visits for attempted suicide in transgender youth in Arkansas (29). There are noted increased calls to crisis lines from transgender individuals when these bills pass (30).

95. When bills were proposed last year in my state, there was increased anxiety and distress. Families were confused, scared, and looking to move to a safer and more affirming location. If a bill went into place blocking care, I would be very concerned with a rise in mental health co-morbidities. Preventing gender affirming care will not reduce the number of gender dysphoric youth in this nation or state. It will worsen their gender dysphoria and health outcomes.

96. Moreover, withholding pubertal suppression and hormone therapy from young people with gender dysphoria when it is medically indicated is extremely harmful. As noted above,

administration of pubertal suppression has shown to significantly reduce suicidality in transgender patients. If I was prohibited from treating my patients with this treatment where it is medically indicated, it would result in predictable and significant harms, including the at least partially irreversible changes from endogenous puberty.

97. The effects of undergoing one's endogenous puberty may not be reversible even with subsequent hormone therapy and surgery, thus exacerbating lifelong gender dysphoria in patients who would have this treatment withheld or cut off. Bodily changes from puberty as to stature, hair growth, genital growth, voice and breast development can be impossible or more difficult to counteract.

98. Similarly, it is at least as dangerous to withdraw treatment once it has been initiated as it is to withhold the initiation of treatment. Abruptly stopping gender affirming, medically necessary therapies causes mental and physical harm.

99. Abrupt discontinuation of pubertal blockers would lead to the development of a deeper voice, facial hair, Adam's apple in a transgender female and breast development, menses, and body feminizing in transgender male individuals. These individuals would have significant increase in distress and dysphoria. This makes it more difficult for individuals once they are adult to transition or pass as their affirmed gender.

100. Discontinuation of estrogen or testosterone abruptly would induce symptoms similar to menopause, with headaches, fatigue, hot flashes. Weaning down would be recommended should someone consider a withdrawal of these medications. The spironolactone medication should not be abruptly stopped as it can lead to electrolyte changes and cardiac effects (31).

CONCLUSION

101. Trusting the medical and mental health providers who are trained in the provision of this care, trusting the patients who know their true self, and trusting the parents who are

supportive protect this population of young people. The measures proposed and statements made are not beneficial in any way and are based on dangerous misunderstandings of the science and medicine used to treat this condition.

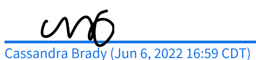
102. Again, the care of transgender youth is complex, but well studied and documented. A great deal of care is taken at every step of the process to ensure the safety and welfare of the youth and families we serve. Doctors and mental health providers adhere to extensively researched professional guidelines set forth by national and international specialty organizations, including the Endocrine Society, the American Academy of Pediatrics, the World Professional Association for Transgender Health, the American Psychological Association, and other organizations.

103. Providers across the world utilize these guidelines when initiating medical treatment for adolescents with gender dysphoria. There are safeguards at every step of the process that are above and beyond what is required for other pediatric conditions. Decisions to begin hormone treatment are always informed by the current best practice guidelines and include input from mental health providers, other expert physicians on our team, as well as by the individual patient and their caregivers. Detailed informed consent is obtained from the patient and guardians prior to starting any medical care, such as puberty blockers or affirming hormone therapy.

104. These therapies are not child abuse. Prohibiting or abruptly stopping these therapies would lead to significantly more harm for these youth.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of June 2022 in Nashville, Tennessee.



Cassandra Brady (Jun 6, 2022 16:59 CDT)

Dr. Cassandra C. Brady

CAUSE NO.

PFLAG, Inc., *et al.*,	§	
	§	
Plaintiffs,	§	IN THE DISTRICT COURT OF
	§	TRAVIS COUNTY, TEXAS
v.	§	_____ JUDICIAL DISTRICT
	§	
	§	
GREG ABBOTT, *et. al*,	§	
	§	
Defendants.	§	
	§	
	§	

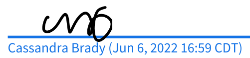
EXPERT DECLARATION OF DR. CASSANDRA C. BRADY, MD

My name is Cassandra C. Brady and my date of birth is February 24, 1983.

My office address is: Village at Vanderbilt
Division of Pediatric Endocrinology and Diabetes
1500 21st Avenue South, Suite 1514
Nashville, TN, USA 37212

I declare under penalty of perjury that the foregoing (attached) is true and correct.

Executed in Davidson County, Tennessee, on the 6th day of June 2022.


Cassandra Brady (Jun 6, 2022 16:59 CDT)

Declarant's signature

PFLAG v. Abbott - Expert Declaration of Dr. Brady

Final Audit Report 2022-06-06

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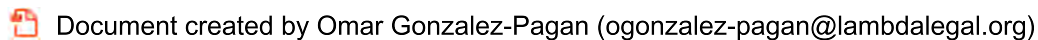
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EXHIBIT A

CURRICULUM VITAE

Cassandra C Brady, MD

Office Address: Village at Vanderbilt
Division of Pediatric Endocrinology and Diabetes
1500 21st Avenue South, Suite 1514
Nashville, TN, USA 37212

EDUCATION:

2001-2005	BS	Indiana University, Bloomington, IN
2005-2009	MD	Indiana University School of Medicine, Indianapolis, IN

POSTGRADUATE TRAINING:

2009-2012 Resident/General Pediatrics
Monroe-Carell Jr. Children's Hospital at Vanderbilt
Nashville, TN

2012-2015 Fellow/Pediatric Endocrinology
Cincinnati Children's Hospital Medical Center
Cincinnati, OH

MEDICAL LICENSURE:

2015 Tennessee Medical License, Number 52482

CERTIFICATIONS:

2012-present American Board of Pediatrics Certified, General Pediatrics
2015-presnt American Board of Pediatrics Certified, Pediatric Endocrinology

ACADEMIC APPOINTMENTS:

2015-present Assistant Professor of Pediatrics, Vanderbilt University Medical Center

PROFESSIONAL ORGANIZATIONS:

2019-present Endocrine Society

2017-present	Pediatric Endocrine Society, Transgender Special Interest Group and Differences of Sex Development (DSD) Special Interest Group
2019-Present	Pediatric Endocrine Society, Transgender Special Interest Group, Advocacy Subcommittee
2019-2020	Pediatric Endocrine Society, Lead Author and Team Lead, Policy Statement on Genital Surgery, DSD Special Interest Group, Advocacy Subgroup
2020-Present	Pediatric Endocrine Society, DSD Special Interest Group, Education Subcommittee
2021-present	Pediatric Endocrine Society, Public Policy Committee
2019-present	World Professional Association for Transgender Health (WPATH)
2019	World Professional Association of Transgender Health (WPATH), Global Education Initiative (GEI) Foundations Course
2020-present	American Academy of Pediatrics: Pediatric Endocrinology Subgroup
2020-present	American Academy of Pediatrics: TN AAP Member, LGBTQ Legislative Subcommittee Chair

OTHER PROFESSIONAL ACTIVITIES:

National Service

2016-present — Manuscript Reviewer
Obesity
Pediatrics
Transgender Health

2019-present — Consultant for media in support of advocacy:

"How to Support Positive Gender Identity Development in your Children." *My Southern Health* (2019)

"Warnings about Risk of Prepubertal Gynecomastia." Med-Page (2019)

Pediatric News Journal, Vol 54, No 4, 2019. Quoted regarding experience with transgender legislation in the state of TN

The New York Times interview with Sabrina Imbler, "For Transgender Youth, Stigma is Just One Barrier to Healthcare" (2021)

Modern Health interview with Lisa Gillespie, "The doctor at the statehouse: how medical associations fought against anti-transgender youth bills" (2021)

The New York Times interview with Azeen Ghorayshi, "Doctors Debate Whether Trans Teens Need Therapy Before Hormones." (2022)

Regional/Local Service

2018-present — LGBTQ Legislative Subcommittee Chair
Advocacy meeting with Senator Haile (January 2020)
Advocacy call with Representative Terry (February 2020)
Advocacy meeting with Representative Clemmons (February 2021)
Advocacy meeting with Representative Love (February 2021)
Advocacy call with Senator Hensley (February 2021)
Senate Health Subcommittee, opposition to SB 126 (March 2021)
TN House Health Subcommittee, opposition to HB 1027 (April 2021)

2020-present — Consultant for media in support of advocacy

Tennessean interview with Stella Yu, "Fighting Fears." (March 2021)

Tennessean, Morad A, Yaun J, Sinard D, Dentz B, Butler H, **Brady C**. "Transgender bills don't support well-being of all children. *(March 2021)*

Vanderbilt Hustler, interview with Charlotte Mauger, "Lambda and VSG work to address recent anti-transgender legislation in TN." (April 2021)

MiniVHAN Podcast , interview with Mallory Yoder discussing Gender Affirming Care. (May 2021)

2020-present — Advocacy
TN Transgender Task Force
Established group of providers across the state that provide care to transgender youth, current focus legislation

Vanderbilt University Medical Center

Institutional

2009-2012 — Residency Advisory Council, Vanderbilt Pediatric Residency
2010-2012 — American Academy of Pediatrics Delegate
2016-2017 — EpicLeap Clinical Design Pediatric Endocrinology Workflow Team

2017-2018	Clinical Practice Guideline Committee
2017	Epic Peer Trainer
2018	Transgender Policy Working Group, Vanderbilt University Medical Center, LGBTQ Program
2015-present	Pediatric Residency Interviewing
2019-present	Pediatric Residency Mentor
2020	SOGI working group
2021	Inaugural member, Academy of Excellence in Clinical Medicine, Vanderbilt University Medical Center

Clinical Program

2017-present Clinic Director, Differences of Sex Development Clinic
This clinic includes pediatric endocrinology and urology. We provide inpatient consult services, prenatal consults, and outpatient consult services. Families travel from across the surrounding 5 states to our clinic.

2016 Gender Clinic Planning Committee, Vanderbilt University Medical Center

2018-present Clinic Director, Vanderbilt Pediatric and Adolescent Gender Clinic (VPATH)
This clinic includes a variety of pediatric subspecialists who provide clinical care for patients who are gender diverse. Patients travel from five surrounding states to this clinic.

Awards

2017, 2019-2021	Excellence in Patient Experience Award (honors clinicians who have reached the 90th percentile nationally in patient experience)
2020	TN AAP Special Achievement Award
2021	Friends of Fashion, Healthcare Hero, Friends of Vanderbilt Children's Hospital, patient nominated
2021	Nashville Top Doctors, *Nashville Lifestyles,* peer chosen

TEACHING ACTIVITIES:

Graduate School

2016-present	"Care of the Transgender Individual." Vanderbilt University School of Nursing, Current Issues Course for FNP, Nashville, TN
October 2016	"Transgender Care - Open Discussion." Vanderbilt University, Peabody College, Care of the Hospitalized Child Course
2016-present	"Differences of Sex Development." Vanderbilt University School of Nursing, LGBTI Course, Module 3, Nashville, TN
2020	"Differences of Sex Development." Vanderbilt University, Master of Genetic Counseling Program, Nashville, TN

Medical School

2017-present	Lecturer, Vanderbilt University School of Medicine Sexual Medicine Immersion Course (2-3 sessions per year)
2019-present	Lecturer, Vanderbilt University School of Medicine, Endocrine, Digestion and Reproduction, First Year Course (1 session per year)
2015-present	Ward Attending, Pediatric Endocrinology and Diabetes (1 week per quarter)
2020	Mentorship, Kyle Gavulic

Pediatric House Officers

2015-present	Ward Attending, Pediatric Endocrinology and Diabetes (1 week per quarter)
2015-present	Faculty Preceptor, Pediatric Endocrinology and Diabetes Clinic(1 day per week)
2018-present	Lecturer, General Pediatrics Residency Noon Conference (2-3 presentations per year)
2020	Lecturer, General Pediatrics Residency Chief's Case, Monroe-Carell Junior Children's Hospital at Vanderbilt (Frasier Syndrome)
2020-present	Mentorship, Pediatric Residency Program, Dr. Julie Wittwer
2021-present	Mentorship, Pediatric Residency Program, Dr. Ally Metro
2021	General Pediatrics Residency Chalk Talk, Monroe-Carell Junior Children's Hospital at Vanderbilt (Congenital Adrenal Hyperplasia)

Pediatric Endocrinology and Diabetes Fellows

2012-2015	Fellows Conference, Cincinnati Children's Hospital Medical Center, Pediatric Endocrinology Fellowship – 8 presentations each year in Board Review, Case Conferences, Journal Club, Research topics)
2015-current	Ward Attending, Pediatric Endocrinology and Diabetes
2015-current	Faculty Preceptor, Pediatric Endocrinology and Diabetes Clinic
2016-2019	Mentorship, Dr. Kristin Favela, Pediatric Endocrinology Fellow

INVITED PRESENTATIONS:

National

July 2017	"The Hospitalized Child with Diabetes/Hyperglycemia: Don't Sugar Coat It." Pediatric Hospital Medicine Conference, Nashville, TN
September 2021	"Conversations about Fertility in the Pediatric Setting." Panel on Reproductive Endocrinology and Transgender Medicine. Endocrine Ethics Association Virtual Conference.

Regional

September 2014	"Disorders of Sex Development: Focus on Congenital Adrenal Hyperplasia." Public Health Nurse Education Day, Cincinnati, OH
November 2016	"Intro to Intersex." Vanderbilt University Lambda Association
September 2018	**Brady C**, Morgan T. "Combined DSD Evaluation: Endocrine-genetic testing for efficient genotype-phenotype determination." 97th Annual Meeting of the South-Central Section of the American Urologic Society (AUA), Nashville, TN
February 2019	"Introduction to the Clinical Care of Youth with Differences in Sexual Development and Gender Dysphoria." Tennessee Alliance for Sexual Health (TNASH), Nashville, TN
November 2020	"Panel Discussion: Gender Dysphoria." 2nd Annual Pediatric Advanced Practice Provider Conference, Memphis, TN (virtual)
July 2021	Romano M, Cyperski M, **Brady C**. "PATH to Affirmative Medical Care for Transgender/Gender Diverse Youth: A Guide for Mental Health Providers." Southeast AIDS Education and Training Center Webcast Wednesday. Nashville, TN
April 2021	**Brady C**, Panelist for "Marshalling, Mobilizing, and Messaging on Anti-Transgender health legislation." AAP Advocacy Conference (Virtual)
August 2021	Romano M, Cyperski M, **Brady C**. "Ways to Support and Advocate for Transgender and Gender Diverse Youth in a Non-Affirming Environment: Perspectives from a Team of Providers." Southern LGBTQ Health Symposium (Virtual)

Continuing Medical Education/Grand Rounds

2015-current	Lecturer, Pediatric Endocrinology Division Conference (2 presentations per year)
2018-2019	Pediatric Gender Medicine Case Conference, (multidisciplinary case conference), Monroe-Carell Junior Children's Hospital at Vanderbilt
December 2019	"Differences of Sexual Development: A Surgical Perspective from an Endocrinologist." Vanderbilt Children's Hospital, Pediatric General Surgery Grand Rounds, Nashville, TN, (Invited)

March 2019	**Brady C,** Romano M. "A PATH to Transgender Medical Care: A guide for primary care providers." Cumberland Pediatrics Foundation CME dinner (Invited)
May 2019	"Thyroid and Adrenal Disorders in Rheumatology." Division of Pediatric Rheumatology, Monroe Carell Junior Children's Hospital at Vanderbilt, Nashville, TN (Invited)
January 2020	"Care of the Transgender Child and Adolescent." Division of OB/GYN at VUMC, Resident Education, Nashville, TN (Invited)
2020, 2022	"Differences of Sex Development." Vanderbilt Children's Hospital, Pediatric Urology Division Conference, Nashville, TN (Invited)
October 2020	Cyperski M, **Brady C**, Romano M. "PATH to affirmative medical care for transgender/gender diverse (TGD) youth: A guide for mental health providers." Vanderbilt Psychiatry, Grand Rounds, Nashville, TN (Invited)
January 2021	**Brady C,** Gregory A. "The Transgender/Gender Diverse Athlete." Vanderbilt University Medical Center Division of Endocrinology and Diabetes, Grand Rounds.
January 2022	**Brady C**, Cox M. "We've Got Spirit: The Role of Spiritual Care in Transgender/Gender Diverse Healthcare." Vanderbilt University Medical Center Division of Endocrinology and Diabetes, Grand Rounds.
February 2022	"Differences of Sex Development: A Discussion for All Providers." Vanderbilt University Medical Center, LGBTQ+ Medical Certificate, Content Expert. (Invited)
March 2022	"The Gender Diverse Athlete." Cook Children's Pediatric Endocrinology, Grand Rounds. (Invited)

Other Teaching

2016	**Brady CC.** NEJM Knowledge+ Family Medicine Board Review. Wrote 4 endocrinology questions in pediatrics for a comprehensive lifelong learning product from NEJM Group (http://knowledgeplus.nejm.org/)
2017, 2019	"Care of the Transgender Individual." Edward Curd Lane Pediatric Nursing Inservice, Monroe-Carell Junior Children's Hospital at Vanderbilt, Franklin, TN
April 2017	"Disorders of Sex Development." Edward Curd Lane Pediatric Nursing Inservice, Monroe-Carell Junior Children's Hospital at Vanderbilt, Franklin, TN

May 2019	"Care of the Transgender Child and Adolescent." Nashville Child and Family Wellness Center, Nashville, TN
September 2021	Bennett J, **Brady C.** "Transgender Health and Its Nutrition Considerations". Nutrition and Dietitian September Inservice

OTHER SIGNIFICANT ACTIVITIES

2008	Camp John Warvel for Type I Diabetes, American Diabetes Association, Medical Staff, Cleveland, IN
2011	Tennessee Camp for Diabetic Children, Medical Staff, Soddy Daisy, TN
2012	Global Healing, Pediatric Resident, Roatan, Honduras
2012-2015	Camp Korelitz for Type 1 Diabetes, American Diabetes Association, Medical Staff and Planning Committee, Clarkesville, OH

RESEARCH PROGRAM

2020	Clinical consultant for Dr. Ellen Clayton's (PI) PRiSM Study

PUBLICATIONS AND PRESENTATIONS

Peer Reviewed Journals:

Po'e E, **Neureiter C,** Escarfuller J, Gesell S, Tempesti T, Widman P, Barkin S. Systemic Exposure to Recreation Centers Increases Use by Latino Families with Young Children. *Pediatric Obesity*. 8(2). 116-23, 2012.

Brady C, Palladino AA, Gutmark-Little I. A Novel Case of Compound Heterozygous Congenital Hyperinsulinism without High Insulin Levels. *International Journal of Pediatric Endocrinology*. (1):16. Open Access, 2015.

Brady CC, Vannest JJ, Dolan LM, Kadis DS, Lee GR, Holland SK, Khoury JC, Shah, AS. Obese Adolescents with Type 2 Diabetes Perform Worse than Controls on Cognitive and Behavioral Assessments. *Pediatric Diabetes*. (Epub ahead of print) 2016.

Lingren T, Thaker V, **Brady C,** Namjou B, Kennebeck S, Bickel J, Patibandia N, Ni Y, Van Driest SL, Chen L, Roach A, Cobb B, Kirby J, Denny J, Bailey-Davis L, Williams MS, Marsolo K, Solti I, Holm IA, Harley J, Kohane IS, Savova G, Crimmins N. Developing an Algorithm to Detect Early Childhood Obesity in Two Tertiary Pediatric Medical Centers. *Applied Clinical Informatics*. 7 (3): 693-706. 2016.

Brady CC, Thaker VV, Lingren T, Woo JG, Kennebeck SS, Namjou-Khales B, Roach A, Bickel JP, Patibandia N, Savova GK, Solti I, Holm IA, Harley JB, Kohane IS,

Crimmins NA. Suboptimal Clinical Documentation in Young Children with Severe Obesity at Tertiary Care Centers. *International Journal of Pediatrics*. (Epub) 2016.

Redel JM, DiFrancesco M, Vannest J, Altaye M, Beebe D, Khoury J, Dolan LM, Lee G, Brunner H, Holland S, **Brady C**, Shah AS. Brain Gray Matter Volume Differences in Obese Youth with Type 2 Diabetes: A Pilot Study. *Journal of Pediatric Endocrinology and Metabolism.* 31 (3): 261-268. 2018.

Nasomyont N, Lindsley AW, Assa'ad A, Neilson DE, **Brady CC**, Rutter MR. Central diabetes insipidus in a pediatric patient with *NFKB2* Mutation: Extending the endocrine phenotype in DAVID syndrome. *The Journal of Clinical Endocrinology and Metabolism*. 104 (9): 4051-4057. 2019.

Lawson C, Naseeruddin Ahmed S, **Brady C,** Shoemaker A. A Clinic-based Approach to Diagnosis and Management of Prediabetes in High-risk Children and Adolescents. *Journal of the Endocrine Society*. 4 (4): 1-8. 2020.

Cyperski MA, Romano ME, **Brady CC**. Supporting transgender/gender diverse (TGD) youth across settings and systems of care: Experiences from a pediatric interdisciplinary clinic. *the Behavior Therapist*, *43*(7), 242-247. 2020.

Redel JM, DiFrancesco M, Lee GR, Ziv A, Dolan LM, **Brady CC**, Shah AS. Cerebral Blood Flow is Lower in Youth with Type 2 Diabetes Compared to Obese Controls: A Pilot Study. *Pediatric Diabetes*. Epub ahead of print. 2022.

Abstracts/Presentations at Scientific Meetings:

Craig J, **Neureiter C**, O'Neil J, Steele G. "Assessing Maternal and Paternal Birth Weight as a Factor for Delivering Low Birth Weight Infants." October 10, 2008, American Academy of Pediatrics National Conference and Exhibition, Boston, MA. ("Poster" or "Poster Presentation"))

Neureiter C, Poe E, Escarfuller J, Widman P, Barkin S. "Recreation Center Exposure Increases Physical Activity Use by Latino Families with Young Children**."** April 30, 2011, Pediatric Academic Society, Denver, CO. (Platform Presentation)

Brady C, Lingren T, Kennebeck S, Solti I, Crimmins NA. "Pediatric Providers are Poor at Identifying Severe Obesity in Young Children." September 21, 2013, 9th Annual Joint Meeting of Paediatric Endocrinology, Milan, Italy. (Poster Presented)

Brady C, Palladino AA, Burrow TA, Gutmark-Little I. "The Inaccuracy of Insulin Levels in Congenital Hyperinsulinism and the Importance of Genetic Testing." June 22, 2014, 6th International Congress of Endocrinology, The Endocrine Society's 96th Annual Meeting and Expo, Chicago, IL. (Poster Presented)

Thaker V, Lingren T, Namjou B, Perry C, Crimmins N, **Brady C,** Solti I, Savova G, Kohane I, Harley J. "Comparative Analysis of Electronic Health Record (EHR)-driven and Conventional Cohort–driven Genomic Research." October, 2014, 64th Annual Meeting of the American Society of Human Genetics, San Diego, CA. (Poster)

Brady C, Vannest J, Lee GR, Dolan L, Holland S, Shah AS. "Youth with Early Onset Type 2 Diabetes have Worse Cognitive Performance Compared to Controls." April, 2015, Pediatric Endocrine Society Annual Meeting, San Diego, CA. (Poster Presented)

Brady C, Lee GR, Dolan LM, Vannest J, Holland S, Khoury J, Shah AS. "Subclinical Cardiovascular Disease is Inversely Associated with Cerebral Blood Flow in Adolescents with Type 2 Diabetes." June 2015, 75th Scientific Sessions American Diabetes Association, Boston, MA. (Poster and Guided Audio Tour Presented)

Redel JM, Vannest J, Altaye M, Dolan LM, Lee G, Brunner H, DiFrancesco M, Holland S, **Brady C,** Shah AS. "Brain Gray Matter Volume Changes in Youth with Type 2 Diabetes." June 2016. 76th Scientific Sessions American Diabetes Association, New Orleans, LA. (Oral Abstract Presentation-Presenter: Redel JM)

Redel JM, Lee G, DiFrancesco M, Vannest J, Dolan LM, **Brady C,** Khoury J, Shah AS. Adolescents with Type 2 Diabetes Demonstrate Reduced Microstructural Integrity in Brain White Matter. *Poster Presentation and Moderated Poster Discussion*. American Diabetes Association 77th Scientific Sessions. San Diego, CA, June 9-13, 2017. (Poster-Presenter: Redel JM)

Redel JM, Vannest J, Altaye M, Dolan LM, Lee G, Brunner H, DiFrancesco M, Holland, S, **Brady C,** Shah AS. Brain Gray Matter Volume Differences in Youth with Type 2 Diabetes. *Poster Presentation.* 10th International Meeting of Pediatric Endocrinology. Washington, D.C., September 15, 2017. (Poster-Presenter: Redel JM)

Nasomyont N, Lindsley AW, Assa'ad A, **Brady C**, Rutter MM. Central Diabetes Insipidus, ACTH Deficiency And Common Variable Immunodeficiency In A Pediatric Patient With NFKB2 Mutation: A Case Report. *Poster Presentation*. Endocrine Society Annual Meeting, Chicago, IL. March 17, 2018. (Poster-Presenter: Nasomyont N)

Wheeler F, **Brady C.** "Clinical and cytogenetic findings in a phenotypic female with a 46,XY karyotype and gonadal failure." American College of Medical Genetics, Poster, April 2021. (Poster-Presenter: Wheeler F)

Logel S, Whitehead J, Maru J, Walch A, **Brady C**, Lasarev M, Rehm J, Millington K. "Transgender and Gender-Diverse Youth have Higher Prevalence of Certain Autoimmune Diseases." Pediatric Endocrine Society Annual Meeting, Presidential Poster Session, Virtual, April 30, 2021. (Poster Presenter: Logel S)

Brady C, Cyperski M, Romano M. "Providing Affirmative Care and Advocating for Gender Diverse Youth in a Non-Affirming Political Landscape." Community Engagement Mini Symposium. USPATH Virtual Scientific Symposium, November 6, 2021.

EXHIBIT B

BIBLIOGRAPHY

1. Rosenthal SM. Approach to the Patient: Transgender Youth: Endocrine Considerations. *JCEM,* 99(12) December 2014, 4379-4389.

2. Hembree, W. C., Cohen-Kettenis, P. T., Gooren, L., Hannema, S. E., Meyer, W. J., Murad, M. H., ... & T'Sjoen, G. G. (2017). Endocrine treatment of gender-dysphoric/gender-incongruent persons: an endocrine society clinical practice guideline. *The Journal of Clinical Endocrinology & Metabolism*, *102*(11), 3869-3903.

3. Forcier M. Gender Identity Development in Children and Adolescents.Fenwayhealth.org, accessed 2022.

4. Kreukels B. Gender identity development in adolescence. *Hormones and Behavior*. 64 (2013), 288-297.

5. American Psychiatric Association. (2013). Diagnostic and Statistical Manual of Mental Disorders (5th ed.). Arlington, VA: American Psychiatric Publishing.

6. Cohen et al. Trauma-focused cognitive behavioral therapy LGBTQ implementation manual. Pittsburgh, PA: Allegheny Health Network 2018.

7. Baser K, et al. Perceived Discrimination, Social Support, and Quality of Life in Gender Dysphoria. *J Sex Med*. 2016Jul; 13 (7) 1133-41.

8. Atkins D, et al. GRADE Working Group. Grading quality of evidence and strength of recommendations. *BMJ*. 2004; 328 (7454): 1490

9. Swiglo BA, et al. A case for clarity, consistency, and helpfulness: state-of-the-are clinical practice guidelines in endocrinology using the grading of recommendations, assessment, development, and evaluation system. *JCEM*. 2008; 93 (3): 666-673.

10. Coleman, E., Bockting, W., Botzer, M., Cohen-Kettenis, P., DeCuypere, G., Feldman, J., ... & Zucker, K. (2012). Standards of care for the health of transsexual, transgender, and gender-nonconforming people, version 7. *International Journal of Transgenderism*, *13*(4), 165-232.

11. de Vries, A.L.C., McGuire, J.K., Steensma, T.D., Wagenaar, E.C.F., Doreleijers, T.A.H., & Cohen-Kettenis, P.T. (2014). Young Adult Psychological Outcome After Puberty Suppression and Gender Reassignment. *Pediatrics*, *134*(4), 696-704.

12. Turban, J.L., King, D., Carswell, J.M., & Keuroghlian, A.S. (2020). Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation. *Pediatrics*, 145(2):e20191725.

13. Tordoff DM, et al. (2022). Mental Health outcomes in Transgender and Nonbinary Youth Receiving Gender-affirming Care. *JAMA Network Open*; 5 (2)e 220978.

14. James SE, et al. The Report of the 2015 U.S. Transgender Survey. Washington, DC. National Center for Transgender Equality. Transyouth survey.

15. Sperling Pediatric Endocrinology. 5th Edition, July 22, 2020. Puberty Chapters.

16. Wooltorton E. Medroxyprogesterone acetate (depo-Provera) and bone mineral density loss. CMAJ. 2005 Mar; 172 (6).: 746

17. Anglus L, et al. Cyproterone acetate spironolactone in lowering testosterone concentrations for transgender individuals receiving oestradiol therapy. *Endocrine Connections*. 8(7), 2019, 935-940

18. Peitzmeier S, et al. Health Impact of chest binding among transgender adults: a community-engaged, cross-sectional study. *Culture, Health, & Sexuality.* 2017 19(1), 64-75.

19. Eugster EA. Treatment of Central Precocious Puberty. *J Endoc Society*. 2019 Mar, 28; 3 (5): 965-972.

20. Lupron Ped Depo (package insert). North Chicago, Abvvie Inc

21. Martin CE, et al. Successful oocyte cryopreservation using letrozole as an adjunct to stimulation in a transgender adolescent after GnRH agonist suppression. *Fertility and Sterility*, 2021, 116 (2) 522-527.

22. Vlot MS, et al. Effect of pubertal suppression and cross-sex hormone therapy on bone turnover markers and bone mineral apparent density (BMAD) in transgender adolescents. *Bone,* 2017 Feb; 95: 11-19

23. Klink D, et al. Bone Mass in Young Adulthood Following Gonadotropin-Releasing Hormone Analog Treatment and Cross-Sex Hormone Treatment in Adolescents with Gender Dysphoria. *JCEM*, 2015, 100(2), E270-E275.

24. Turban, J. L., King, D., Kobe, J., Reisner, S. L., & Keuroghlian, A. S. (2022). Access to gender-affirming hormones during adolescence and mental health outcomes among transgender adults. *PLOS one*, *17*(1), e0261039.

25. Baillargeon J, et al. Screening and Monitoring in Men Prescribed Testosterone Therapy in the Us, 2001-2010. *Public Health Rep*, 2015; 130(2): 143-152.

26. Canonnico M, et al. Hormone Therapy and Venous Thromboembolism Among Postmenopausal Women. *Circulation*. 2007, Vol 115 (7), 840-845.

27. Yaish I, et al. Functional ovarian reserve in transgender men receiving testosterone therapy: evidence for preserved anti Mullerian hormone and antral count under prolonged treatment. *Hum Reprod*. 2021, 36 (10), 2753-2760.

28. Bisson JR, er al. Prolactin Levels Do not Rise Among Transgender Women Treated with Estradiol and Spironolactone. *Endocrine Practice.* 2018, 24 (7) 646-651.

29. Yurcaba (2021, March 29). Arkansas passes bill to ban gender-affirming care for trans youth. NBC News

30. Parris et al. (2021, July 7). Anti-LGBTQ policy proposals can harm youth mental health. Child Trends

31. Missouris CG, et al. Rebound sodium and water retention occurs when diuretic treatment is stopped. *BMJ*. 1998, 316 (7131): 628.

32. World Health Organization. (2018). Gender Incongruence. In International Classification of Diseases, 11th Revision.

33. Korpaisarn, S., & Safer, J. D. (2019). Etiology of Gender Identity. Endocrinology and metabolism clinics of North America, 48(2), 323–329.

34. Eugster E. A. (2019). Treatment of Central Precocious Puberty. *Journal of the Endocrine Society*, *3*(5), 965–972.

35. de Vries, A.L., Steensma, T.D., Doreleijers, T.A., & Cohen-Kettenis, P.T. (2011). Puberty Suppression in Adolescents with Gender Identity Disorder: A Prospective Follow-Up Study. *The Journal of Sexual Medicine*, 8(8), 2276-2283.

36. van der Miesen, A.I., Steensma, T.D., de Vries, A.L., *et al*. (2020). Psychological Functioning in Transgender Adolescents Before and After Gender-Affirmative Care Compared with Cisgender General Population Peers. *Journal of Adolescent Health*, 66(6), 699-704.

37. Achille, C., Taggart, T., Eaton, N.R., *et al*. (2020). Longitudinal Impact of Gender-Affirming Endocrine Intervention on the Mental Health and Well-Being of Transgender Youths: Preliminary Results. *International Journal of Pediatric Endocrinology*, 2020(8), 1-5.

38. Allen, L.R., Watson, L.B., Egan, A.M., & Moser, C.N. (2019). Well-Being and Suicidality Among Transgender Youth After Gender-Affirming Hormones. *Clinical Practice in Pediatric Psychology*, 7(3), 302-311.

39. de Lara, D.L., Rodríguez, O.P., Flores, I.C., *et al*. (2020). Psychosocial Assessment in Transgender Adolescents. *Anales de Pediatría (English Edition)*, 93(1), 41-48.

40. Grannis, C., Leibowitz, S.F., Gahn, S., *et al*. (2021). Testosterone Treatment, Internalizing Symptoms, and Body Image Dissatisfaction in Transgender Boys. *Psychoneuroendocrinology*, 132:105358, 1-8.

41. Olson-Kennedy, J., Warus, J., Okonta, V., *et al*. (2018). Chest Reconstruction and Chest Dysphoria in Transmasculine Minors and Young Adults: Comparisons of Nonsurgical and Postsurgical Cohorts. *JAMA Pediatrics*, 172(5), 431-436.

42. Mehringer, J.E., Harrison, J.B., Quain, K.M., *et al*. (2021). Experience of Chest Dysphoria and Masculinizing Chest Surgery in Transmasculine Youth. *Pediatrics*, 147(3):e2020013300.

43. American Medical Association and GLMA (2019). Health Insurance Coverage for Gender-Affirming Care of Transgender Patients. https://www.ama-assn.org/system/files/2019-03/transgender-coverage-issue-brief.pdf

44. Rafferty, J. American Academy of Pediatrics (AAP) Committee on Psychosocial Aspects of Child and Family Health, AAP Committee on Adolescence, AAP Section on Lesbian, Gay, Bisexual, and Transgender Health and Wellness. (2018). Ensuring comprehensive care and support for transgender and gender-diverse children and adolescents. *Pediatrics*. 142(4):e20182162.

45. American Psychiatric Association. (2018). Position Statement on Access to Care for Transgender and Gender Diverse Individuals.

46. American Psychiatric Association. (2020). Position Statement on Treatment of Transgender (Trans) and Gender Diverse Youth.

47. American Psychological Association. (2015). Guidelines for psychological practice with transgender and gender nonconforming people. *American Psychologist*. 70:832-864.

48. Lopez, X., Marinkovic, M., Eimicke, T., Rosenthal, S.M., & Olshan, J.S. (2017). Statement on gender-affirmative approach to care from the pediatric endocrine society special interest group on transgender health. *Current opinion in pediatrics*. 29(4): 475-480.

49. American Psychological Association. (2021). APA Resolution on Gender Identity Change Efforts. https://www.apa.org/about/policy/resolution-gender-identity-change-efforts.pdf

50. American Academy of Pediatrics and the Texas Pediatric Society, AAP, Texas Pediatric Society Oppose Actions in Texas Threatening Health of Transgender Youth (Feb. 24, 2022), https://txpeds.org/aap-texas-pediatric-society-oppose-actions-texas-threatening-health-transgender-youth

51. American Medical Association, AMA reinforces opposition to restrictions on transgender medical care (June 15, 2021), https://www.ama-assn.org/press-center/press-releases/ama-reinforces-opposition-restrictions-transgender-medical-care

52. American Academy of Family Physicians, American Academy of Pediatrics, American College of Obstetricians and Gynecologists, American College of Physicians, American Osteopathic Association, American Psychiatric Association, Physicians Oppose Texas Efforts to Interfere in the Patient-Physician Relationship and Criminalize Gender-Affirming Care (Feb. 28, 2022), https://www.aap.org/en/news-room/news-releases/aap/2022/physicians-oppose-texas-efforts-to-interfere-in-the-patient-physician-relationship-and-criminalize-gender-affirming-care/

53. Endocrine Society, Endocrine Society alarmed at criminalization of transgender medicine (Feb. 23, 2022), https://www.endocrine.org/news-and-advocacy/news-room/2022/endocrine-society-alarmed-at-criminalization-of-transgender-medicine

54. American Psychological Association, APA president condemns Texas governor's directive to report parents of transgender minors (Feb. 24, 2022), https://www.apa.org/news/press/releases/2022/02/report-parents-transgender-children

55. American Academy of Child & Adolescent Psychiatry, AACAP Statement Responding to Efforts to ban Evidence-Based Care for Transgender and Gender Diverse Youth (Nov. 8, 2019), https://www.aacap.org/AACAP/Latest_News/AACAP_Statement_Responding_to_Efforts-to_ban_Evidence-Based_Care_for_Transgender_and_Gender_Diverse.aspx

EXHIBIT 4

PFLAG, Inc., *et al.*	§	IN THE DISTRICT COURT OF
Plaintiffs	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	_____ JUDICIAL DISTRICT
GREG ABBOTT, *et. al*,	§	
Defendants.	§	

DECLARATION OF BRIAN K. BOND

I, Brian K. Bond, hereby declare and state as follows:

1. I am over 18 years of age, of sound mind, and fully capable of making this declaration. I have personal knowledge of the facts set forth in this declaration, they are true and correct, and I would testify competently to those facts if called to do so.

2. I am the Executive Director of PFLAG, Inc. ("PFLAG"). Founded in 1973, PFLAG is the first and largest organization for lesbian, gay, bisexual, transgender, and queer ("LGBTQ+") people, their parents and families, and allies. We are a 501(c)(3) non-profit organization.

3. PFLAG has over 250 chapters across the country and approximately 250,00 members and supporters nationwide. Our members and supporters cross multiple generations of families in major urban centers, small cities, and rural areas across America. PFLAG envisions an equitable and inclusive world where every LGBTQ+ person is safe, celebrated, empowered, and loved. Our mission is to create a caring, just, and affirming world for LGBTQ+ people and those who love them.

4. Our founder, Jeanne Manford, marched with her son Morty in the 1972 Christopher Street Liberation Day March in New York City and created the very first support group for parents

of LGBTQ+ people in 1973. Supporting LGBTQ+ young people by supporting and strengthening their families has been a core part of our work ever since. Today, the gold-standard advocated by PFLAG parents and families—and set forth by pediatricians and therapists—is to accept, support, and affirm LGBTQ+ people's sexual orientation and/or gender identity and expression; parental rejection is widely understood to be abusive and damaging.

5. We know, too, that LGBTQ+ youth thrive when supported in their schools and community. So, our work also includes ending bullying, discrimination, and harassment in educational settings by providing training for teachers, administrators, and district leaders, and advocating in the public square to ensure LGBTQ+ people are treated fairly and equally when accessing public accommodations and health care.

6. We know that change happens and support grows one interaction at a time. One family at a time.

7. PFLAG is a national chapter-based membership organization and we have local chapters in every state and the District of Columbia. Our chapters in Texas include PFLAG Abilene/Big Country, PFLAG Austin, PFLAG Beaumont, PFLAG Boerne, PFLAG Brenham, PFLAG Dallas, PFLAG El Paso, PFLAG Fort Worth, PFLAG Houston, PFLAG Lubbock, PFLAG Midland/Odessa, PFLAG Montgomery, PFLAG San Angelo, PFLAG San Antonio, PFLAG San Marcos, PFLAG Seguin, and PFLAG Tyler/East Texas.

8. PFLAG's membership is comprised of chapter members and members at large. Individuals can become a PFLAG member by joining the national organization directly or by joining their local chapter, which sends a portion of the member's dues to PFLAG national. In addition to our formal members, PFLAG serves thousands of community members through our programs, events, and services every year.

9. PFLAG's members play a central role in electing our organizational leadership. Of the 21 members of PFLAG's national Board of Directors, seven are elected directly from our membership. Seven more are elected by the Council of Regional Directors, a body of volunteers who are themselves each elected by the members of one of PFLAG's thirteen regions to work with PFLAG national staff to provide support, resources, training, and help to start new affiliates, and to share the perspectives and activities of members with national staff. The remaining seven are elected by the Board itself.

10. As Executive Director, I am the leader of the professional staff who carry out the work of the national office, including supporting the development and work of PFLAG's chapter network and promoting PFLAG's presence in the national arena, including through policy advocacy, coalitions with organizations who share our goals, developing trainings and educational materials, and engaging with the media. Supporting our network of chapters is PFLAG's largest program and our national staff works closely with chapter leaders and members across the country to reinforce their efforts to establish and grow their chapters, providing them with infrastructure, publications, online learning and gathering tools, advocacy support, media training, and countless other services and supports.

11. Because promoting the wellbeing of LGBTQ+ youth through encouraging and supporting love and affirmation by their families is a core part of our mission and because we have an extensive network of chapters and over 600 members who live in Texas, we heard an immediate outcry from our members and constituents in the wake of Attorney General Ken Paxton's opinion purporting that certain forms of health care for transgender adolescents constitute "child abuse" under Texas law.

12. While Attorney General Paxton's opinion caused alarm and sparked outrage among our members, especially those with transgender or nonbinary children, the directive Governor Abbott issued shortly thereafter deeming all affirming health care for transgender adolescents, regardless of medical necessity, to be "child abuse" and ordering Texas's Department of Family and Protective Services ("DFPS") to investigate parents helping their children access such care, caused abject panic. Suddenly the very thing we know to be good for LGBTQ+ children—supporting and loving your child for who they are and ensuring they receive care they need to thrive—was a reason to be reported and subjected to an intrusive and traumatic investigation.

13. In the wake of the directive and DFPS's decision to operationalize it and begin investigations, we immediately began providing information and support to our Texas families about the opinion and directive. Our Texas chapters heard from members who were parents of transgender or nonbinary children who wondered if they would soon be investigated and asking about their rights and for assistance; members whose children's health care was cut off when facilities specializing in providing gender affirming care to adolescents closed or stopped providing it under the mistaken assumption their provision of care was "illegal" or "abuse," or for fear their doctors would be prosecuted; and members contemplating leaving Texas so as not to have to choose between helping their children access the prescribed, medically necessary care they need and keeping their children under their roofs.

14. We, and our Texas chapters and members, breathed a sigh of relief when, in the wake of a lawsuit by the Doe family and Dr. Megan Mooney, the Travis County District Court issued a statewide injunction prohibiting investigations into families, including some of our members, and any action against mandatory reporters who failed to report families. Our members with transgender or nonbinary children were afraid once again when the injunction was stayed and

the alarm ebbed and returned after the reinstatement of the injunction by the Third Circuit Court of Appeals and the ultimate limiting of that injunction to the specific plaintiffs in that case by the Supreme Court of Texas.

15. After the Texas Supreme Court limited the Court of Appeals' injunction, our Texas chapters heard from members yet again. The investigations of parent members that had been paused were suddenly restarted or under the threat of imminent resumption. Members who are parents of transgender or nonbinary children who had not yet been investigated expressed fear and concern about whether they soon would be and if their children might be subjected to interviews at school, removed from home, or lose their health care.

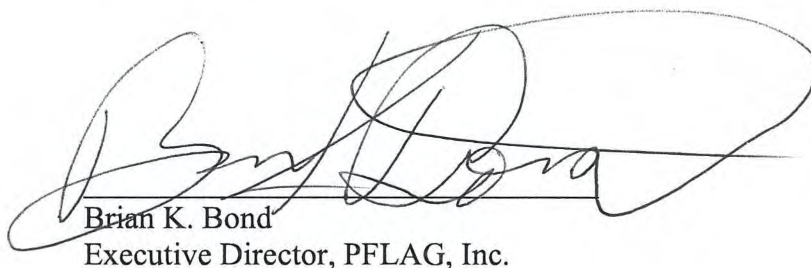
16. Given the scope of the Governor's directive, the breadth of DFPS's investigations, and the current lack of a statewide injunction preventing their pursuit, every one of PFLAG's Texas members with a transgender or nonbinary child is at substantial risk of harm. PFLAG has members who are being harmed right now by these actions, whether because they are facing active investigations, have had their medically necessary health care disrupted, or were otherwise forced to alter their interactions with schools, care providers, supportive services, or others in order to avoid being reported for child abuse by mandated reporters, all solely because they are or are suspected of seeking the established course of medically necessary care for their transgender or nonbinary children. Other current and future PFLAG members with transgender or nonbinary children face a substantial risk of being harmed by the directive and its implementation because their care for and affirmation of their children may include seeking gender affirming care for them. Although these members could challenge the Governor and agency's actions in their own right, PFLAG is bringing this case to represent the interests of those members to shield them from harm,

to avoid exacerbating current investigations, and to protect members from becoming targets of future investigations.

17. Representing the interests of these members in challenging the Governor's directive and DFPS's substantive change in policy implementing it is directly connected to PFLAG's mission in two ways. First, that mission includes encouraging and supporting parents and families of transgender and gender expansive people in affirming their children and helping them access the social, psychological, and medical supports they need. We work with our families to encourage love and support of their transgender and gender expansive children and to help them ensure that the children's needs are met. DFPS's actions send the opposite message. If you support your child's affirmation of their gender identity by seeking the established medically necessary care that has been prescribed for them, you do so at the peril of being labeled a "child abuser" and having them removed. In order to fulfill our mission to our members, we cannot allow them to face drastic penalties for doing the very thing we encourage because we know it is in the best interests of the children.

18. Second, we teach our members to advocate for a caring, just, and affirming world where LGBTQ+ people are safe, celebrated, empowered, and loved, and to advocate for equitable laws and policies that protect them. Governor Abbott's directive and DFPS's pursuit of families directly conflicts with our members' ability to do just that. The Briggle family could not be a clearer example. If you stand up and fight back for equitable treatment for your child, including by speaking out against harmful legislation that would deny your child basic human rights, your very advocacy makes you a target for investigation by the child welfare agency. We cannot in good faith ask our members to advocate in the public sphere for community affirmation of their child's basic humanity, if it puts them at risk of harm.

19. PFLAG exists to foster a world where LGBTQ+ children can become thriving, healthy, and happy LGBTQ+ adults. Our members depend on us to provide support and community for them in a society that often still treats their children as second-class citizens, attempts to silence them, or denies their very existence. For our members who have transgender and nonbinary children and are doing nothing more than loving them and following the advice of qualified medical professionals, PFLAG is here to do all we can to protect them from harmful, invasive, and unwarranted investigations.



Brian K. Bond
Executive Director, PFLAG, Inc.

Notary Verification

State of Kansas

County of Sedgwick

Brian K. Bond, personally appeared before me, and being first duly sworn declared that he signed this declaration in the capacity designated, if any, and further states that he has read the above declaration and the statements therein contained are true.

Sworn to and subscribed before me on the 06 day of June 2022, by Brian K. Bond.

(Personalized Seal)

Notary Public's Signature

EXHIBIT 5

PFLAG, ***et al.***	§	**IN THE DISTRICT COURT OF**
Plaintiffs	§	
v.	§	**TRAVIS COUNTY, TEXAS**
	§	**_____ JUDICIAL DISTRICT**
GREG ABBOTT, ***et. al*****,**	§	
Defendants.	§	

DECLARATION OF MIRABEL VOE

I, Mirabel Voe,[1] hereby declare and state as follows:

1. I am over 18 years of age, of sound mind, and fully capable of making this declaration. I have personal knowledge of the facts set forth in this declaration, they are true and correct, and I would testify competently to those facts if called to do so.

2. I am a Plaintiff in this action and mother to my adolescent son. I am bringing claims on behalf of myself and as a parent and next friend of my son, Antonio Voe.

3. I am also a member of PFLAG, which is a Plaintiff in this action.

4. We both reside in Texas.

5. My son, Antonio Voe, is 16 years old. I love and support him, and he means the world to me, along with my two other children.

6. Antonio is very kind and empathetic and a wonderful person. He loves to read, draw, and go running; is mostly a straight A student; and has been a leader in student government.

[1] Mirabel Voe and Antonio Voe are pseudonyms. My son (who is a minor) and I are proceeding under pseudonyms to protect our right to privacy and ourselves from discrimination, harassment, and violence, as well as retaliation for seeking to protect our rights.

7. Antonio is transgender. When he was born, he was assigned the sex of "female" at birth, even though he is a boy.

8. From a very young age, Antonio has expressed himself and behaved in a manner that does not conform with stereotypes associated with the sex he was assigned at birth.

9. I have always permitted Antonio to express himself and have tried my best to fully support him. He is my child and I accept him unconditionally.

10. When Antonio began puberty, physical changes began causing him intense distress.

11. In 2020, Antonio told me that he is transgender.

12. Shortly after Antonio informed me that he is transgender, we did research as a family and decided as an initial step that Antonio would socially transition. Antonio started using a name, pronouns, and gender expression that matched his gender identity.

13. After a year of living as his true and authentic self, my son felt happier, but the onset of puberty still caused him significant stress. We began speaking with a physician in the summer of 2021 concerning Antonio's distress relating to his gender identity.

14. In the summer of 2021, Antonio was diagnosed with gender dysphoria. His physician prescribed him puberty blockers because the physician determined that it was medically necessary to help alleviate some of Antonio's symptoms of gender dysphoria.

15. The physician then recommended that Antonio attend therapy before he considered prescribing any additional care. Antonio began therapy in June 2021 and has continued therapy since then.

16. In January 2022, Antonio's doctor recommended that he be provided with additional medical care to treat and alleviate his gender dysphoria. This care included the prescription of hormone therapy.

17. In consultation with Antonio's therapist and physician, and after extensive discussions about the benefits and potential side effects of hormone therapy, this treatment was prescribed by Antonio's doctor in accordance with medical best practices and the standards of care.

18. As Antonio was prescribed medical treatment, his mood and anxiety improved, and he looked forward to a brighter future. Being able to be affirmed as who he is promised Antonio significant relief.

19. In February 2022, things took a very serious turn for the worse for Antonio and our family. Attorney General Paxton's opinion released on February 21, 2022, and Governor Abbott's letter on February 22, 2022, followed by DFPS's implementation of these and investigation the provision of medically necessary gender-affirming health care as "abuse," initiated a series of events that has caused irreversible pain and turmoil in our lives.

20. On February 22, the same day as Governor Abbott's directive, Antonio made an attempt to die by suicide by ingesting a bottle of aspirin. He was admitted to a local hospital following this attempt.

21. When hospital staff and I asked Antonio why he attempted to end his own life, he stated that the political environment, including the Governor's directive, and being misgendered by students and staff at school, led him to take these actions. Antonio said he was worried he would be taken away from the only family he has and felt like he had put our family at risk by living as his authentic self.

22. The local hospital referred Antonio to an outpatient psychiatric facility. He was transported to that facility on February 24. Police were present when he left the hospital to be transported via ambulance to the facility.

23. While at that outpatient facility, the staff there learned that Antonio had been prescribed hormone therapy for the treatment of gender dysphoria. During a family therapy session, staff at the facility told us that they might need to report our family for "abuse" because of the Governor's letter and DFPS's actions.

24. Antonio was discharged from the psychiatric facility on March 5.

25. On March 11, an investigator with Child Protective Services ("CPS"), a division of the Texas Department of Family and Protective Services ("DFPS") visited our family home to interview Antonio and me.

26. I assumed the investigator was there for the suicide attempt and was prepared to discuss the medical treatment and mental health therapy my son was receiving. But the investigator told me that she was only there because I was an "alleged perpetrator" of child abuse as the parent of a transgender adolescent who had been reported for providing my son with treatment for gender dysphoria.

27. Being called an "alleged perpetrator" in my own living room shocked me, and I immediately felt harm and stigma for being falsely accused of harming my own child simply by providing him with medically necessary health care.

28. The investigator also told me that the report of "abuse" originated from the outpatient psychiatric facility where Antonio was seeking help.

29. The investigator interviewed both Antonio and me and asked us private, intimate, and invasive questions about his medical treatment for gender dysphoria. The investigator also took pictures of Antonio's arms, torso, back, and legs to see if he had any injuries.

30. The CPS investigator asked for me to sign a release to obtain Antonio's medical records. I initially signed the release.

31. On March 14, I received a call from the investigator, who told me that the medical release form was deficient and needed to be signed again. The investigator had tried to send the release to Antonio's health care provider to obtain all of his private and confidential medical records, but that provider sent it back because of problems with the form. The investigator called me multiple times and left voicemails about this form.

32. The investigator showed up unannounced at my house on March 17. I was not home at the time, but the investigator spoke with my oldest child, who is now an adult.

33. On March 21, the investigator called me again and asked that I re-sign the form so that DFPS could obtain all of Antonio's medical records. By that time, I had learned of court orders blocking a similar investigation for another family involving medically necessary health care for gender dysphoria, as well as a statewide injunction, and I decided not to re-sign the release. Instead, I told the investigator that I was now seeking legal counsel.

34. As of today, DFPS's investigation of my family for child abuse remains open.

35. Antonio is receiving mental health care and is recovering from the attempt, but these events have devastated our life. Antonio has been forced to drop out of in-person school and stay at home so that I can more closely monitor his health and wellbeing, but I am a single mom who works two jobs. I love my son unconditionally, and I can think of nothing worse than losing him. I am so glad that he is alive, but no young person should ever have to experience what he went through.

36. It is particularly horrifying to me that the place that was supposed to help my son—the outpatient mental health facility—has now caused him even more harm. Instead of focusing on how to keep my son alive and healthy, both the facility and DFPS have accused me of "abuse."

They have invaded my family's privacy, threatened the health and wellbeing of my son, and could try to tear apart my family and cause further harm.

37. DFPS's substantive policy changes, including those in reliance upon the Attorney General's opinion and Governor's directive, have caused immense stress, anxiety, and fear for my family. Although Antonio is recovering from the attempt, he still feels concerned and anxious because he knows that the DFPS investigation is still pending, and he may have to speak to an investigator or be removed from me and lose access to the health care he needs.

38. As a result of DFPS's implementation of the Attorney General's opinion and Governor's letter, Antonio feared he would be contacted by CPS while at school and he made the difficult decision to finish the final months of the school year from home. He now takes additional medication to help alleviate his anxiety around the investigation and potentially losing access to vital health care.

39. I worry about the potential physical and mental health consequences of depriving Antonio of the medically necessary treatment prescribed by his doctors. He has already attempted to take his life once and I cannot imagine what will happen if DFPS is allowed to dictate what medical care my child receives.

40. Not providing treatment is not an option for me. I believe providing Antonio with the gender-affirming care he requires, and consistent with the advice of qualified medical professionals, is necessary to ensure his health and well-being, and we will continue to provide this care.

41. I do not believe that I can deprive Antonio of the necessary, medically recommended health care that he requires. But if this medically necessary care becomes "abuse," there could be a finding that I have committed "abuse" that could devastate our lives, lead to

Antonio being taken away, and prevent me from being able to volunteer in the community or participating in my children's activities.

42. I have lived in Texas my entire life, and Texas is the only home that Antonio has known. Our extended family all lives in Texas and I am the sole caretaker of my elderly mother. Even if moving out of the state were feasible, we do not wish to do so if it can be avoided, as, among other things, it could mean the physical separation of our family, loss of employment, and separating Antonio from his healthcare providers.

43. Texas is our home. We are part of a community, comprising of family and friends, who have been supportive and affirming of Antonio's identity. I worry not only about the multitude of harms caused to my own family through implementation of the Attorney General's opinion and Governor's letter, but also about the effect that the action by DFPS, the Governor, and the Attorney General will have on other transgender youth, like Antonio, and their families. Our family is as much a part of Texas as any other family, and Antonio has the same right to live safely and authentically as any other person in this state.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 6th day of June 2022 in Texas.

Mirabel Voe

EXHIBIT 6

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CAUSE NO. _______________

PFLAG, *et al.*, Plaintiffs, v. GREG ABBOTT, *et. al*, Defendants.	§ § § § § § § § § § § § §	IN THE DISTRICT COURT OF TRAVIS COUNTY, TEXAS _________ JUDICIAL DISTRICT

DECLARATION OF WANDA ROE

I, Wanda Roe,[1] hereby declare and state as follows:

1. I am over 18 years of age, of sound mind, and in all respects competent to testify. I have personal knowledge of the facts set forth in this Declaration and would testify competently to those facts if called to do so.

2. I am a Plaintiff in this action. I am bringing claims on behalf of myself and as the parent and next friend of my son, Tommy Roe.

3. I also am a member of PFLAG, which is a Plaintiff in this action.

4. I live in Texas, along with my husband and my four sons.

5. My son, Tommy Roe, is 16 years old. I love him, support him, and wish to provide what is best for him throughout his life.

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[1] Wanda Roe and Tommy Roe are pseudonyms. My son (who is a minor) and I are proceeding under pseudonyms to protect our right to privacy and ourselves from discrimination, harassment, and violence, as well as retaliation for seeking to protect our rights.

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6. Tommy is transgender. When he was born, his sex was designated as "female," even though he is a boy.

7. Throughout his childhood, Tommy has expressed himself and behaved in a manner that does not conform with the stereotypes associated with the sex he was designated at birth. At the time, he presented as a tomboy.

8. I have always permitted Tommy to express himself and explore who he is.

9. As Tommy approached puberty, he began questioning his gender identity and wondering if others his age felt the same way about their changing bodies. He discovered the term gender dysphoria, which refers to the distress, both physical and mental, that can result from a person's gender identity not matching the sex they were assigned at birth.

10. In 2020, at the age of 14, Tommy informed me that he is transgender and that he had been struggling with his gender identity for approximately three years. He explained to me that he had been slowly coming out to friends and one of his brothers and that he had started going by a new, more stereotypically male name.

11. I immediately wanted Tommy to know that he was loved and supported so I hugged him. Because I was unfamiliar with what being transgender meant, I sought to become more informed. Over the week following Tommy's coming out to me as transgender, I came to realize that Tommy is healthy, and he is safe as who he is, and that he is exactly the same person he was before he told me.

12. I sought guidance from a counselor and Tommy's doctor on the best way to support Tommy and ensure his wellbeing.

13. Thereafter, Tommy began to socially transition by presenting as male publicly beyond the few people to whom he had disclosed he was transgender. We also began consulting

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medical professionals and Tommy began working with a therapist as we explored the possibility of beginning gender-affirming hormone therapy. Indeed, as Tommy had been diagnosed with gender dysphoria, his doctors believed it was appropriate and medically necessary for him to start undergoing gender-affirming hormone therapy.

14. Since beginning his transition, I have perceived Tommy to be more confident through many aspects of his life, including in public and in private.

15. Being able to be affirmed as to who he is has brought Tommy significant relief and allowed him to thrive.

16. My commitment as a parent is to ensure the health, safety, and wellbeing of Tommy, whom I love and support.

17. Tommy returned to in-person high school in his sophomore year, after spending his entire freshman year in virtual classes as a result of the COVID-19 pandemic.

18. Witnessing my son's transformation has been awe-inspiring. Being able to present and be perceived as the boy that he is has allowed him to go from an uncomfortable, fearful child to a confident, self-assured young man.

19. On February 24, 2022, Tommy was pulled out class and called to the school's administrative office to meet with an investigator from the Texas Department of Family and Protective Services. Earlier that day, Tommy had texted me to inform me of the Governor's directive regarding investigation of parents of transgender children.

20. During this meeting, the investigator asked Tommy a series of personal questions, seemingly to probe whether he was undergoing gender-affirming medical care and whether he had been pushed to transition.

21. I picked Tommy up from school that day, along with several of his friends. Tommy had indicated to me that we wanted to talk to me after we dropped off his friends. During the car ride Tommy looked distraught and uncomfortable. I later learned this was because of the meeting with the investigator.

22. As we headed home, I received a call from one of my other sons that an investigator from DFPS was at the front door of my home, looking for me.

23. After consulting with my husband, we allowed the investigator into our home to interview our family. The investigator told me that the DFPS had been instructed to prioritize investigations into parents who provide gender-affirming medical care to their children over all other child abuse and neglect cases.

24. The investigator interviewed me, my husband, and Tommy's brothers. Tommy was so upset with the situation he had left the room. The questions related to our treatment of Tommy and probed whether we had ever abused him (we have not), forced him to transition (we did not), or forced him to take any drugs in support of his transition (we have not).

25. The investigator also asked about Tommy's medical history. Understanding we have done nothing but rather been loving and supportive of Tommy, as well as consulted with and relied upon the advice from medical and health professionals, I signed a release to allow the investigator to collect and review Tommy's medical records.

26. The interview lasted for approximately an hour.

27. Following the interview, I secured legal representation and days later revoked the release to allow DFPS to collect and review Tommy's medical records.

28. The issuance of the Attorney General's opinion and Governor's letter, along with DFPS's initiation of an investigation into our family, has caused a significant amount of stress,

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anxiety, and fear for my family. For example, Tommy has been traumatized by the prospect that he may be separated from our family. My husband, Tommy's brothers, and I are also filled with anxiety and worry.

29. Since the interview, I have noticed that Tommy appears to be anxious and nervous more often than previously. He now worries that his statements to the investigator may be used as a pretext to take him away from his family, used to otherwise punish me or his siblings, or that he will not have access to the care his doctors have recommended as medically necessary and that would enable him to live more authentically as himself.

30. Following the interview, Tommy's performance at school took a dive and he became more reserved.

31. Tommy had difficulty focusing during school and tests, and his grades deteriorated significantly since the investigation. He struggled not only to focus on studying but also struggled in general to pay attention to his surroundings as a direct result of the stress he has experiences because of this investigation.

32. Our family found a measure of solace knowing that DFPS's investigation had been stopped as a result of a court through the beginning of May 2022. However, when that court order was narrowed to not protect our family, we began to fear the worst again.

33. Indeed, DFPS has contacted my attorney again and indicated that it is continuing with its investigation.

34. I feel that the investigation has violated the privacy of my family and, in particular, my son Tommy. The investigation pulled him out of classes at school, entered our home, and has made Tommy fear that harm may befall his family.

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35. I worry about the potential physical and mental health consequences of depriving Tommy of the medically necessary treatment recommended by his doctors. Not providing such treatment is not an option for us. We believe providing Tommy with the gender-affirming care he requires is necessary to ensure his health and well-being.

36. I do not believe that there is any choice to deprive Tommy of the necessary, medically recommended health care that he requires. I would not deprive him of such care to avoid a finding that there is any reason to believe that I have committed "abuse" and the consequences that would follow such a finding based upon the DFPS's implementation of the Attorney General's opinion and the Governor's letter.

37. We have lived in Texas for 12 years, and Texas is the primary home that Tommy has known. We chose Texas to be our home and want it to remain that way. Even if moving out of the state were feasible, we do not wish to do so if it can be avoided, as, among other things, it could mean the physical separation of our family, loss of employment, and separating Tommy from his long-term healthcare providers and friends.

38. Texas is our home. We are part of a community, comprising family and friends that have been supportive and affirming of Tommy's identity. I worry not only about the multitude of harms caused to my own family through DFPS's change in policy to investigate medically necessary gender-affirming care as a child abuse based on the Attorney General's opinion and Governor's letter, but also about the effect that the actions by DFPS, the Governor, and the Attorney General will have on other transgender youths, like Tommy, and their families.

39. Our family is as much a part of Texas as any other family, and Tommy has the same right to opening live with his identity as any other youth in this state.

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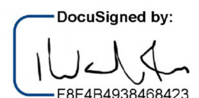
40. The actions by DFPS, the Governor, and the Attorney General threaten the health and wellbeing of transgender youth like my son Tommy, and the integrity of other families like ours.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th of June, 2022 in Scotland.



Wanda Roe

EXHIBIT 7

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CAUSE NO. _______________

PFLAG, Inc., *et al.*,	§	
Plaintiffs,	§	IN THE DISTRICT COURT OF
v.	§	TRAVIS COUNTY, TEXAS
	§	_________ JUDICIAL DISTRICT
GREG ABBOTT, *et. al*,	§	
Defendants.	§	

DECLARATION OF TOMMY ROE

I, Tommy Roe,[1] hereby declare and state as follows:

1. I am over 16 years old, a minor, of sound mind, and in all respects competent to testify. I have personal knowledge of the facts set forth in this Declaration and would testify competently to those facts if called to do so.

2. I am a Plaintiff in this action, with claims on my behalf being brought by my mother, Wanda Roe.

3. We are residents of Texas.

4. Our family is a member of PFLAG.

5. I am transgender. My birth certificate designated me as "female" when I was born, but I am a boy.

[1] Tommy Roe and Wanda Roe are pseudonyms. My mother and I are proceeding under pseudonyms to protect our right to privacy and ourselves from discrimination, harassment, and violence, as well as retaliation for seeking to protect our rights.

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6. Growing up, I was a tomboy. I did not really feel comfortable with the expected interests and gender expression of my sex assigned at birth.

7. As I got closer to puberty, I started to wonder if everyone felt the same panic and revulsion that I did when I looked at my changing body. My body seemed wrong and inconsistent with who I am.

8. Researching online, I found the term "gender dysphoria," and I realized that there was term for the discomfort and distress I felt.

9. I spent months trying to learn and to explore what pronouns felt right and consistent with who I am.

10. I knew I was not a girl but also felt cautious and apprehensive about learning that I was transgender.

11. I thought about the judgment I would face and that states, like my home state of Texas, were seeking to pass laws to take rights away from transgender people. I read stories about people getting kicked out of their homes, losing their friends, and facing stigma in their communities.

12. In the end, I could not ignore how right it felt when I thought of myself living as the boy that I am.

13. I told one friend that I might be trans and my friend responded positively, even asking me what name I wanted to go by.

14. It felt right and brought me a great sense of relief to be able to live as my true self and so I became more comfortable telling close friends and one of my older brothers that I was transgender.

15. In 2020, I finally worked up the nerve to tell my mom. I wrote a letter her explaining everything and watched her read it. When she finished, she hugged me, told me she loved me, and cried. After telling my mom, I told the rest of my brothers and my stepdad.

16. It took my family a little while to adjust but they have all been incredibly supportive and loving.

17. As I moved further into puberty, I felt even more distressed and anxious about the conflict between my body and who I am. In public, I would hide behind my mom, because I worried that someone would misgender me as a girl.

18. I would worry about whether I was walking femininely or whether my breathing sounded masculine enough. I avoided speaking in class and hid from my family and friends, staying alone in my bedroom, because my voice felt wrong.

19. Even in my room, however, I would still feel uncomfortable. It's a horrible feeling, just constantly being in discomfort. You cannot find solace even in privacy, no matter what you do.

20. Just before freshman year of high school, my family and I began working with a team of doctors and a therapist who diagnosed me with gender dysphoria. In consultation with these doctors and therapist, we began to explore the possibility of beginning gender-affirming medical care. Following this months-long process, doctors recommended gender-affirming hormone treatment as treatment for my gender dysphoria.

21. Throughout my freshman year, which occurred remotely due to the COVID-19 pandemic, I began to transition more fully to live and present as the boy that I am.

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22. When sophomore year started, I attended high school presenting and living as the boy that I am. This was my first year of high school that was in-person, as my entire freshman year was virtual due to the COVID-19 pandemic.

23. My transition has allowed me to thrive, both academically and socially. I have more confidence in my everyday life.

24. My mom and stepdad have supported, and continue to support me, throughout my transition.

25. I first learned of the Attorney General's Opinion and the Governor's Directive online, though various posts on social media (like Instagram) and other posts on news websites. When I first learned of the Opinion and Directive, I was shocked and upset. I felt this was an attack on myself and others like me. I did not know how to react and was not sure the repercussions it would have for me and my family. Unfortunately, I quickly found out how these actions would directly affect my life and my family's lives.

26. On February 24, 2022, I was pulled out of class and called to my school administration's office to meet with an investigator from the Texas Department of Family and Protective Services. Earlier that same day, I had texted my mother about the Opinion and Directive.

27. When I was called out of class, I was not told who I would be talking to but was simply sent to the school's office as if I were in trouble. When I arrived, a DFPS investigator was waiting for me. I did not ask to have anyone present with me while being questioned nor was I offered the opportunity to have anyone else present. I was shocked and confused by what was happening. The only people in the room were me and the DFPS investigator.

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28. The investigator proceeded to interview me and asked me a series of deeply personal questions. I was told the interview was related to my home life but was not told the reason a call to CPS was made.

29. The questions were very personal, and asked about my family history, such as history of drug use, medications of my siblings, whether my mother had ever yelled at or hit me, and various other questions about my family and home life. The investigator did not seem familiar with myself or my family at all, as they were unaware of basic information about my family. The interview took about 20 to 30 minutes.

30. I just tried to answer the investigator's questions as honestly as I could, but I was nervous. I suspected the investigator was there because of the Opinion and Directive and I did not want it to seem like my family had actually done anything to me because they had not, and I worried that the investigator might try to twist my words.

31. After the interview, I was shaking and upset. I had missed close to half an hour of class time and did not know what to tell others about why I had been called to the office. While I was entirely truthful in my responses, I feared that the investigator would use my answers and, in some way, punish my family. A teacher noticed that I was upset and asked if I was alright; I told her about what had happened. I texted my mom I had something important we needed to discuss but did say what had happened, because I felt it should be discussed in person.

32. Later that afternoon, my mom picked me up and several friends up from school. Before I told my mom what had happened at school, we received a call from my older brother that there was someone waiting outside our home. My brother was freaked out about what was happening, as was I.

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33. When we arrived home, an investigator, who I believe was the same investigator who had interviewed me at school, was waiting outside our home and asked to speak with my mom. My mom and stepdad decided to let them into the house. The investigator proceeded to interview my entire family, which was confusing and terrifying.

34. The investigator interviewed my mom, my stepdad, and my brothers. I was not present for these interviews, since I was so upset by what was going on that I had to leave for my bedroom. I was told afterwards about some of the questions that were being asked. I believe these questions generally tracked with the questions I was asked at school, related to my medical history, the possibility of abuse at home, and my family history.

35. The investigator was at my home for about an hour.

36. DFPS's change in policy to investigate medically necessary gender-affirming care as a child abuse based on the Attorney General's Opinion and Governor's Directive has caused me a significant amount of stress, fear, and anxiety. The investigator violated my privacy at school and at home. I have always regarded my home as a safe haven and my safety was violated by the investigator's appearance there. My safety at school was also put at risk since I had no way to explain to my friends and peers why I had been so suddenly pulled out of class.

37. I worry that other students will talk about me and bully or harass me based on what has happened. I also worry that something I said to the investigator might give them grounds for further investigation and that I have somehow put my family at risk.

38. I feel that the investigation has violated the privacy of my family. The investigation pulled me out of class at school, entered my home, and made me fear that harm may befall my family.

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39. Since DFPS pulled me out of class already, I fear that they may do so again, and I am powerless to prevent this from happening. As a result, I began to attend school remotely once again immediately following the interview and did so on and off for the rest of the academic year.

40. The fear of being outed and bullied because of DFPS showing up to my school had the effect of pushing me out of in-person school for a time, after I already had to miss so much in-person school during the pandemic. My anxiety and fear, related to the investigation as well as the threat of further investigations or interruptions of mine (and my family's) life have negatively impacted my social and academic success.

41. Though I managed to get my grades back up while DFPS's investigation was stopped by a court order, my grades deteriorated for a while following the interview as a direct result of the worry the investigation caused me. I pride myself on being a good student but following the initiation of the investigation I struggled to focus during class as well as studying. I had difficulty completing my assignments and I did poorly on tests that I would have done well on before the investigation.

42. The investigation by CPS has also had negative effects on not only my life but also my entire family. We have all been subject to unnecessary stress and anxiety as a result of the investigation into the alleged provision of gender-affirming care (which my doctors have recommended as necessary) due to DFPS's change in policy to investigate medically necessary gender-affirming care as a child abuse based on the Attorney General's Opinion and Governor's Directive.

43. I also fear what would happen if I were prohibited from obtaining gender-affirming medical care for my gender dysphoria, which my doctors have recommended as medically necessary. Being able to live as the boy that I am has brought me joy and happiness, and I fear

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what it would mean to be forced to live in body that is not consistent with who I am. Puberty brought me so much stress and anxiety and forced me to be withdrawn. The prospect of being forced to endure that again scares me immensely.

44. Texas is my home. My family and I moved here when I was just a young child. We do not want to leave our home, nor do I want to be separated from my friends. However, we may have to if I cannot access medically necessary care recommended by my doctors as a result of DFPS's change in policy to investigate gender-affirming care as a child abuse based on the Attorney General's Opinion and Governor's Directive.

45. The actions by DFPS, the Governor, and the Attorney General threaten my health, safety, and wellbeing, as well as that of transgender youth like myself. They also threaten the integrity of families like mine.

46. My mom, stepdad, and brothers are loving and caring. They support me. They love me. And being able to live and be perceived as the boy that I am has made my life better and full of joy.

47. It is hurtful to know that DFPS, the Governor, and the Attorney General believe that I am wrong and that those who support and love me for who I am are wrong for doing so.

48. I am offended and hurt that my state government wants to make it unlawful for trans youth like me to be ourselves, and that DFPS, the Governor, and the Attorney General are willing to persecute families like mine simply for loving and supporting their trans children.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of June, 2022 in Scotland.

DocuSigned by:
Tommy Roe
B01EBA0B3656472...

Tommy Roe

EXHIBIT 8

CAUSE NO. ________________

PFLAG, Inc., *et al.*,	§	**IN THE DISTRICT COURT OF**
Plaintiffs,	§	
v.	§	**TRAVIS COUNTY, TEXAS**
	§	**_____ JUDICIAL DISTRICT**
GREG ABBOTT, *et. al*,	§	
Defendants.	§	

AFFIDAVIT OF ADAM BRIGGLE

1. "My name is Adam Briggle. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct. I would testify competently to these facts if called to do so.

2. Along with my wife Amber Briggle, I am a Plaintiff in this case. We are bringing claims on behalf of ourselves and as the parents and next friends of our son, M.B.[1]

3. My wife and I are members of PFLAG, which is also a Plaintiff in this case.

4. My wife and I have two children. We have been married for twenty years and reside in Texas—our home for the past thirteen years.

5. Our son, M.B., is fourteen years old. We love and support him and only want what is best for him. M.B. is a good kid who rarely gets into trouble. He is outgoing, a good student, and is well-liked among his peers. M.B. is also a gifted musician—he plays many instruments and has no problem picking up a new instrument and teaching himself how to play. A few of the instruments M.B. currently plays are the ukulele, cello, guitar, bass guitar, vihuela, and piano.

[1] Because M.B. is a minor, M.B. is proceeding pseudonymously.

M.B. is also a gifted athlete. He has two black belts in Taekwondo, and is an experienced gymnast with multiple medals.

6. M.B. is transgender. When he was born, his sex was designated as "female," even though he is a boy.

7. From a very young age, M.B. expressed himself and behaved in manner that does not conform with the stereotypes associated with the sex he was designated at birth.

8. We have always permitted M.B. to express himself and explore who he is. When M.B. was two years and three months old, he began telling us that he was a boy.

9. Because M.B. persisted in telling us that he was a boy, we began to educate ourselves about what it means to be transgender—when a person's gender identity differs from the sex they were designated at birth.

10. We also consulted with physicians and mental health providers who are experts in their field about the best ways to support M.B. M.B. was diagnosed with gender dysphoria when he was about seven years old. He was also diagnosed with a breathing disorder when he was young. Regardless of whether it is gender dysphoria, a breathing disorder, a cavity, or any other type of healthcare our kids need, we seek out the best advice we can and then follow the recommendations of the experts and specialists who know better than we do. At present, M.B. is under the care of physicians for all of his health care, including his breathing disorder and his gender dysphoria. As any loving and supportive parent would, we are following the advice, guidance and expertise of his health care providers with respect to medically necessary treatment as is appropriate for his gender dysphoria, his breathing disorder, and all of his medical conditions.

11. The most important priority and commitment for Amber and me is to ensure the health, safety, and wellbeing of M.B., and our other child, whom my wife and I love and support

with everything we have. We want to give M.B. and our other child every opportunity to live full and happy lives.

12. In addition to supporting and affirming M.B. personally, my wife and I began to advocate for M.B. and other LGBTQ+ kids like him. In 2016, we invited Texas Attorney General Ken Paxton into our home, to share a meal with us, to meet M.B., and to learn from our respective lived experiences. In 2017, my wife participated in Trans Texas Lobby Day with M.B. at her side, and in 2019, we participated in an open community discussion at City Hall in Denton, Texas in support of a proposed local ordinance which would prohibit discrimination against LGBTQ+ people in housing, employment, and public accommodations. The ordinance passed.

13. Amber has testified twice before the Texas Legislature against the passage of legislation that would harm transgender young people, including in 2021, when she testified before the Texas Senate Committee on State Affairs against proposed bills that would have included the provision of medically necessary gender-affirming health care for transgender youth as child abuse. At the conclusion of the 2021 Texas Legislative sessions, none of the proposed legislation that would have harmed transgender youth or their families by restricting access to medically necessary gender-affirming health care passed.

14. After the issuance of Attorney General Paxton's opinion dated February 18, 2022 ("Opinion"), and Governor Abbott's letter dated February 22, 2022 ("Directive"), directing the Texas Department of Family and Protective Services ("DFPS") to investigate the provision of medically necessary gender-affirming health care as "abuse," my life, my wife's life, M.B.'s life, and our family's lives were turned upside down.

15. Within forty-eight hours of Governor Abbott's Directive to DFPS to begin investigating families, we were contacted by a DFPS Child Protective Services ("CPS")

investigator. Fear and panic washed over us at the prospect of M.B. being taken away from our close and extended family, from his friends, and from the life that he loves.

16. After leaving a message on Friday, February 25, 2022, at Amber's place of business, the CPS investigator contacted us again the following Monday, stating she was thirty minutes away from our home and that she wanted to talk to us. Amber asked the CPS investigator to come to her office instead, which she agreed to do. The CPS investigator showed up at Amber's office. We asked her why she was there. She said DFPS had received a report that we were engaging in "transgender transformation" of M.B. When we asked what that meant, she said CPS was investigating us "because of the Governor's Directive."

17. Later that week, the CPS Investigator came to our home and asked us very intimate, personal, and invasive questions to determine if Amber and I had committed "abuse" by affirming our transgender son's identity and following the advice of his medical and mental health care professionals. The CPS investigator interviewed Amber and me together, in the presence of our attorney, but interviewed M.B., who was also accompanied by a different attorney, apart from us. The interview was conducted in our living room. The CPS investigator asked us to sign releases to obtain M.B.'s medical records, but we refused to sign them.

18. The CPS investigator also went into and inspected every room in our home except M.B. and our other child's bedrooms. When we came to the doorways of our kids' bedrooms I stopped as if to say, that is far enough. The CPS investigator seemed to understand the nonverbal cue and instead of going into their bedrooms, she stood in each doorway and looked inside. The inspection included opening every drawer and cabinet in our kitchen, opening our refrigerator, inspecting our food, opening every drawer and cabinet in our bathrooms, inspecting the medicine in our cabinets, looking in our closets, showing her M.B. and his sibling's artwork on the walls,

showing her their toys, books, and games in the family room, walking into the dining room where the chalice that we light before dinner sits and our Unitarian Universalist Principles Banner hangs, and finally, showing her the trampoline in our backyard. I have never felt more invaded in the place that I feel the safest – ever. I observed how Amber, M.B., and our other child looked uncomfortable, anxious, and even scared as their home was invaded, too.

19. During her visit, the CPS investigator disclosed that the sole allegation against our family is that my wife and I have a transgender son and that we allowed our son to undergo treatment for gender transition.

20. After the CPS investigator left, all four of us were visibly shaken. The CPS investigation was a gross and egregious intrusion into our home, into nearly every aspect our private lives, into our affirmation and support for M.B., into our entire family, into our parents' relationships with M.B. and his sibling, into M.B.'s relationships with his friends, into his grades, and also into the medical and mental health advice that we received from M.B.'s doctors and therapists. After the CPS visit, Amber and I did not sleep, I found it hard to concentrate in my job as an Associate Professor of Philosophy and Religion and Director of Graduate Studies at the University of North Texas, and I had headaches. I observed that Amber found it hard to eat and did not have an appetite. I am anxious, and worry about what we can do to keep our family intact and our son safe and healthy.

21. The investigation into our family has been open since on or about February 24, 2022, or for over three months. Though it was put on hold by the early injunctions in the *Doe v. Abbott* litigation, after the Texas Supreme Court's opinion in *In re Abbott*, Cause No. 22-0229 (May 13, 2022), DFPS has continued to pursue it.

22. We first came out publicly as a family with a transgender son in 2016 and were

never previously investigated by DFPS. The only thing that changed in the nearly six years since we first shared our story was the issuance of the Paxton Opinion and the Governor's Directive.

23. The issuance of the Paxton Opinion and the Governor's Directive, along with DFPS's implementation of the substantive change in DFPS policy in response to both of these, has caused overwhelming fear, stress and anxiety for each of us: me, Amber, M.B., and our other child, as well as other family members of ours who love and support M.B. and us. We are terrified for M.B.'s physical and mental health, safety, and wellbeing, and for our family. We live in constant fear every day that one or both of our children will be taken away from us. We are also worried that if M.B. is taken away from us, the closeness that he has to our other child will be significantly harmed, and that his sibling will not have the opportunity to grow up, laugh with, and learn from M.B. Since the Paxton Opinion and the Governor's Directive, my wife and I have been called criminals, child abusers, and "groomers" on social media. For the first time, we have installed cameras outside of our home. And since the Governor's Directive, I have been followed in our minivan, and yelled at by a person in another vehicle.

24. Prior to the opening of the CPS investigation into our family, M.B. was typically playful, joyful, and happy. Now, M.B. is scared, anxious, and worried that he will be removed from our home, taken away from us, his sibling, friends, school, and the life and activities he loves. M.B. has also had a hard time sleeping, he is moodier, and has stayed home from school. M.B.'s grades have suffered, which has never been an issue before.

25. In addition, since the Paxton Opinion and the Governor's Directive and the investigation into our family, both M.B. and our other child are now in therapy to help them cope with the stress of thinking that they will be taken away from us.

26. My wife and I worry about the potential short-term and long term physical and

mental health consequences of our failure to follow the advice, guidance and counseling of M.B.'s physicians and mental health professionals with respect to medically necessary treatment as is appropriate for him for his gender dysphoria. We do not want to risk our son's health, safety, or well-being and instead want to make sure that he continues to thrive.

27. There is simply no good or valid reason for this kind of treatment by our elected and appointed officials when our son is thriving and growing into young adulthood with all of the opportunities we can provide him and that other family members, including his grandparents have been providing him. The fear we feel is constant, unwarranted, and unpalatable. And it has grown even more worrisome since DFPS has refused to close the investigation after the Texas Supreme Court's opinion in *In re Abbott*.

28. Amber and I have seriously considered moving to another state that is more inclusive and that does not have laws or executive actions that harm our son. However, I am a tenured professor, working for a university that I love very much. Much of my research and publications are about fracking which is abundant in North Texas. Leaving Texas would be a severe financial hardship. It would also be a hardship on our children and especially M.B. because of the friendships he has developed, because he is accepted for who he is here and at his school and in his activities, and because of our established relationships with his healthcare providers.

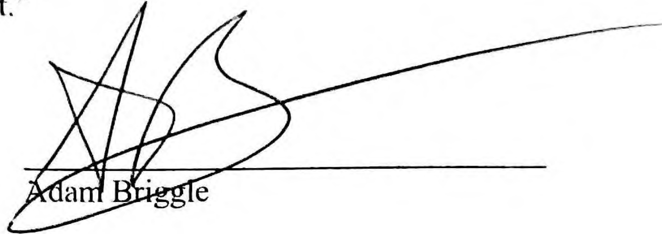
29. Texas is our home. We are part of a community that has known M.B. all his life and that has been supportive and affirming. We worry not only about the multitude of harms caused by DFPS's implementation of Paxton's Opinion and the Governor's Directive that I have described herein, but also about the effect that the actions by DFPS, the Governor, and the Attorney General will have on other transgender youth, like M.B., and their families. Our family is just as much a part of Texas as any other family, and M.B. has the right to be provided with the same

affirmation, love, and ability to thrive as any other youth in our state.

30. The actions by DFPS, the Governor, and the Attorney General threaten the health, safety, and wellbeing of transgender youth like M.B. and the integrity of families like ours. Because the investigation is ongoing, we are suffering immediate and irreparable harm as described though the facts set forth above.

31. Further Affiant Sayeth Not."

Signed on this the 6th day of June 2022.



Adam Briggle

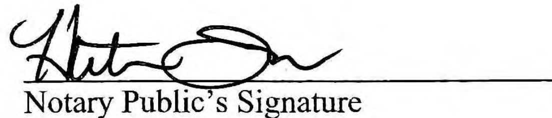
State of Texas

County of Denton

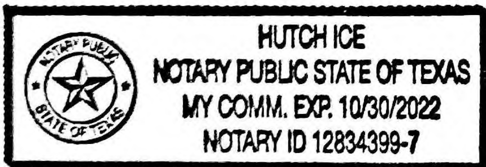
Before me, a notary public, on this day personally appeared Adam Briggle, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

Sworn to and subscribed before me on the 6th day of June 2022, by Adam Briggle.

(Personalized Seal)



Notary Public's Signature



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Starla Barker on behalf of Maddy Dwertman
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starla.barker@bakerbotts.com
Envelope ID: 65267486
Status as of 6/8/2022 5:47 PM CST

Associated Case Party: GREG ABBOTT THE GOVERNOR OF THE STATE OF TEXAS

Name	BarNumber	Email	TimestampSubmitted	Status
Courtney Corbello	24097533	courtney.corbello@oag.texas.gov	6/8/2022 5:46:18 PM	SENT

Case Contacts

Name
Paul Castillo
Maddy Dwertman
Adriana Pinon
Savannah Kumar
Brandt Roessler
John Ormiston
Derek McDonald
David B.Goode
Chase Strangio
Brian Klosterboer
Nischay Bhan
James Esseks
Anjana Samant
Kath Xu
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Elizabeth Gill		egill@aclunc.org	6/8/2022 5:46:18 PM	SENT

Appendix B

6/10/2022 4:39 PM
Velva L. Price
District Clerk
Travis County
D-1-GN-22-002569
Alexus Rodriguez

CAUSE NO. D-1-GN-22-002569

PFLAG, INC.; MIRABEL VOE, individually and as parent and next friend of ANTONIO VOE, a minor; WANDA ROE, individually and as parent and next friend of TOMMY ROE, a minor; ADAM BRIGGLE and AMBER BRIGGLE, individually and as parents and next friends of M.B., a minor, Plaintiffs,	§	IN THE DISTRICT COURT OF
v.	§	TRAVIS COUNTY, TEXAS
	§	459th JUDICIAL DISTRICT
GREG ABBOTT, sued in his official capacity as Governor of the State of Texas; JAIME MASTERS, sued in her official capacity as Commissioner of the Texas Department of Family and Protective Services; and the TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES Defendants	§	

TEMPORARY RESTRAINING ORDER

On this day, the Court heard argument by counsel for the parties and considered the application by Plaintiffs PFLAG, Inc. ("PFLAG"); Mirabel Voe, individually and as parent and next friend of Antonio Voe, a minor; Wanda Roe, individually and as parent and next friend of Tommy Roe; and, Adam Briggle and Amber Briggle, individually and as parents and next friends of M.B., a minor, (collectively, "Plaintiffs") for a Temporary Restraining Order (the "Application"), as found in Plaintiffs' Original Petition, Application for Temporary Restraining Order, Temporary and Permanent Injunction, and Request for Declaratory Relief ("Petition") filed against Defendants Greg Abbott, in his official capacity as Governor of the State of Texas; Jaime Masters, in her official capacity as Commissioner of the Texas

Department of Family and Protective Services ("Commissioner Masters"); and the Texas Department of Family and Protective Services (collectively, "Defendants").

From the facts set forth in Plaintiffs' Petition, and the declarations attached thereto, the Court finds sufficient cause to enter a Temporary Restraining Order against Commissioner Masters and the Texas Department of Family and Protective Services ("DFPS"). Plaintiffs state a valid cause of action under the Texas Administrative Procedure Act against Commissioner Masters and DFPS and have a probable right to the declaratory and permanent injunctive relief they seek. For the reasons detailed in Plaintiffs' Application and accompanying evidence, there is a substantial likelihood that Plaintiffs will prevail after a trial on the merits because improper rulemaking and implementation by Commissioner Masters and DFPS of a new policy based on Governor Abbott's Letter and Attorney General Paxton's Opinion, as announced in DFPS's Statement, are void because they were adopted without following the necessary procedures under the APA, are contrary to DFPS's enabling statute and beyond the authority provided to the Commissioner and the agency, and otherwise contrary to law.

It clearly appears to the Court that unless Commissioner Masters and DFPS are immediately enjoined from implementing and enforcing the new DFPS rule, Governor Abbott's Letter and Attorney General Paxton's Opinion, as announced in DFPS's Statement, the Voe, Roe, and Briggle families (collectively, "Plaintiff Families") and members of Plaintiff PFLAG will suffer immediate and irreparable injury. Such injury includes, but is not limited to: gross invasions of privacy in the home and school, and the resulting trauma felt by parents, siblings, and other household members; outing an adolescent as transgender; adverse effects on grades and participation in school activities; fear and anxiety associated

with the threat of having a child removed from the home; increased incidence of depression and risk of self-harm or suicide; the deprivation or disruption of medically necessary care for the parents' adolescents; having to uproot their lives and their families to seek medically necessary care in another state; being placed on the child abuse registry and the consequences that result therefrom; and criminal prosecution and the threat thereof.

The Court further finds that Commissioner Masters's and DFPS's wrongful actions cannot be remedied by any award of damages or other adequate remedy at law.

IT IS THEREFORE ORDERED that Defendants Commissioner Masters and DFPS are immediately enjoined and restrained from implementing or enforcing DFPS's new rule, implementing the Abbott Letter and the Paxton Opinion as announced in the DFPS Statement, with regard to Plaintiff Families and other members of Plaintiff PFLAG, and such restraint encompasses but is not limited to: (1) investigating Plaintiff Families and members of PFLAG for possible child abuse solely based on allegations that they have a minor child who is transgender, gender nonconforming, gender transitioning, or receiving or being prescribed gender-affirming medical treatment, and (2) taking any actions against Plaintiff Families and other members of PFLAG solely based on allegations that they have a child who is transgender, gender nonconforming, gender transitioning, or receiving or being prescribed gender-affirming medical treatment.

IT IS FURTHER ORDERED that in furtherance of the above, DFPS and its employees, agents, contractors, as well as any individuals or entities in active concert with them, directly or indirectly under their control, or participating with them, who receive notice that the person(s) reported for suspected child abuse solely based on allegations that they have a minor child who is transgender, gender nonconforming, gender transitioning, or receiving

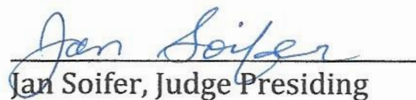
or being prescribed gender-affirming medical treatment, is a member of Plaintiff PFLAG, shall immediately cease any intake, investigation, or assessment, including ceasing any contact, communications, or other activity related to processing such report.

IT IS FURTHER ORDERED that Plaintiffs' Application for Temporary Injunction be heard before a Civil District Court of Travis County, Texas on June 21, 2022, at 9:00 a.m. The purpose of the hearing is to determine why a temporary injunction should not be issued as requested by Plaintiffs. The Clerk of the Court is hereby directed to issue a show cause notice to Defendants to appear at the temporary injunction hearing. The hearing must be announced pursuant to the Local Rules, and the assigned Court will contact the parties with respect to the details of the hearing.

The Clerk of the Court shall forthwith, on filing by Plaintiffs of the Bond hereinafter required, and on proving of the same according to law, issue a temporary restraining order in conformity with the laws and terms of this Order.

This Order shall not be affected unless and until Plaintiffs execute and file with the Clerk a bond in conformity with the law, in the amount of $100.00 dollars.

Signed on June 10, 2022, at 3:23 p.m. in Travis County, Texas.



Jan Soifer, Judge Presiding

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Envelope ID: 65348279
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Associated Case Party: GREG ABBOTT THE GOVERNOR OF THE STATE OF TEXAS

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Courtney Corbello	24097533	courtney.corbello@oag.texas.gov	6/10/2022 4:39:16 PM	SENT

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Chase Strangio
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Camilla B.Taylor		ctaylor@lambdalegal.org	6/10/2022 4:39:16 PM	SENT
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Elizabeth Gill		egill@aclunc.org	6/10/2022 4:39:16 PM	SENT

Appendix C

7/8/2022 5:11 PM
Velva L. Price
District Clerk
Travis County
D-1-GN-22-002569
Marc Viteritto

CAUSE NO. D-1-GN-22-002569

PFLAG, INC.; MIRABEL VOE, individually and as parent and next friend of ANTONIO VOE, a minor; WANDA ROE, individually and as parent and next friend of TOMMY ROE, a minor; ADAM BRIGGLE and AMBER BRIGGLE, individually and as parents and next friends of M.B., a minor, Plaintiffs, v. GREG ABBOTT, sued in his official capacity as Governor of the State of Texas; JAIME MASTERS, sued in her official capacity as Commissioner of the Texas Department of Family and Protective Services; and the TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES Defendants.	§ §	IN THE DISTRICT COURT OF TRAVIS COUNTY, TEXAS 459th JUDICIAL DISTRICT

ORDER GRANTING PLAINTIFFS VOES' AND ROES' APPLICATIONS FOR TEMPORARY INJUCTION AGAINST JAMIE MASTERS, IN HER OFFICIAL CAPACITY AS THE COMISSIONER OF THE TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES, AND THE TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

On July 6, 2022, the Court considered the application by Plaintiffs PFLAG, Inc. ("PFLAG"); Mirabel Voe, individually and as parent and next friend of Antonio Voe, a minor; Wanda Roe, individually and as parent and next friend of Tommy Roe; and, Adam Briggle and Amber Briggle, individually and as parents and next friends of M.B., a minor, (collectively, "Plaintiffs") for a Temporary Injunction (the "Application"), as found in Plaintiffs' Original Petition, Application for Temporary Restraining Order, Temporary and Permanent Injunction, and Request for

Declaratory Relief ("Petition") filed against Defendants Greg Abbott, in his official capacity as Governor of the State of Texas; Jaime Masters, in her official capacity as Commissioner of the Texas Department of Family and Protective Services ("Commissioner Masters"); and the Texas Department of Family and Protective Services ("DFPS") (collectively, "Defendants").

Based on the facts set forth in Plaintiffs' Petition, the declarations attached thereto, the testimony, the evidence, and the argument of counsel presented during the July 6, 2022, hearing on Plaintiffs' Application, this Court finds sufficient cause to enter a Temporary Injunction against Commissioner Masters and DFPS on behalf of MIRABEL VOE, individually and as parent and next friend of ANTONIO VOE, a minor and WANDA ROE, individually and as parent and next friend of TOMMY ROE, a minor. The applications for Temporary Injunction on behalf of PFLAG, Inc. and ADAM BRIGGLE and AMBER BRIGGLE, individually and as parents and next friends of M.B., a minor, remain under advisement by the Court and no ruling is issued in this Order.

Plaintiffs VOE and ROE state a valid cause of action against Commissioner Masters and DFPS and have a probable right to the declaratory and permanent injunctive relief they seek. For the reasons detailed in Plaintiffs' Application and accompanying evidence, there is a substantial likelihood that Plaintiffs will prevail after a trial on the merits. Commissioner Masters and DFPS implemented a new rule expanding the definition of "child abuse" to presumptively treat the provision of gender-affirming medical care, including puberty blockers and hormone therapy, as necessitating an investigation ("DPFS Rule"). The DFPS Rule operationalized Governor Abbott's February 22, 2022, letter to Commissioner Masters ("Governor Abbott's Directive") and Attorney General Paxton's Opinion No. KP-0401 ("Attorney General Paxton's Opinion"), which DFPS announced in its statement on February 22, 2022. The DFPS Rule was adopted without following

the necessary procedures under the APA, is contrary to DFPS's enabling statute, is beyond the authority provided to the Commissioner and DFPS, and is otherwise contrary to law, as alleged in Plaintiffs' Petition.

The Court further finds that an allegation about the provision of gender-affirming medical care, such as puberty blockers and hormone therapy, without more, was not investigated as child abuse by DFPS until after February 22, 2022. The DFPS Rule changed the *status quo* for transgender children and their families. The DFPS Rule was given the effect of a new law or new agency rule, despite no new legislation, regulation, or even valid agency policy.

It clearly appears to the Court that unless Commissioner Masters and DFPS are immediately enjoined from enforcing the DFPS Rule operationalizing Governor Abbott's Directive and Attorney General Paxton's Opinion, against the VOE and ROE Plaintiffs, who will suffer probable, imminent, and irreparable injury in the interim. Such injury, which cannot be remedied by an award of damages or other adequate remedy at law, includes, but is not limited to: being subjected to an unlawful and unwarranted child abuse investigation; intrusion and interference with parental decision-making; the deprivation or disruption of medically necessary care for the parents' adolescent children; the chilling of the exercise of the right of Texas parents to make medical decisions for their children relying upon the advice and recommendation of their health care providers acting consistent with prevailing medical guidelines; intrusion into the relationship between patients and their health care providers; gross invasions of privacy in the home and school, and the resulting trauma felt by parents, siblings, and other household members; outing an adolescent as transgender; adverse effects on grades and participation in school activities; fear and anxiety associated with the threat of having a child removed from the home; increased incidence of depression and risk of self-harm or suicide; having to uproot their lives and

their families to seek medically necessary care in another state; being placed on the child abuse registry and the consequences that result therefrom; and criminal prosecution and the threat thereof.

The Temporary Injunction being entered by the Court today maintains the status quo prior to February 22, 2022, and should remain in effect until final trial. The PFLAG and BRIGGLE Plaintiffs' Applications for Temporary Relief remain pending before this Court, and the Court will rule as soon as possible after it has had adequate time to consider legal and factual consideration of the record before it.

IT IS THEREFORE ORDERED that, until all issues in this lawsuit are finally and fully determined, Defendants Commissioner Masters and DFPS *are immediately enjoined and restrained from* implementing or enforcing the DFPS Rule, and from implementing Governor Abbott's Directive and the Attorney General's Opinion in the following manners:

(1) investigating MIRABEL VOE or WANDA ROE, individually or as next friends of ANTONIO VOE or TOMMY ROE, for possible child abuse or neglect *solely* based on allegations that they have a minor child or are a minor child who is gender transitioning or alleged to be receiving or being prescribed medical treatment for gender dysphoria, and

(2) taking any actions, including investigatory or adverse actions, against Plaintiffs VOE and ROE and their minor children, with open investigations solely based on allegations that they have a child who is transgender, gender nonconforming, gender transitioning, or receiving or being prescribed medical treatment for gender dysphoria, except that DFPS shall have the ability to administratively close or issue a "ruled out" disposition in any of these open investigations based on the information DFPS has to date – if this action requires no additional contact with members of the VOE or ROE families.

IT IS FURTHER ORDERED that a trial on the merits of this case is preferentially set before the Honorable Amy Clark Meachum, Judge of the 201st Judicial District Court of Travis County, Texas, on December 5, 2022, at 9 a.m. in the courtroom of the 201st Judicial District of Travis County, Texas, or in the 201st District Court Virtual/Zoom courtroom under the Texas Supreme Court Emergency Orders related to COVID-19. The Clerk of the Court is hereby directed to issue a show cause notice to Defendants to appear at the trial.

The Clerk of the Court shall forthwith issue a temporary injunction in conformity with the laws and terms of this Order.

Plaintiffs have previously executed with the Clerk a bond in conformity with the law in the amount of $100 dollars, and that bond amount will remain adequate and effective for this Temporary Injunction.

IT IS FURTHER ORDERED that this Order shall not expire until judgment in this case is entered or this Case is otherwise dismissed by the Court.

Signed on July 8, 2022, at 4:55 p.m. in Travis County, Texas.

JUDGE AMY CLARK MEACHUM

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Associated Case Party: GREG ABBOTT THE GOVERNOR OF THE STATE OF TEXAS

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Courtney Corbello	24097533	courtney.corbello@oag.texas.gov	7/8/2022 5:11:11 PM	SENT
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Case Contacts

Name
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Maddy Dwertman
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Savannah Kumar
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Nischay Bhan
Sean King
John Ormiston
Derek McDonald
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M. Currey Cook		ccook@lambdalegal.org	7/8/2022 5:11:11 PM	SENT
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Camilla B.Taylor		ctaylor@lambdalegal.org	7/8/2022 5:11:11 PM	SENT
Nick Palmieri		nick.palmieri@bakerbotts.com	7/8/2022 5:11:11 PM	SENT
Elizabeth Gill		egill@aclunc.org	7/8/2022 5:11:11 PM	SENT
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Associated Case Party: PFLAGI NC

Name
David Goode
Nischay Bhan
Adriana Pinon
Michele Clanton
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Karen Loewy
Nicholas Guillory
Brian Klosterboer
Maddy Dwertman
Currey Cook
Chase Strangio
James Esseks

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Elizabeth Gill		egill@aclunc.org	7/8/2022 5:11:11 PM	SENT
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Appendix D

7/8/2022 6:13 PM
Velva L. Price
District Clerk
Travis County
D-1-GN-22-002569
Selina Hamilton

NO. D-1-GN-22-002569

PFLAG, INC., ET AL., ***Plaintiffs*,**	**IN THE DISTRICT COURT OF**
v.	**TRAVIS COUNTY, TEXAS**
GREG ABBOTT, ET AL., ***Defendants*.**	**459th JUDICIAL DISTRICT**

DEFENDANTS' NOTICE OF ACCELERATED INTERLOCUTORY APPEAL

Defendants Greg Abbott in his official capacity as Governor of the State of Texas ("Governor Abbott"), Jaime Masters in her official capacity of Commissioner of the Department of Family and Protective Services ("Commissioner Masters"), and the Texas Department of Family and Protective Services ("DFPS") (collectively, "Defendants") appeal the Court's interlocutory order of July 8, 2022 granting Plaintiffs' Roe and Voe's application for a temporary injunction.

Defendants are entitled to an interlocutory appeal pursuant to Civil Practice and Remedies Code section 51.014(a)(4), which allows for an immediate appeal from an order that grants a temporary injunction. Defendants appeal to the Third Court of Appeals. This is an accelerated appeal as provided by Texas Rule of Appellate Procedure 28.1. This is not a parental termination or child protection case, as defined in Rule 28.4.

Pursuant to Texas Civil Practice and Remedies Code § 51.014(b), all further proceedings in this court are stayed pending resolution of Defendants' appeal. Upon filing of this instrument, the July 8, 2022 Order Granting Plaintiffs' Roe and Voe's Application for Temporary Injunction is superseded pursuant to Texas Civil Practice and Remedies Code section 6.001(b) and Texas

Rule of Appellate Procedure 29.1(b). Pursuant to section 6.001, as governmental officers/entities, Defendants are not required to file a supersedeas bond for court costs. Defendants' appeal is therefore perfected upon the filing of the notice of appeal.

Respectfully Submitted.

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

GRANT DORFMAN
Deputy First Assistant Attorney General

SHAWN COWLES
Deputy Attorney General for Civil Litigation

CHRISTOPHER HILTON
Division Chief
General Litigation Division

/s/ Courtney Corbello
COURTNEY CORBELLO
Attorney-in-Charge
Assistant Attorney General
Texas State Bar No. 24097533
courtney.corbello@oag.texas.gov

General Litigation Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548
(512) 463-2120 / Fax (512) 320-0667

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I, **COURTNEY CORBELLO**, Assistant Attorney General of Texas, hereby certify that a true and correct copy of the foregoing document has been served electronically through the electronic-filing manager in compliance with TRCP 21a on July 8, 2022 to:

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/s/ Courtney Corbello
COURTNEY CORBELLO
Assistant Attorney General

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Case Contacts

Name
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Christopher Clay		cclay@aclutx.org	7/8/2022 6:13:06 PM	SENT

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Courtney Corbello	24097533	courtney.corbello@oag.texas.gov	7/8/2022 6:13:06 PM	SENT
Thomas Ray		thomas.ray@oag.texas.gov	7/8/2022 6:13:06 PM	SENT
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Currey Cook
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Elizabeth Gill		egill@aclunc.org	7/8/2022 6:13:06 PM	SENT
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Appendix E

1 **REPORTER'S RECORD**
VOLUME 1 OF 2 VOLUMES
2 **TRIAL COURT CAUSE NO. D-1-GN-22-002569**

3

PFLAG, INC., ET AL.,	)	IN THE DISTRICT COURT
Plaintiffs,	)	
	)	
VS.	)	TRAVIS COUNTY, TEXAS
	)	
GREG ABBOTT, ET EL.,	)	
Defendants.	)	459TH JUDICIAL DISTRICT

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12 **HEARING ON MOTION FOR TEMPORARY INJUNCTION**
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20 On the 6th day of July, 2022, the following
21 proceedings came on to be heard in the above-entitled
22 and numbered cause before the Honorable Amy Clark
23 Meachum, Judge Presiding, held in Austin, Travis
24 County, Texas:
25 Proceedings reported by machine shorthand.

1 **APPEARANCES**

2

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1 **INDEX**

2 **VOLUME 1**

3 **HEARING ON MOTION FOR TEMPORARY INJUNCTION**

4

5 **JULY 7, 2021**

6		Page	Vol.
7	Announcements............................	10	1
8	Motion to Exclude Investigation Reports..	14	1
9	Argument by Mr. Castillo.................	14	1
10	Argument by Ms. Corbello.................	17	1
11	Opening Statement by Mr. Castillo........	26	1
12	Opening Statement by Ms. Corbello........	28	1

13

14 **PLAINTIFFS' WITNESSES**

15		Direct	Cross	Vol.
16	**MIRABEL VOE**			
	By Ms. Samant	32		1
17	By Ms. Corbello		54	1
18	**BRIAN BOND**			
	By Mr. Cook	59		1
19	By Ms. Corbello		76	1
20	**CASSANDRA BRADY, M.D.**			
	By Mr. Gonzalez-Pagan	82		1
21	By Mr. Stone		111	1
22	**RANDA MULANAX**			
	By Mr. Klosterboer	131		1
23	By Ms. Corbello		141	1
24	**WANDA ROE**			
	By Mr. Guillory	145		1
25	By Ms. Corbello		151	1

1 **INDEX CONTINUED**

2

3 **DEFENDANTS' WITNESSES**

Line		Direct	Cross	Vol.
5	**JAMES CANTOR, PH.D.**			
	By Mr. Stone	157		1
6	By Mr. Gonzalez-Pagan		162	1
	By Mr. Stone	171		1
7	By Mr. Gonzalez-Pagan		205	1
8	**MARTA TALBERT**			
	By Mr. Stone 215			1

9

Line		Page	Vol.
11	Rule 76a Temporary Sealing Order Hearing.	239	1
12	COURT'S RULING ON RULE 76A		
13	TEMPORARY SEALING ORDER HEARING......	251	1

14

15 **DEFENDANTS' WITNESSES**

Line		Direct	Cross	Vol.
17	**MARTA TALBERT**			
	By Mr. Stone	257		1
18	By Mr. Cook		263	1

19

20

21

22

23

24

25

1 **INDEX CONTINUED**

2

		Page	Vol.
4	Defendants rest..........................	270	1
5	Plaintiffs rest..........................	270	1
6	Closing Argument by Mr. Castillo.........	271	1
7	Closing Argument by Ms. Corbello.........	283	1
8	Closing Argument by Mr. Stone............	295	1
9	Closing Argument by Mr. Pittman..........	296	1
10	Further Closing Argument by Ms. Corbello.	299	1
11	Further Closing Argument by Mr. Castillo.	299	1
12	TAKEN UNDER ADVISEMENT...................	301	1
13	Adjournment..............................	301	1
14	Court Reporter's Certificate.............	302	1

15
16
17
18
19
20
21
22
23
24
25

ALPHABETICAL WITNESS INDEX

	Direct	Cross	Vol.
BOND, BRIAN			
By Mr. Cook	59		1
By Ms. Corbello		76	1
BRADY M.D., CASSANDRA			
By Mr. Gonzalez-Pagan	82		1
By Ms. Corbello		111	1
CANTOR, PH.D., JAMES			
By Mr. Stone	157		1
By Mr. Gonzalez-Pagan		162	1
By Mr. Stone	171		1
By Mr. Gonzalez-Pagan		205	1
MULANAX, RANDA			
By Mr. Klosterboer	131		1
By Ms. Corbello		141	1
ROE, WANDA			
By Mr. Guillory	145		1
By Ms. Corbello		151	1
TALBERT, MARTA			
By Mr. Stone	215		1
TALBERT, MARTA			
By Mr. Stone	257		1
By Mr. Cook		263	1

1 **EXHIBIT INDEX**

2

3 **PLAINTIFFS'**

NO.	DESCRIPTION	OFFER	ADMIT	VOL.
2	Letter	133	134	1
3	Statement	135	135	1
5	Dr. Brady's CV	88	88	1
7	Endocrine Treatment	98	--	1
15	Agenda	137	137	1
16	CPS Handbook	138	139	1
17	CPS Handbook	139	139	1
18	CPS Handbook	139	140	1
19	CPS Handbook	140	140	1
20	CPS Handbook	141	141	1
22	PFLAG Articles of Incorporation	63	63	1
23	PFLAG National Bylaws	64	65	1

18
19
20
21
22
23
24
25

EXHIBIT INDEX CONTINUED

DEFENDANTS'

NO.	DESCRIPTION	OFFER	ADMIT	VOL.
1	Dr. Cantor's Report	173	--	1
2	Dr. Laidlaw's Report	202	--	1
3	Mr. Black's Declaration	203	--	1
9	Roe Investigation File **(Sealed Exhibit)**	255	--	1
10	Tommy Roe Audio Interview **(Sealed Exhibit)**	255	--	1
11	Voe Investigation File **(Sealed Exhibit)**	255	--	1
12	Briggle Investigation File **(Sealed Exhibit)**	255	--	1
13	Briggle Audio Interview **(Sealed Exhibit)**	255	--	1
25	Poe Investigation File **(Sealed Exhibit)**	255	--	1
26	Dr. Cantor's CV	200	200	1
31	Business Records Affidavit	266	269	1

1 in. Please raise your right hand and be sworn.
2 *(Witness sworn in.)*
3 THE COURT: Thank you. You may have a
4 seat. This door swings out.
5 **MIRABEL VOE,**
6 having been first duly sworn, testified as follows:
7 **DIRECT EXAMINATION**
8 BY MS. SAMANT:
9 Q. Good morning.
10 A. Good morning.
11 Q. Could you please state your name for the
12 record?
13 A. Mirabel Voe.
14 Q. And are you over the age of 18?
15 A. I am.
16 Q. How long have you lived in Texas?
17 A. I was born and raised here my entire life.
18 Q. Do you have any connection to the lawsuit
19 PFLAG vs. Abbott?
20 A. I am. I am a plaintiff, I am a parent of a
21 transgender child who is a plaintiff, and I'm a member
22 of PFLAG.
23 Q. And is Mirabel Voe your real name?
24 A. It is not. It's a pseudonym.
25 Q. Why are you proceeding under a pseudonym?

1 A. I am proceeding under a pseudonym because I
2 have learned of other families who have been vocal
3 about their support of their child who have been
4 ostracized, including attacked, and I want to shield my
5 family and myself from that.
6 Q. And why are you testifying here today?
7 A. I am testifying because, again, I am a
8 plaintiff. My family has been investigated by DFPS. I
9 just want to do what I can in order to -- to protect,
10 support, and love my child.
11 Q. You mentioned one of your child -- one of your
12 children is involved in the lawsuit as well?
13 A. That is correct.
14 Q. And what is this child's name?
15 A. Antonio Voe.
16 Q. Okay. And how old is Antonio Voe?
17 A. He is 16.
18 Q. Is Antonio his real name?
19 A. It is not.
20 Q. And why is Antonio using a pseudonym?
21 A. Again, I do not want his identity to be
22 revealed so that he -- you know, *{inaudible}* other
23 people *{inaudible}* give him a hard time --
24 THE REPORTER: I'm sorry. I'm having a
25 little bit of a hard time. I think it's the mask.

1 THE COURT: I don't -- I mean,
2 honestly --
3 THE REPORTER: Yeah.
4 THE COURT: -- I don't want her to --
5 THE REPORTER: Okay.
6 THE COURT: -- unless she wants to.
7 THE REPORTER: That's fine.
8 THE COURT: We're just going to have to
9 speak a little more clearly. You can also remove your
10 mask if you wish to. You do not have to. And so --
11 but you are going to have to be mindful that we need to
12 understand you.
13 THE REPORTER: Maybe speak a little
14 slower, too.
15 THE WITNESS: Okay.
16 THE REPORTER: It should help. Just
17 enunciate. Thanks. Sorry.
18 THE WITNESS: Okay.
19 Q. (MS. SAMANT) Ms. Voe, you said that Antonio
20 is transgender.
21 A. That is correct.
22 Q. How did you learn that Antonio is transgender?
23 A. In 2020, Antonio came to us and mentioned that
24 he was transgender. All his life I had noticed that he
25 didn't really fit the norm that everyone would think,

1 you know, a child should be as born female, so he came
2 to us and said that he was transgender.
3 Q. And what was your reaction?
4 A. My reaction is that he is my child, and I love
5 him no matter what.
6 Q. And at that time, what was your understanding
7 of what it meant to be transgender?
8 A. My understanding of what it meant to be
9 transgender was that you were born as one gender but
10 identified as another. We at that point decided that
11 we would do research as a family. And out of that
12 research, we decided that we would let him socially
13 transition.
14 Q. And as a parent, what did you observe about
15 Antonio after he started socially transitioning?
16 A. So before socially transitioning, I noticed
17 that with onset of puberty, he started becoming
18 distressed, you know, that I -- he -- and then he
19 described that it was -- you know, that he was
20 transgender. Once we allowed him to use, you know, the
21 correct pronouns to allow him to be his authentic self,
22 he began to flourish.
23 He's always been an extrovert. He's been
24 really -- you know, he's a great child, he's very
25 empathetic, you know, very social. And before that, I

1 had noticed that he was, you know, introverted. And
2 once he was socially transitioning, he -- he was back
3 to his -- his self.
4 Q. And just to clarify, you said you had noticed
5 he had started to become introverted. When did you
6 notice that that happened?
7 A. At puberty. On the onset of puberty.
8 Q. Okay. Did you seek medical advice for Antonio
9 in connection with him being transgender?
10 A. I did. After a year of allowing him to
11 socially transition, I noticed that with the
12 continuation of puberty, he -- he was still stressed.
13 You know, he was still anxious. And then we decided
14 to -- to seek medical and professional advice.
15 Q. And did -- the doctor you took him to, did
16 they provide a diagnosis?
17 A. They did. The pediatrician diagnosed him with
18 gender dysphoria.
19 Q. And did the pediatrician make any
20 recommendations?
21 A. The pediatrician recommended that he begin
22 therapy.
23 Q. And has Antonio seen a therapist?
24 A. He began seeing a therapist that year and then
25 has since, so the summer of -- of 2021.

1 Q. And has that therapist made any diagnosis?
2 A. The therapist gender -- or diagnosed him with
3 gender dysphoria as well.
4 Q. And what grade is Antonio in?
5 A. When school begins, he will be going to the
6 11th grade, so a junior in high school.
7 Q. And during the pandemic, did Antonio attend
8 school remotely?
9 A. He did.
10 Q. And how was Antonio as a student during the
11 pandemic?
12 A. So that was the year that he had just -- prior
13 to that had just come out as transgender, had -- we had
14 allowed him to begin social transitioning. And because
15 he was home, he -- he flourished. You know, he was
16 able to be his truth authentic self without, you know,
17 any other outside forces. So he's normally, you know,
18 a straight A student, served on the student, you know,
19 body council, so he was -- it was wonderful.
20 Q. And when did Antonio return to in-person
21 school?
22 A. The 2021-2022 school year.
23 Q. And what did you experience -- sorry. What
24 did you observe as Antonio's demeanor once he
25 started -- resumed in-person school?

1 A. He was excited. You know, he was excited that
2 he was going to be back with his -- his friends. He
3 was excited that, you know, he was now going to be able
4 to go back to school and everybody know who he truly
5 was. But then I also started noticing that, you know,
6 he -- he continued to be a little anxious. You know,
7 he continued -- it was, you know, kind of a complex
8 situation.
9 Q. And did there come a time when you -- did
10 there come a time when you found yourself concerned
11 about Antonio's well-being?
12 A. I did. So as I had mentioned, you know, going
13 back to school, being transgender, you know, I did see,
14 you know, that he had anxiety. But then in February of
15 this year when Ken Paxton issued his opinion and then
16 Abbott issued the directive, it really made a turn for
17 the worse in Antonio's demeanor and Antonio's life and
18 all of our lives.
19 Q. And did something significant happen with
20 respect to Antonio's health or well-being?
21 A. Yes. He made an attempt upon his life.
22 Q. And how did you learn that your son attempted
23 to take his own life?
24 A. He had been throwing up, so I decided to take
25 him to urgent care, and they -- when we pulled up into

1 the urgent care, he turned to me and stated that he had
2 ingested an entire -- an entire bottle of aspirin.
3 Q. Do you recall the date on which this happened?
4 A. February 22nd.
5 Q. And when he told you that he had injected an
6 entire bottle -- ingested an entire bottle of aspirin,
7 what was your reaction?
8 A. So first, you know, I -- we rushed him to --
9 into the emergency room. And when they began to do the
10 intake and stabilize him, they asked him there, the
11 nurse, in my presence, why he did what he did. And he
12 stated that the political environment, you know, the
13 directive that Abbott had issued, you know, the other
14 issues of being transgender at school, along with just
15 gender dysphoria is what caused him to do what he did.
16 Q. And what did -- you said that you had taken
17 Antonio to the emergency room, correct?
18 A. Correct.
19 Q. Okay. Was Antonio discharged?
20 A. He stayed in -- at the hospital for two days
21 and then discharged to a psychiatric facility.
22 Q. And how long was Antonio at the psychia- --
23 psychiatric facility for?
24 A. About nine days or so.
25 Q. And did Antonio receive any therapy there?

1 A. He did. He had daily group therapy, he had
2 individual therapy, and he had family therapy as well.
3 Q. And can you describe, what was your life like
4 when Antonio returned home?
5 A. Well, we were relieved he was home with us,
6 but with the ongoing knowledge of what was happening
7 with the State, you know, that -- we were all beyond
8 anxious. You know, we were stressed beyond measure.
9 We were just making sure that -- wanting to make sure
10 that he was okay.
11 Q. I wanted to go back quickly. When you took
12 Antonio to the pediatrician, did the pediatrician, upon
13 giving a diagnosis, also give any recommendation of
14 medical care?
15 A. She did.
16 Q. Okay. So going back to now once Antonio came
17 home with you after being released from the psychiatric
18 facility, were -- was there a time when the state
19 actually investigated you?
20 A. Yes. Shortly after Antonio was released -- he
21 was released I believe on the 9th. And on the 11th, a
22 CPS investigator arrived at our home.
23 MS. CORBELLO: Your Honor, just for the
24 record, I'd -- I'd like to state that at this point
25 plaintiffs have now entered into evidence about the

1 before you make any offer.
2 MS. CORBELLO: Yes, Your Honor. Just to
3 be clear, I don't know that we'll be introducing the
4 investigatory files with this witness. So it's up to
5 the Court when you want to have that hearing, but I'll
6 just tell -- say for the Court that it might not be
7 necessary right this second.
8 THE COURT: Before you make any offer of
9 any of those exhibits, you're going to need to first
10 have a motion of temporary sealing order with the
11 Court. Do you understand?
12 MS. CORBELLO: Yes, Your Honor. We
13 have -- we have those hard copy and also on file.
14 THE COURT: Thank you. Now let's
15 proceed.
16 MS. CORBELLO: Okay.
17 MS. SAMANT: Thank you, Your Honor.
18 Q. (BY MS. SAMANT) Ms. Voe, I just want to
19 refresh where we left off before the break. You
20 were -- I had asked you about what -- what life was
21 like when Antonio had been discharged and had come back
22 home with you and your family.
23 A. Again, we were relieved that he was home. We
24 were relieved that, you know, I can now physically see
25 him, but it was stressful, and our anxiety levels were

1 through the roof.
2 Q. And were there -- what in particular were you
3 concerned about at that point?
4 A. Mostly that there was this looming directive
5 out there from the state that I've only known as home,
6 that because I love my child enough to take him for
7 gender care, that they were labelling me as an abuser,
8 or any parent that was doing this, and that they could
9 potentially come to my home and rip it apart.
10 Q. And did, in fact, a CPS investigator come to
11 your home?
12 A. They did.
13 Q. And what happened when the investigator
14 arrived?
15 A. She arrived at my home. She knocked on the
16 door. I opened the door assuming at that point that
17 she was there to speak of the attempt and treatment he
18 had received or treatment that we were on for the
19 attempt. But she walked into my living room and stated
20 that they had been instructed to make my case -- or
21 cases such as mine a priority and that I had been
22 reported by the psychiatric facility that my son was at
23 for being an alleged perpetrator of child abuse.
24 Q. And did -- did the investigator ask you any
25 questions while she was there?

1 A. She did. She sat down at my table and she
2 asked all sorts and manners of questions. You know,
3 they were all intrusive. They were all very personal.
4 She wanted to know about, you know, the gender
5 dysphoria diagnosis. She wanted to know about any
6 treatment. She asked my, you know, son questions,
7 interviewed him as well. She took pictures of,
8 you know, his -- his body, his arms, his legs, his
9 torso to see if there were any injuries.
10 MS. CORBELLO: Your Honor, so as not to
11 interrupt the flow, I'd just like to make a running
12 objection to this line of questioning as having waived
13 what this Court considers a motion in limine filed by
14 the plaintiffs.
15 THE COURT: Overruled. You have a
16 running objection.
17 Q. (BY MS. SAMANT) And as the investigator was
18 asking Antonio these questions, what did you observe
19 as -- to be Antonio's demeanor and reaction?
20 A. As his mother I know him. I know him very
21 well in and out, and I noticed that he was becoming
22 more and more increasingly anxious. He was fidgeting.
23 You know, he was beginning to sweat. He looked scared.
24 That was my observation.
25 Q. And what was your reaction to the questions

1 Q. And what did CPS say about the
2 incorrectly-signed medical release, if anything?
3 A. They asked me -- she continually called and
4 left messages and asked me to resign it. I -- she then
5 showed up at my home unannounced. My child told me at
6 that point -- you know, my oldest child told me at that
7 point that, you know -- or told her that I was working.
8 And so then in the interim, I had learned of the
9 temporary injunction that had been put in place by the
10 courts for these types of cases. And so when I did
11 finally speak to her, I mentioned that I was seeking
12 legal counsel and that I would not be signing the form.
13 Q. And after you informed her that you wouldn't
14 be signing the form and you were seeking counsel, did
15 CPS continue to try to contact you?
16 A. They did.
17 Q. And when did CPS last contact you?
18 A. I do not know the actual date, but I do know
19 that it was the day that the temporary restraining
20 order hearing had occurred for this case.
21 Q. In this case?
22 A. Correct.
23 Q. Okay. Thank you. And is the investigation
24 still open at this time?
25 A. It is.

1 Q. Ms. Voe, how has the investigation impacted
2 your life?
3 A. It's devastated our lives. You know, again,
4 you know, there's a stigma that comes with being
5 investigated by CPS, you know, by being called a bad
6 parent. Antonio has had to stay home and finish out
7 the school year at home. You know, my youngest is now
8 on -- in therapy as well. Antonio's medication has
9 been increased because his anxiety and his depression,
10 you know, has substantially gone up again. We watch
11 him to make sure there isn't another crisis, because we
12 have this looming over our heads at all times,
13 you know, that CPS could at any point potentially come
14 to our home and take my children away from me.
15 You know, it's affected us in every
16 aspect that it can medically, physically, emotionally,
17 and, you know, to a certain extent financially. I have
18 a medical condition that flares up with stress, and so
19 because I have two jobs, my second job requires me to
20 stand for long periods of time, and I'm not able to
21 pick up as many shifts as I normally would because my
22 legs are hurting.
23 My oldest has decided to take -- she quit
24 her full-time job to take a part-time job working from
25 home so that she can always be available as well when

1 I'm not to make sure that there isn't another crisis
2 with my son.
3 Q. And what do you hope for your family through
4 this lawsuit?
5 A. My hope is that we can put this behind us,
6 that my child -- that, one, I will not be labeled a
7 child abuser; two, that my child can continue to
8 receive his medical necessary treatment that has been
9 prescribed to him. My hope is that my child can live
10 his true authentic self, that no other family will have
11 to go through what we go through, that no other child,
12 no matter how they identify, knows that they are
13 valuable, they're -- they're an invaluable part of
14 society, and that no other child will have to think
15 that there is no other recourse than to try and take
16 their life because the State is threatening to take
17 them from a home that loves them and that cares enough
18 to take them for treatment.
19 MS. SAMANT: Thank you, Your Honor.
20 **CROSS-EXAMINATION**
21 BY MS. CORBELLO:
22 Q. Mirabel, you don't work for D- -- DFPS, right?
23 A. I do not.
24 Q. And you don't have any personal knowledge of
25 how DFPS conducts intakes of reports of child abuse, do

1 THE COURT: 23 is admitted.
2 *(Plaintiffs' Exhibit 23 admitted.)*
3 Q. (BY MR. COOK) Mr. Bond, do the bylaws outline
4 the structure of PFLAG?
5 A. Yes.
6 Q. Is PFLAG a membership organization?
7 A. Yes, it is.
8 Q. How do people become members of PFLAG?
9 A. People become members of PFLAG either through
10 their local chapter or through the national office.
11 Q. To clarify, if someone becomes a member
12 through a local chapter of PFLAG, do they also become a
13 member of the national organization?
14 A. Yes. The chapter sends a portion of those
15 proceeds and the roster to the national office making
16 them a member of the national organization.
17 Q. Okay. So two routes?
18 A. Correct.
19 Q. Someone can join PFLAG national directly or
20 become a member through the local chapter?
21 A. Correct.
22 Q. And what role do members play within the
23 organization?
24 A. Members play an important role in the
25 governance of the organization nationally. You want me

1 regional director and the chapters directly. We do
2 forums, town halls, things like that. Chapters -- or
3 members all have my email dres -- arres -- dres --
4 gosh, excuse me -- address. And, in fact, last night I
5 was with some Austin PFLAG chapter members last night.
6 Q. Thank you. You mentioned that you have
7 chapters across the country. Do you have chapters in
8 Texas?
9 A. Yes.
10 Q. How many?
11 A. Seventeen.
12 Q. And where are they located?
13 A. Everywhere from Beaumont to El Paso, places
14 like -- big cities like, obviously, Houston, Austin,
15 Fort Worth, Dallas, but places like San An- --
16 San Angelo, Midland, Odessa, across the state.
17 Q. Okay. And you have PFLAG members who join
18 through their Texas chapters and now belong to the
19 national organization?
20 A. Correct. The majority come through the
21 chapters.
22 Q. And you also have members who -- you also have
23 members who live in Texas but have joined the national
24 organization directly?
25 A. Correct.

1 Q. Okay. Approximately how many Texas members do
2 you have, counting the ones that joined through their
3 local chapters and directly with national PFLAG?
4 A. Sure. I think today is approxi- -- probably
5 around a little over 700.
6 Q. And do you have a sense of how many of those
7 members have children who are transgender?
8 A. I don't have a specific sense. I know from
9 each and every one that I've heard from and from our
10 chapters across the state there -- there are family
11 members there that have kids, they have transgender
12 kids, they care about transgender kids, and they're
13 focused on that.
14 Q. Okay. You mentioned earlier that through the
15 systems you have in place with PFLAG, you were hearing
16 from your members in the wake of Attorney General Ken
17 Paxton's opinion, Governor Abbott's directive, and
18 DFPS' implementation of that. What kind of support, if
19 any, has PFLAG provided to Texas members with
20 transgender children?
21 A. Sure. A considerable amount of support has
22 been on the ground, peer-to-peer support within our
23 chapters, also trying to provide guidance on how to
24 seek additional support or -- or just candidly bringing
25 people together, walking through how to get through

1 this.
2 Q. And why did you provide the support that you
3 just described?
4 A. Because this is important. These are families
5 just trying to keep their kids safe, and these families
6 are terrified.
7 Q. Today you heard the testimony just now from
8 Mirabel Voe. Is she under investigation by DFPS?
9 A. Yes.
10 MS. CORBELLO: Objection; lack of
11 foundation.
12 MR. COOK: Your Honor, he just said that
13 he heard the testimony from Ms. Voe, and she testified.
14 THE COURT: Yeah. Overruled.
15 Q. (BY MS. CORBELLO) Is Ms. Voe a PFLAG member?
16 A. Yes.
17 Q. Are you aware of other PFLAG members currently
18 being investigated by DFPS?
19 A. Yes.
20 Q. Okay. How so?
21 A. Through the declarations, through these court
22 proceedings, chapter individuals telling me so.
23 MS. CORBELLO: Objection as to the
24 hearsay portion of his testimony.
25 THE COURT: It is hearsay as to that

1 happening with your members in Texas?
2 A. It was a combination of people reaching out
3 directly to PFLAG national, telling them what was going
4 on. It was a -- it was a combination -- or partially
5 from hearing from my team, who works directly with
6 individuals in Texas, and from our regional director as
7 well. This was not a secret. This was scary. This is
8 what was happening. And we have parents trying to
9 figure out did they need to leave the state. You know,
10 they were getting notifications from doctors that,
11 sorry, we may not be able to help you anymore. I mean,
12 this is about protecting their kids and trying to keep
13 their kids from harm. So that -- that's how we heard
14 about it. Like, what do we do next? How do we protect
15 our families? How do we protect our kids?
16 Q. And you testified by what was happening. What
17 do you mean by what was happening?
18 A. By the directive and then the investigations
19 by the agency.
20 Q. Okay. And that includes members being
21 investigated?
22 A. Yes.
23 Q. Now, I'd like to switch to some questions
24 about PFLAG's mission and vision. What is PFLAG's
25 vision?

1 A. So our -- our -- our mission is to create a
2 caring, just, and affirming world for LGBTQ+
3 individuals and their families. Our vision is for an
4 equitable world where LGBTQ+ plus individuals are safe,
5 celebrated, empowered, and loved.
6 Q. As executive director, is it part of your job
7 to ensure PFLAG's mission is carried out?
8 A. Absolutely.
9 Q. And what do you do to ensure that PFLAG
10 achieves its mission?
11 A. Part of that is to ensure that we are
12 adequately supporting our pillars, whether it be around
13 support with our chapter network on the ground,
14 especially with what's going on right now, pillar
15 around education, again, to make sure people know
16 what's going on and to provide multiple avenues for
17 people to be aware of that, and third, it's around
18 advocacy, to speak out in support of individuals'
19 families speaking out in support of their kids.
20 Q. Why is advocacy around their kids in an
21 integral society part of your mission?
22 A. I think that once people hear individual
23 stories, their journeys, that they -- they -- we live
24 everywhere, that we're part of their community, the
25 more those stories can be shared and/or share what

1 Court your formal education and training?
2 A. Yes. I have a bachelor of science from the
3 Indiana University. I also have a medical degree from
4 Indiana University School of Medicine in Indianapolis,
5 Indiana. I have a general pediatrics residency from
6 the Children's Hospital at Vanderbilt. And I have a
7 fellowship training in pediatric endocrinology from the
8 Cincinnati Children's Hospital.
9 Q. Dr. Brady, are you board certified?
10 A. Yes. I am board certified in both general
11 pediatrics as well as pediatric endocrinology.
12 Q. Do you hold any academic positions?
13 A. Yes. I'm an assistant professor of general
14 pediatrics at the Vanderbilt University Medical Center.
15 Q. Do you practice medicine?
16 A. Yes. I practice medicine in the division of
17 endocrinol- -- pediatric endocrinology here, and I am a
18 clinical director of two specialty clinics within
19 pediatric endocrinology.
20 Q. You mentioned that you're a clinical director
21 of two specialty clinics. Which are these clinics?
22 A. The two specialty clinics that I am a medical
23 director of are a Differences of Sex Development Clinic
24 as well as a gender dysphoria clinic or a gender clinic
25 for adolescents.

1 Q. How many patients do you treat at the
2 Pediatric and Adolescent Gender Clinic?
3 A. I see over 200 patients at the gender clinic.
4 Q. As part of your practice at the gender clinic,
5 are there any clinical guidelines that you utilize or
6 follow?
7 A. Yes. The clinical guidelines that I utilize
8 and follow are the -- the Endocrine Society Clinical
9 Practice Guidelines for the care of gender dysphoria or
10 incongruence, as well as the WPATH, the World
11 Professional Association of Transgender Health
12 Standards of Care.
13 Q. As part of your practice, do you keep up to
14 date with the scientific literature regarding the
15 nature and treatment of gender dysphoria?
16 A. I do. It is part of our practice and part of
17 our team to keep up to date.
18 Q. As part of your practice, do you keep up to
19 date with the scientific literature regarding the
20 nature of treatment of gender dysphoria as it pertains
21 to adolescents?
22 A. Yes. In particular as it -- as it pertains to
23 adolescents, as those are the typical age group or type
24 of patient we are seeing.
25 Q. Have you published or conducted any research

1 THE COURT: The Court is accepting
2 Dr. Brady as an expert, and that's all the Court needs
3 to do at this time.
4 MR. STONE: Thank you, Your Honor.
5 MR. GONZALEZ-PAGAN: Thank you,
6 Your Honor.
7 Q. (BY MR. GONZALEZ-PAGAN) Dr. Brady, what is
8 gender dysphoria?
9 A. Gender dysphoria is a medical condition that
10 is the distress associated with the individual having a
11 gender identity that does not match their sex assigned
12 at birth.
13 Q. Is gender dysphoria a diagnosis that is used
14 for adolescents?
15 MR. STONE: Objection; leading.
16 THE COURT: Overruled.
17 A. Yes. Gender dysphoria is a diagnosis for
18 adolescents. It is described in the DSM-V, as well as
19 ICD-10.
20 Q. (BY MR. GONZALEZ-PAGAN) You mentioned that
21 gender dysphoria is a medical condition. Where is it
22 recognized?
23 A. It is recognized in the ICD-10.
24 Q. What are the symptoms of gender dysphoria?
25 A. The symptoms of gender dysphoria can be from

1 anxiety to depression to suicidal ideation.
2 Q. Are there risks associated with gender
3 dysphoria if it is left untreated?
4 A. Yes. If gender dysphoria is left untreated,
5 this distress can worsen and lead to further
6 psychiatric comorbidities and -- and -- and then that
7 suicide risk which equates to -- to death?
8 Q. Dr. Brady, have you developed expert opinions
9 with regards to this case?
10 A. Yes, I have developed expert opinions. And
11 given that I'm a pediatric endocrinologist that sees
12 adolescents with gender dysphoria daily, I do provide
13 medically-necessary care that is evidence-based
14 utilizing standards of care that are peer-reviewed and
15 recognized by societies across the country, medical
16 societies across the country.
17 I am very concerned with the directives
18 from the Attorney General, as well as the Governor,
19 that by banning this care --
20 MR. STONE: Objection --
21 A. -- there would be increased risk --
22 MR. STONE: -- narrative.
23 A. -- for these comorbidities --
24 THE COURT: Hold on.
25 A. -- including increased risk --

1 can speak to --
2 THE COURT: Overruled as to your
3 objection, but -- but this needs to be question and
4 answer. You cannot just say to an expert, Give me all
5 of your opinions.
6 MR. GONZALEZ-PAGAN: Understood,
7 Your Honor.
8 THE COURT: That is not how we can do
9 things. You have to ask her -- they have to be broken
10 up in question and answer form.
11 MR. GONZALEZ-PAGAN: Understood,
12 Your Honor. We were just providing a high-level
13 roadmap for the Court.
14 Q. (BY MR. GONZALEZ-PAGAN) Dr. Brady, earlier
15 you mentioned that you followed certain guidelines as
16 part of your clinical practice; is that right?
17 A. Yes.
18 Q. Dr. Brady, if you can open what has been
19 pre-marked as Plaintiffs' Exhibit 7.
20 A. Okay.
21 Q. Dr. Brady, do you recognize this document?
22 A. Yes. It's the endocrine guideline for the
23 treatment of gender dysphoria.
24 Q. Are these the guidelines to which you referred
25 earlier that you follow in your practice?

1 A. Yes.
2 Q. Who publishes these guidelines?
3 A. Endocrine Society. And these are within a
4 journal called the *Journal of Clinical Endocrinology*
5 *and Metabolism*.
6 Q. Is this journal a peer-reviewed journal?
7 A. Yes, it is a peer-reviewed journal and has a
8 good rating score.
9 Q. Are the Endocrine Society guidelines contained
10 in Exhibit 7 evidence-based?
11 A. Yes, they're evidence-based. They utilize
12 research to support their conclusions.
13 Q. In your professional opinion and as part of
14 your research and practice, are these guidelines that
15 are generally accepted in the medical community?
16 MR. STONE: Your Honor, objection; this
17 assumes facts not in evidence. He has not offered
18 Exhibit 7, but he's asking questions specifically about
19 this document and about whether or not it's -- she's
20 relied on it and specifically about what it found.
21 THE COURT: 7?
22 MR. GONZALEZ-PAGAN: Your Honor --
23 THE COURT: I think right now I'm
24 sustaining that.
25 MR. GONZALEZ-PAGAN: Your Honor,

1 Q. (BY MR. GONZALEZ-PAGAN) Dr. Brady, let -- let
2 me ask you about the guidelines. Are these guidelines
3 that are generally accepted within the medical
4 community?
5 A. Yes. And they're generally accepted by major
6 organizations such as American Academy of Pediatrics
7 and Pediatric Endocrine Society and others.
8 Q. Do you consider this -- in light of that
9 general acceptance and your use of these guidelines, do
10 you consider these clinical practice guidelines to be a
11 reliable treatise by which you conduct your practice?
12 A. I do.
13 Q. Dr. Brady, can I turn to -- your attention to
14 Page 3870 of the exhibit?
15 A. Sorry. I'm there.
16 Q. Beginning with the first full sentence that
17 starts with "recommend," can you read to us what the
18 guidelines dictate with regards to the provision of
19 hormone therapy and puberty blockers for adolescents
20 with gender dysphoria?
21 A. Are you talking about the very, very beginning
22 of the 3870?
23 Q. Yes, the sentence starts "We recommend." It's
24 part of --
25 A. Yes, yes. "We recommend treating

1 gender-dysphoric/gender-incongruent adolescents who
2 have entered puberty at Tanner Stage G2/B2 by
3 suppression with gonadotropin-releasing hormone
4 agonists. Clinicians may add gender-affirming hormones
5 after a multidisciplinary team has conferred with the
6 persistence of gender dysphoria/gender incongruence and
7 sufficient mental capacity to give informed consent to
8 this partially irreversible treatment."
9 Do you want me to keep going?
10 Q. Can you please keep going until the next
11 several sentences?
12 THE REPORTER: And can she slow down when
13 she's reading?
14 Q. (BY MR. GONZALEZ-PAGAN) And, Dr. Brady, if
15 you --
16 THE REPORTER: Thank you.
17 Q. (BY MR. GONZALEZ-PAGAN) -- can please slow
18 down a bit when you're reading.
19 A. Oh, I'm sorry. Yeah. Sorry. Let me go back
20 to that.
21 Q. I believe it starts "Most adolescents."
22 A. Yes. "Most adolescents have this capacity by
23 age 16 years old. We recognize that there may be
24 compelling reasons to initiate sex hormone treatment
25 prior to age 16 years, although there is minimal

1 published experience treating prior to 13 and a half to
2 14 years of age. For the care of peri-pubertal youths
3 and older adolescents, we recommend that an expert
4 multidisciplinary team comprised of medical
5 professionals and mental health professionals manage
6 this treatment. The treating physician must confirm
7 the criteria" --
8 Q. Dr. Brady, that's okay. Thank you.
9 A. Okay. Thanks.
10 Q. Dr. Brady, you earlier also mentioned that you
11 utilized the WPATH Standards of Care as a -- as a
12 clinical guideline within your practice; is that right?
13 A. Yes.
14 Q. How long have the WPATH Standards of Care have
15 been in use?
16 A. For many decades.
17 Q. When was the current version of the WPATH
18 Standards of Care published?
19 A. 2012.
20 Q. Do you know whether the WPATH Standards of
21 Care are being updated?
22 A. Yes, they are being updated and likely
23 published within the next few months. We were told
24 summer of 2022.
25 Q. Have you reviewed the draft of the new version

1 of the WPATH Standards of Care?
2 A. Yes. Members of the WPATH were given the
3 opportunity to review the -- the draft.
4 Q. Does the new version of the standards of care
5 recommend that you use puberty hormones and hormones as
6 treatment for adolescent gender dysphoria?
7 MR. STONE: Objection; leading.
8 THE COURT: Rephrase your question.
9 Q. (BY MR. GONZALEZ-PAGAN) Dr. Brady, you just
10 read into the record that the Endocrine Society
11 guidelines recommend the use of puberty blockers and
12 hormones as treatment for adolescent gender dysphoria.
13 Do you recall that?
14 A. Yes.
15 Q. Is that recommendation -- are the WPATH
16 Standards of Care consistent with that recommendation
17 containing the Endocrine Society guidelines?
18 MR. STONE: Objection; leading.
19 THE COURT: Overruled.
20 A. Yes. The WPATH Standards of Care also
21 recommend pubertal-blocking treatment and
22 gender-affirming hormone therapy to adolescents with
23 gender dysphoria.
24 Q. (BY MR. GONZALEZ-PAGAN) And you mentioned
25 that you -- you have reviewed a draft of the new

1 version of the WPATH Standards of Care. Do you recall
2 that?
3 A. Yes.
4 Q. Does the new version of the standards of care
5 also recommend the use of puberty blockers and hormones
6 as treatment for adolescent gender dysphoria?
7 MR. STONE: Objection; leading.
8 THE COURT: Overruled as to leading.
9 Though, Mr. Gonzalez-Pagan, you must go a little
10 slower --
11 MR. GONZALEZ-PAGAN: Understood,
12 Your Honor.
13 THE COURT: -- or Ms. Racanelli is going
14 to chastise you, and she is much scarier than I am.
15 MR. GONZALEZ-PAGAN: I believe that.
16 THE COURT: Go ahead.
17 Q. (MR. GONZALEZ-PAGAN) You may answer,
18 Dr. Brady.
19 A. Yes.
20 Q. In your opinion as a practicing pediatric
21 endocrinologist in the field of trea- -- of gender
22 care, are the WPATH Standards of Care generally
23 accepted within the medical community?
24 MR. STONE: Objection; leading.
25 THE COURT: Overruled.

1 A. Yes, they are as well, similar to the
2 endocrine clinical practice guidelines.
3 Q. (BY MR. GONZALEZ-PAGAN) Are they based on
4 scientific study and research?
5 A. Yes, they are as well. They contain
6 peer-reviewed, evidence-based studies.
7 Q. Dr. Brady, as part of your care of adolescents
8 with gender dysphoria, what is the treatment that you
9 provide these adolescents?
10 A. The treatment I provide to adolescents with
11 gender dysphoria that is medical treatment involves
12 pubertal-blocking hormones as well as gender-affirming
13 hormones.
14 Q. Is any treatment provided to a patient prior
15 to puberty?
16 A. No.
17 Q. What is the goal of treatment for gender
18 dysphoria in adolescents?
19 A. The goal of treatment is to alleviate the
20 distress associated with the gender dysphoria.
21 Q. As a practicing physician in this field, do
22 you regularly speak with providers of other gender
23 clinics across the country to -- to inform your
24 practice?
25 MR. STONE: Objection; leading.

1 THE COURT: Overruled.
2 A. Yes, I do.
3 Q. (BY MR. GONZALEZ-PAGAN) Does that include
4 providers in Texas?
5 A. Yes, I -- I speak with providers in Texas as
6 well.
7 Q. Dr. Brady, to your knowledge, is treatment
8 provided in clinics in Texas different from the
9 treatment that you provide at your clinic?
10 MR. STONE: Objection, Your Honor; lack
11 of personal knowledge under 602. Also, this question
12 is leading.
13 THE COURT: Overruled.
14 A. No.
15 Q. (BY MR. GONZALEZ-PAGAN) Dr. Brady, you
16 mentioned that you provide puberty blockers as a
17 treatment for gender dysphoria in adolescents; is that
18 right.
19 A. That is correct.
20 Q. Based on your knowledge of the research and
21 your clinical experience, do you consider the provision
22 of this care to be safe?
23 MR. STONE: Objection, Your Honor;
24 leading.
25 THE COURT: Overruled.

1 A. Yes. I use pubertal blockers for this
2 population as well as individuals with central
3 precocious puberty, and they are safe in both those
4 populations.
5 Q. (BY MR. GONZALEZ-PAGAN) Are puberty blockers
6 reversible?
7 A. Yes.
8 Q. Would you consider it a use of puberty
9 blockers to treat gender -- is -- Dr. Brady, is the use
10 of puberty blockers effective to treat gender dysphoria
11 in adolescents?
12 MR. STONE: Objection, Your Honor;
13 leading.
14 THE COURT: Overruled.
15 A. Yes. The use of pubertal blockers is
16 effective in treating gender dysphoria in adolescents.
17 Not only based on my clinical experience have I seen
18 that, but there are studies to support that.
19 Q. (BY MR. GONZALEZ-PAGAN) Dr. Brady, you
20 mentioned that you use puberty blockers to treat also
21 central precocious puberty; is that right?
22 A. Yes.
23 Q. Are the side effects of the treatment of
24 puberty blockers comparable when used to treat central
25 precocious puberty as opposed to gender dysphoria?

1 MR. STONE: Objection; leading.
2 THE COURT: Overruled.
3 A. Yes, the side effect for -- of pubertal
4 blockers is the same for all populations that use them.
5 Q. (BY MR. GONZALEZ-PAGAN) Dr. Brady, you also
6 mentioned that you provide hormone therapy; is that
7 right?
8 A. Yes. I provide gender-affirming hormone
9 therapy to gender -- to adolescents with gender
10 dysphoria. And I also provide hormone therapy to
11 individuals who might have conditions such as
12 hypogonadism and may need estrogen or testosterone to
13 go into puberty.
14 Q. Is the use of hormone therapy to treat gender
15 dysphoria safe?
16 MR. STONE: Objection, Your Honor;
17 leading.
18 THE COURT: Overruled.
19 A. Yes.
20 Q. (BY MR. GONZALEZ-PAGAN) Is the use of hormone
21 therapy -- in your opinion, is the use of hormone
22 therapy to treat gender dysphoria effective?
23 MR. STONE: Objection, Your Honor;
24 leading.
25 THE COURT: Overruled.

1 A. Yes. The use of gender-affirming hormone
2 treatment in adolescents with gender dysphoria is safe
3 and effective. I base that off my clinical experience
4 and evidence-based guidelines.
5 Q. (BY MR. GONZALEZ-PAGAN) Dr. Brady, what is
6 the basis for your opinions that these treatments are
7 safe and effective?
8 A. So I have many years of clinical experience,
9 and -- and there are published evidence-based studies
10 that have been peer-reviewed that also support this.
11 Q. Dr. Brady, are there any risks if -- of not
12 providing treatment when a child -- when an adolescent
13 has gender dysphoria?
14 A. Yes. If we do not provide treatment to
15 adolescents with gender dysphoria, they may have an
16 increased risk for anxiety, depression, and suicide
17 depending on where they are with their mental health.
18 Q. Are there risks associated with interrupting
19 the provision of this care?
20 A. Yes. If we interrupt this care -- the same
21 goes forth that there are risks for mental health,
22 complications, and suicide, but if you also interrupt
23 any of these medical treatments abruptly, there can
24 also be a significant medical change that can occur,
25 too, that needs to be monitored and handled closely by

1 experienced physicians.
2 Q. Dr. Brady, in your clinical experience and
3 based on your review of the literature, is the
4 provision of this care harmful for adolescents with
5 gender dysphoria?
6 MR. STONE: Objection; leading.
7 THE COURT: Overruled.
8 A. No. In my -- in my experience, as well as my
9 review of the literature of this, this is not harmful
10 to adolescents with gender dysphoria.
11 MR. GONZALEZ-PAGAN: That's all at this
12 time, Your Honor.
13 THE COURT: Mr. Stone.
14 **CROSS-EXAMINATION**
15 BY MR. STONE:
16 Q. Good morning, Dr. Brady.
17 A. Good morning.
18 Q. How many patients have you prescribed puberty
19 blockers to that did not have a diagnosis of gender
20 dysphoria but believed that they were the wrong gender?
21 A. Can you repeat that one more time?
22 Q. How many minor patients have you prescribed
23 puberty blockers to that did not have a diagnosis of
24 gender dysphoria but believed that they were the wrong
25 gender?

1 Q. What is it?
2 A. It is a statement, I don't know by who, but it
3 was by a representative of the Department stating that
4 there are no -- there were no current investigations at
5 the time of the statement.
6 Q. And how did you first encounter this
7 statement?
8 A. It was in a news article. I can't remember
9 exactly when I saw it, but I believe the article was
10 published on the 22nd of that month.
11 MR. KLOSTERBOER: Your Honor, plaintiffs
12 move to admit Exhibit 3 into evidence.
13 MS. CORBELLO: No objection with the same
14 understanding about individual versus legal opinions.
15 THE COURT: The Court still has that same
16 understanding. 3 is admitted.
17 *(Plaintiffs' Exhibit 3 admitted.)*
18 Q. (BY MR. KLOSTERBOER) Ms. Mulanax, in the days
19 following the Governor's letter and this statement,
20 what happened?
21 A. Cases in regards to specific allegations
22 started to come into Travis County.
23 Q. Before February 22nd, had you personally
24 encountered any of the cases involving these specific
25 allegations?

1 A. I had not.
2 Q. What else happened -- or what -- what
3 guidance, if any, were you given following
4 February 22nd?
5 A. There was a meeting held on February 24th,
6 just a couple of days after the order came out. I was
7 not present for the entire meeting, but I did get on
8 the tail end, and I also received notes from the
9 meeting, and I spoke with my program director at the
10 time and other supervisors in my unit who were on the
11 meeting stating that we were instructed not to put
12 anything about these cases in writing via email or text
13 message through our work devices, and we were only to
14 staff them through phone calls or in person or through
15 Teams and that we were to refer to them as specific
16 cases I believe was the verbiage.
17 Q. Could you turn to what's marked as Plaintiffs'
18 Exhibit 15?
19 A. Uh-huh.
20 Q. Do you recognize this document?
21 A. I do.
22 Q. What is it?
23 A. These are the meeting notes that I was emailed
24 from my regional director.
25 Q. And when did you --

1 A. At the time. Sorry.
2 Q. When did you receive that email?
3 A. I believe it was the same day as the meeting
4 was held, so the 24th.
5 MR. KLOSTERBOER: Your Honor, plaintiffs
6 move to admit Exhibit 15 into evidence.
7 MS. CORBELLO: Your Honor, we would
8 object on the basis of relevance. Ms. Mulanax has not
9 testified to any knowledge of whether anything within
10 this exhibit is still in effect today. This is a
11 temporary injunction hearing about current and future
12 harm, and this document is, again, from five months
13 ago. It has no relevance as to what's occurring today,
14 at least insomuch as her testimony has provided.
15 THE COURT: Overruled.
16 MR. KLOSTERBOER: Your Honor, is
17 Exhibit 15 now admitted?
18 THE COURT: 15's admitted.
19 *(Plaintiffs' Exhibit 15 admitted.)*
20 MR. KLOSTERBOER: Thank you.
21 Q. (BY MR. STONE) After this -- the meeting that
22 you held on February 24th, what other guidance, if any,
23 were you given?
24 A. That these cases were not eligible for
25 priority none status or a PN if it fit the current

1 policy and that they were also not eligible for
2 administrative closure if it fit the current policy.
3 Q. How does that compare to the policies that you
4 followed before February 22nd?
5 A. It is -- in my opinion, it was discriminatory
6 towards these cases because the only other cases
7 prioritized that way were child death investigations or
8 cases involving children in conservatorship.
9 MS. CORBELLO: Your Honor, I'm going
10 to -- Your Honor, I'm going to object to this question
11 and answer. Ms. Mulanax previously testified she never
12 personally encountered an investigation like this, so I
13 don't know how she's testifying to the policy on them.
14 THE COURT: Overruled.
15 Q. (BY MR. STONE) Turning to the policies, can
16 you turn to what's marked as Plaintiffs' Exhibit 16?
17 A. Okay.
18 Q. Do you recognize this document?
19 A. Yes, I do.
20 Q. What is it?
21 A. It is part of the CPS handbook stating the
22 foundation for investigations.
23 MR. KLOSTERBOER: Your Honor, plaintiffs
24 move to admit Exhibit 16 into evidence.
25 MS. CORBELLO: No objection.

1 **WANDA ROE,**
2 having been first duly sworn, testified as follows:
3 **DIRECT EXAMINATION**
4 BY MR. GUILLORY:
5 Q. What brings you here today?
6 A. I am a plaintiff in the case. I'm a member of
7 PFLAG. But most importantly for me, I'm here to
8 protect the rights of myself and my son who is
9 transgender.
10 Q. Wanda Roe is not your real name, correct?
11 A. It is not.
12 Q. Is Wanda Roe a pseudonym?
13 A. It is.
14 Q. Why are you proceeding under a pseudonym?
15 A. Because I need to protect the identity of my
16 family to prevent us from being harassed or suffer any
17 violence or retaliation for seeking to protect our
18 rights.
19 Q. Why do you feel -- hold on. You mentioned
20 your son Tommy. You mentioned your son. For the
21 purposes of the lawsuit, what is his name?
22 A. His name is Tommy Roe.
23 Q. Is Tommy Roe a pseudonym?
24 A. It is.
25 Q. You mentioned earlier that Tommy is

1 transgender. What did you do when you learned Tommy
2 was transgender?
3 A. Well, I cried for a week, but my immediate
4 reaction, because I could see that he was nervous and
5 shaking when he told me, was to hug him, simply hug him
6 and tell him that I loved him and tell him that
7 everything was going to be okay.
8 I then took the next week to find myself
9 a counselor because I needed to deal with my own issues
10 that were not a part of what Tommy was going through,
11 but also we did go to his primary care physician to
12 discover what we needed to do next.
13 Q. And what did that primary care physician
14 recommend, if anything?
15 A. The primary care physician recommended -- or
16 referred Tommy to a gender-affirming specialist.
17 Q. Have any of these providers made any diagnosis
18 in connection with Tommy being transgender?
19 A. They have. They diagnosed him with gender
20 dysphoria.
21 Q. Have these providers made any recommendations
22 pertaining to Tommy's gender dysphoria?
23 A. They have recommended counseling, and they
24 have recommended gender-affirming therapy in terms of
25 hormone therapy.

1 Q. Does Tommy live openly as a boy?
2 A. He does.
3 Q. What observations have you made from seeing
4 Tommy live authentically as himself?
5 A. He is so much happier. He used to be -- he's
6 so -- he was almost invisible. He didn't want people
7 to see him or look at him. I didn't understand why.
8 If we were out, he would always walk behind me in my
9 shadow. He never wanted to speak to people directly.
10 He never could make eye contact. And he seemed so sad,
11 just sad all the time. And since he's been able to be
12 himself and present as himself, he has been happier.
13 He comes out of his room. He joins us for family
14 discussions. He's a completely different person.
15 Q. You mentioned earlier an investigation. How
16 did you learn about the investigation?
17 A. So I got a text from my son who was at school
18 telling me he had something important to tell me, but
19 he was too upset to discuss it on the phone. I went to
20 pick him up from school. And on the way home from
21 school, we had dropped off some other friends, and
22 another one of my sons called me to say that there was
23 someone waiting for me at my house to investigate me --
24 or to ask me questions about, you know, a CPS
25 investigation. And that's when Tommy looked at me and

1 was very upset but did say to me, That's what I was
2 going to talk to you about. I got pulled out of class
3 today and interviewed by a CPS investigator, and that
4 person was waiting -- that same person was waiting for
5 me at my house.
6 Q. And what did that CPS caseworker tell you?
7 MS. CORBELLO: Your Honor, at this time
8 I'd like to make a running objection that plaintiffs
9 have now opened the door and waived what this Court has
10 construed as a motion in limine that they filed earlier
11 today.
12 THE COURT: But now is not the proper
13 time to do that, I don't think. I think the proper
14 time is when you ask your questions or you make an
15 offer. So you're just putting them on notice, and
16 there's no ruling for the Court to make at this time.
17 MS. CORBELLO: Thank you, Your Honor.
18 MR. GUILLORY: Your Honor, I'll proceed,
19 but for the record, we're not waiving any arguments
20 made in our motion to exclude, and we will off- -- and
21 if offered during cross, the investigation or the audio
22 recording, we will make specific and timely objections.
23 THE COURT: Thank you. You may proceed.
24 Q. (BY MR. GUILLORY) I'll ask the question
25 again. What did the CPS caseworker tell you?

1 A. She told me that she needed to come into my
2 house and interview everybody that was in my house,
3 living in the household. And I asked why, and she said
4 that a report had been made charging me with child
5 abuse and that the child abuse was because I had been
6 accused of giving gender-affirming care to my son.
7 Q. Did the caseworker tell you anything about how
8 these investigations were being investigated?
9 A. She told me that she had to investigate
10 because this -- a report was made, was given top
11 priority over all -- all other CPS cases, that any case
12 involving a parent giving gender-affirming therapy to
13 their minor child was to be prioritized above every
14 other case as directed by Governor Abbott.
15 Q. And you mentioned that the caseworker said you
16 were being investigated because you had a transgender
17 child. Did she give you any other reason why you were
18 being investigated?
19 A. No.
20 Q. Have you heard from CPS since?
21 A. Yes. I -- we engaged a lawyer, legal
22 representation, after the interview was over. And we
23 received an email asking for a letter from Tommy's
24 doctor stating that hormone therapy was reversible.
25 Q. Was there any other requirement of that

1 letter?
2 A. I don't believe so.
3 Q. Okay. And when was this request for a
4 physician letter made?
5 A. Early June.
6 Q. Okay. How has the CPS investigation affected
7 Tommy?
8 A. Well, we began to lose him again. He went
9 back into his shell. I mean, it was just devastating.
10 It was -- it has been so harmful to our family and
11 particularly to Tommy. His grades dropped. He was
12 a -- he was a grade A student. His grades dropped. He
13 couldn't focus on anything. And he couldn't finish the
14 school year on campus. He was always looking over his
15 shoulder wondering if someone was going to come and
16 take him out or take him away, so he had to finish up
17 the school year from home.
18 Q. And how has the CPS investigation affected
19 your family as a whole?
20 A. It's been awful, absolutely devastating. We
21 are a family that, you know, automatically believes
22 that we live on the right side of the law. We love our
23 community. We chose to live in Texas. We're very much
24 a part of the community around us. I have a son --
25 autistic son who is very much a part of the special

1 opinions on the science related to the treatment of
2 gender dysphoria in minors to give in this case?
3 A. Yes, I do.
4 Q. Okay.
5 MR. STONE: At this time, Your Honor,
6 defendants designate Dr. Cantor as an expert on the
7 science relating to the treatment of gender dysphoria
8 in minors.
9 MR. GONZALEZ-PAGAN: Objection,
10 Your Honor. Pursuant to Rule 705(b) of the Rules of
11 Evidence, we're allowed to conduct a voir dire. I
12 don't believe that enough has been presented.
13 THE COURT: You can conduct a voir dire
14 at this moment, yes.
15 MR. GONZALEZ-PAGAN: And, Counsel, have
16 you shared the exhibits with -- plaintiffs' exhibits
17 with Dr. Cantor?
18 MR. STONE: We shared the exhibits that
19 you provided to us previously.
20 **VOIR DIRE EXAMINATION**
21 BY MR. GONZALEZ-PAGAN:
22 Q. Good afternoon, Dr. Cantor.
23 A. Good afternoon.
24 Q. You're not a physician, correct?
25 A. Correct.

1 Q. You do not hold any medical degree; is that
2 right?
3 A. Correct.
4 Q. You have only practiced clinical psychology in
5 Canada; is that right?
6 A. Correct.
7 Q. Earlier you referenced that you provided
8 testimony in a transgender rights -- in a case
9 involving transgender youth. Do you recall that?
10 A. Yes.
11 Q. Are you familiar with the *Eknes-Tucker v. Ivey*
12 case in Alabama?
13 A. Yes.
14 Q. You testified in a hearing in that case; is
15 that correct?
16 A. Yes.
17 Q. Dr. Cantor, if you can open what's been
18 designated as Plaintiffs' Exhibit 37.
19 MR. STONE: Yeah. Your Honor --
20 THE WITNESS: 37.
21 MR. STONE: -- we don't have 37. We've
22 never been provided a copy of 37. This is one of --
23 this is one of the supplemental things that came in
24 this morning, and we -- we don't -- we don't even have
25 a copy of it.

1 THE COURT: Let me see if I do.
2 MR. GONZALEZ-PAGAN: Just to clarify,
3 Your Honor, counsel has been provided a copy. They
4 were rebuttal exhibits that in the interest of Cantor
5 were --
6 THE COURT: Well, I don't think you can
7 do rebuttal -- I also think it's not probably not
8 proper on a voir dire to --
9 MR. GONZALEZ-PAGAN: Well, it goes -- it
10 just goes to his qualifications, Your Honor.
11 MR. STONE: But --
12 MR. GONZALEZ-PAGAN: I can just -- I can
13 ask the direct question without relying on the exhibit.
14 THE COURT: Yeah. Just -- let's not
15 admit an exhibit at this time.
16 MR. GONZALEZ-PAGAN: Yeah. Your Honor --
17 THE COURT: Why don't you just ask
18 questions.
19 Q. (BY MR. GONZALEZ-PAGAN) Dr. Cantor, have you
20 reviewed the Court's decision in *Eknes-Tucker*?
21 A. Portions of it. Not in its entirety, no.
22 Q. Did you review the portions relating to
23 yourself?
24 A. Yes.
25 Q. Okay. In the Court decision in *Eknes-Tucker*,

1 the Court stated, Dr. Cantor admitted that his patients
2 are on average 30 years old. He had never provided
3 care to trans- -- to a transgender minor under the age
4 of 16. He had never diagnosed a child or adolescent
5 with gender dysphoria. He had never treated a child or
6 adolescent with gender -- for gender dysphoria. He had
7 no personal experience monitoring patients receiving
8 transitioning medications, and he had no personal
9 knowledge of the assessments or treatment methodologies
10 used at any Alabama gender clinic.
11 Do you recall that portion of the
12 *Eknes-Tucker* decision?
13 A. Yes, roughly.
14 Q. Do you dispute the Court's description of your
15 experience?
16 A. I can't say that that's a complete --
17 Q. Is anything in --
18 A. I -- I -- the content of it is complete, but
19 removed from the context around it isn't exactly the
20 full story.
21 Q. It is not an incorrect representation; is that
22 right?
23 A. Of that content of the decision, yes.
24 Q. Okay. And to follow up, do you have any
25 personal knowledge of the assessments or treatment

1 methodologies used in Texas gender clinics?
2 A. I don't believe any has made any official --
3 oh. Yes, there would -- no. There was a
4 recently-closed clinic in Texas which published a
5 report of the methods that it used, and it said it
6 used, I think it was, the Endocrine Society guidelines.
7 Q. But you don't have any personal knowledge.
8 This is something you read in a study; is that correct?
9 A. Personal knowledge? No.
10 Q. And you have not con- -- conducted any
11 original scientific research on the efficacy or safety
12 of the medical treatment of gender dysphoria; is that
13 right?
14 A. Not on that specific question for original
15 research, no. I've conducted comprehensive reviews of
16 the research in order to make theoretical conclusions
17 about it.
18 MR. GONZALEZ-PAGAN: Your Honor, at this
19 point in time, we would object to the qualification of
20 Dr. Cantor as an expert. As the Court concluded in
21 *Eknes-Tucker,* which involved similar issues to the case
22 at hand, the Court gave very little weight to
23 Dr. Cantor's opinion regarding the treatment of gender
24 dysphoria.
25 THE COURT: Well, but you just said

1 MR. GONZALEZ-PAGAN: At this point in
2 time, Your Honor, we would ask that the Court keep the
3 motion to exclude under advisement, and we would
4 revisit it after the conclusion.
5 THE COURT: I think the Court can always
6 keep a motion to exclude in a bench trial under
7 advisement and make a decision about that. I think
8 that has a practical -- perhaps is a practical way to
9 move forward here, understanding that the defendants
10 are still going to now ask some questions to this
11 witness. And at least until the Court says otherwise
12 and unless the Court later determines he is not
13 qualified, as of now the Court's going to accept him as
14 a qualified witness and allow testimony from him.
15 MR. GONZALEZ-PAGAN: Thank you,
16 Your Honor.
17 THE COURT: Thank you. And all of his --
18 even if there is qualification here, the Court
19 determines the weight of the evidence because I am the
20 finder of fact. I think everybody understands that.
21 Thanks.
22 MR. STONE: Thanks, Your Honor.
23 **DIRECT EXAMINATION CONTINUED**
24 BY MR. STONE:
25 Q. All right. Dr. Cantor, could you turn to

1 THE COURT: Hold on. He can't answer.
2 Yes, Mr. Stone.
3 MR. STONE: Sorry. I was trying to tell
4 the witness to stop talking, Your Honor.
5 THE COURT: Do you have a response?
6 MR. STONE: Yes. This -- this --
7 Dr. Cantor has been designated as an expert on the
8 science related to the treatment of gender dysphoria in
9 minors. A differential diagnosis goes to as -- I'm
10 just laying a predicate. He's going to explain why,
11 but it goes to the science. It relates specifically to
12 the science. So I'm not asking him about making any --
13 whether he makes a medical diagnosis of patients. I'm
14 going to be asking him about whether the studies
15 distinguished between different things and -- different
16 diagnoses. Ergo, I'm asking him about what is a
17 differential diagnosis. So it's --
18 THE COURT: It's close and very
19 confusing, but I will overrule the objection. It can
20 go to weight.
21 Q. (BY MR. STONE) Go ahead and answer if you
22 can, Dr. Cantor.
23 A. In a differential diagnosis, one is not only
24 saying what one believes is the actual cause of a
25 problem in a -- in a patient but also ruling out

1 60 percent lower odds of moderate or severe depression
2 and 73 percent lower odds of suicidality for a 12-month
3 follow-up?
4 A. I'm sorry. Could you say that again?
5 Q. Do you dispute that the study Tordoff, et al.,
6 published in 2022 concluded that gender-affirming care,
7 both psychotherapy and medical care, was associated
8 with 60 percent lower odds of moderate or -- or severe
9 depression and 73 percent lower odds of suicidality
10 over a 12-month follow-up?
11 A. No, I don't.
12 Q. Dr. Cantor, do you dispute that a study by
13 Achille, et al., in 2020 concluded that endocrine
14 intervention was associated with decreased depression,
15 suicidal ideation, and improved quality of life for
16 transgender youth?
17 A. I would have to qualify that in that study
18 they -- they didn't find anything significant for
19 puberty blockers but they did for cross-sex hormones,
20 so saying endocrine intervention is ambiguous.
21 Q. Do you dispute that a 2020 study by
22 van der Miesen, et al., indicated that trans youth
23 showed fewer emotional and behavioral problems after
24 puberty suppression and similar or fewer problems
25 compared to same-age cisgender peers, and you answered

1 in the affirmative?
2 A. Again, I can't remember the exact question and
3 answer then, but the context -- but the authors of that
4 study themselves were -- noted that psychotherapy --
5 that they themselves couldn't use their own data to
6 suggest improvement because it was people who were
7 already doing well -- continuing to do well rather than
8 people who were doing poorly, then coming to do well.
9 Q. Okay. Dr. Cantor, you cannot cite to any
10 study showing that psychotherapy alone can resolve an
11 adolescent's gender dysphoria; is that correct?
12 A. That's correct.
13 MR. GONZALEZ-PAGAN: That's it for
14 plaintiffs on cross, Your Honor.
15 THE COURT: Anything further from you?
16 MR. STONE: No, Your Honor.
17 THE COURT: Okay. Then, Doctor, you are
18 excused. You are free to disconnect yourself and free
19 to go. Thank you.
20 MR. STONE: Thank you, Dr. Cantor.
21 THE WITNESS: My pleasure. Good luck,
22 everyone.
23 MR. STONE: And, Your Honor, could I get
24 a time check before we call our -- this is our last
25 witness.

1 as medical records and medical treatment records.
2 THE COURT: Sure. A doctor has that
3 exception, though. It's not -- and a patient can maybe
4 have it, but that's not a hearsay upon hearsay upon
5 hearsay, which is what we're talking about here.
6 MR. STONE: Your Honor, for the sake --
7 THE COURT: So I'm just -- I think -- I
8 think she can give a lay answer to the question of what
9 are puberty blockers in her layperson understanding,
10 but where we go next could become a problem.
11 MR. STONE: We're just going to move on.
12 I -- doesn't matter.
13 Q. (BY MR. STONE) When did you first -- when did
14 DFPS first receive a report involving the
15 administration of puberty blockers or hormone therapy
16 to a minor?
17 A. So it was in February of 2022.
18 Q. Do you remember when in February of 2022?
19 A. I cannot.
20 Q. When did DFPS investi- -- DFPS last receive a
21 report of -- involving a minor and the use of
22 hormone -- hormone therapy or puberty blockers?
23 A. It was in March of 2022, but I can't think of
24 the exact date.
25 Q. And I'm going to refer to these, as my

1 Q. How were the 11 child -- cases involving
2 allegations of child abuse related to PBHT, how were
3 they designated when they arrived in investigations?
4 A. They were designated as what we call
5 Priority 2 investigations.
6 Q. What is a PN in the context of a DFPS
7 investigation?
8 A. Yes. So it's a priority none, which at times
9 we receive intakes or information prior to stage
10 progressing it to an investigation, and we can close it
11 as a PN if we find that there's evidence to show that
12 there was not abuse or neglect to a child.
13 There's some other little reasons in
14 there, such as the child -- the jurisdiction's
15 incorrect or the child is not -- is under HTN, so
16 there's some other pieces. But the main thing is that
17 we were able to make phone calls or contact people, and
18 it basically let us know that there was not allegations
19 of abuse or neglect.
20 Q. Did DFPS instruct staff not to PN these --
21 these cases, these 11 cases?
22 A. Yes.
23 Q. Why?
24 A. Well, there was -- we had already reviewed
25 them. We knew it was going to be high profile. We

1 knew possibly there would be some kind of litigation,
2 and so we had already reviewed them. And I definitely
3 wanted to protect my staff and them not treat them
4 differently or do something differently after the
5 review had already been completed.
6 Q. Did you instruct your staff not to discuss
7 these 11 cases?
8 A. No, I did not.
9 Q. Why didn't these 11 cases conclude within
10 30 days? Wait. Pause. Let met -- let me -- let me
11 stop -- let me ask that again.
12 Did any of the 11 cases resolve within
13 30 days?
14 A. No.
15 Q. Why not?
16 A. Litigation. We were staying. We couldn't
17 complete some of the investigations. We are on stay.
18 I mean, it was a lot happening.
19 Q. As of today, how many of those 11 cases have
20 been resolved?
21 A. Five. Completely resolved and closed is five.
22 Q. And what was the disposition of those five?
23 A. All five had been ruled out.
24 Q. Are there any -- how many of the 11 are
25 pending closure?

1 misstates prior testimony, specifically the phrase he's
2 using for gender-affirming healthcare. We use the term
3 PBHT.
4 THE COURT: Sustained. I think you need
5 to ask a more specific question.
6 Q. (BY MR. COOK) Ms. Talbert, for the -- the
7 types of cases where there are allegations that the
8 minor was receiving PBHT, those were categorically
9 treated as Priority 2 by DFPS; is that right?
10 A. That is correct.
11 Q. Okay. Prior to February 22nd, 2022, were
12 cases where there was an allegation of PBHT being
13 provided to minors categorized as P2 automatic?
14 A. I don't know that because, you know, there's
15 about 240,000 investigations a year, so I cannot
16 confirm that none of those cases were not about a child
17 receiving some kind of medical treatment.
18 Q. And you're the statewide supervisor of
19 investigations; is that right?
20 A. No. I'm the director of field for
21 investigations.
22 Q. Okay. And you've been at the agency for over
23 a year?
24 A. Over -- over -- almost 25 years.
25 Q. And given the volume of cases that come in for

1 investigation, you can't possibly be involved in each
2 and every one of those cases; is that right?
3 A. That's correct.
4 Q. And prior to February 22nd, you had not been
5 personally involved in any cases where there were
6 allegations of PBHT being provided to minors; is that
7 true?
8 A. That is correct.
9 MR. COOK: No other questions,
10 Your Honor.
11 THE COURT: Anything else?
12 MR. STONE: Yeah. Just -- yes,
13 Your Honor, just one thing. We'd like to offer
14 Exhibit 27. I'm --
15 MS. CORBELLO: It's 31.
16 MR. STONE: It's 31?
17 MS. CORBELLO: Yes.
18 MR. STONE: What we're planning on
19 marking as Exhibit 31.
20 THE COURT: And have you uploaded it to
21 the Box?
22 MS. CORBELLO: Yes, Your Honor.
23 MR. STONE: Yes, Your Honor. This is a
24 business records affidavit for the exhibits that the
25 Court did not admit because of hearsay. But I just

1 **REPORTER'S CERTIFICATE**

2

3 STATE OF TEXAS)
)
4 COUNTY OF TRAVIS)

5 I, Alicia Racanelli, Official Court Reporter in and
6 for the 201st District Court of Travis County, State of
7 Texas, do hereby certify that the above and foregoing
8 contains a true and correct transcription of all
9 portions of evidence and other proceedings requested in
10 writing by counsel for the parties to be included in
11 this volume of the Reporter's Record, in the
12 above-styled and numbered cause, all of which occurred
13 in open court or in chambers and were reported by me.
14 I further certify that this Reporter's Record of
15 the proceedings truly and correctly reflects the
16 exhibits, if any, offered in evidence by the respective
17 parties.
18 WITNESS MY OFFICIAL HAND this the 14th day of July,
19 2022.
20
21
22 /s/ Alicia Racanelli
Alicia Racanelli, Texas CSR No. 3591
23 Expiration Date: April 30, 2023
Official Court Reporter, 201st District Court
24 Travis County, Texas
P.O. Box 1748, Austin, Texas 78767
25 Telephone (512) 854-4028

1 **REPORTER'S RECORD**
VOLUME 2 OF 2 VOLUMES
2 **TRIAL COURT CAUSE NO. D-1-GN-22-002569**

3
PFLAG, INC., ET AL., Plaintiffs,	)	IN THE DISTRICT COURT
VS.	)	TRAVIS COUNTY, TEXAS
GREG ABBOTT, ET EL., Defendants.	)	459TH JUDICIAL DISTRICT

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12 **EXHIBIT VOLUME**
13 **ADMITTED EXHIBITS ONLY**
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15

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20 On the 6th day of July, 2022, the following
21 proceedings came on to be heard in the above-entitled
22 and numbered cause before the Honorable Amy Clark
23 Meachum, Judge Presiding, held in Austin, Travis
24 County, Texas:
25 Proceedings reported by machine shorthand.

1 **APPEARANCES**

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21

22

23

24

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EXHIBIT INDEX

PLAINTIFFS'

NO.	DESCRIPTION	OFFER	ADMIT	VOL.
2	Letter	133	134	1
3	Statement	135	135	1
5	Dr. Brady's CV	88	88	1
15	Agenda	137	137	1
16	CPS Handbook	138	139	1
17	CPS Handbook	139	139	1
18	CPS Handbook	139	140	1
19	CPS Handbook	140	140	1
20	CPS Handbook	141	141	1
22	PFLAG Articles of Incorporation	63	63	1
23	PFLAG National Bylaws	64	65	1

DEFENDANTS'

NO.	DESCRIPTION	OFFER	ADMIT	VOL.
26	Dr. Cantor's CV	200	200	1
31	Business Records Affidavit	266	269	1

1 STATE OF TEXAS)
Q.)
2 COUNTY OF TRAVIS)

3

4 I, Alicia Racanelli, Official Court Reporter in and
5 for the 201st District Court of Travis County, State of
6 Texas, do hereby certify that the following exhibits
7 constitute true and complete duplicates of the original
8 exhibits, excluding physical evidence, offered into
9 evidence during the court hearing in the above-entitled
10 and numbered cause as set out herein before the
11 Honorable Amy Clark Meachum, Judge of the 201st
12 District Court of Travis County, State of Texas.
13 WITNESS MY OFFICIAL HAND on this the 14th day of
14 July, 2022.

15

16

17 /s/ Alicia Racanelli
Alicia Racanelli, Texas CSR No. 3591
18 Expiration Date: April 30, 2023
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19 Travis County, Texas
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PLAINTIFFS' EXHIBIT NO. 2

Letter from Gov. Greg Abbott to Comm'r Masters - February 22, 2022

GOVERNOR GREG ABBOTT

February 22, 2022

The Honorable Jaime Masters
Commissioner
Texas Department of Family and Protective Services
701 West 51st Street
Austin, Texas 78751

Dear Commissioner Masters:

Consistent with our correspondence in August 2021, the Office of the Attorney General (OAG) has now confirmed in the enclosed opinion that a number of so-called "sex change" procedures constitute child abuse under existing Texas law. Because the Texas Department of Family and Protective Services (DFPS) is responsible for protecting children from abuse, I hereby direct your agency to conduct a prompt and thorough investigation of any reported instances of these abusive procedures in the State of Texas.

As OAG Opinion No. KP-0401 makes clear, it is already against the law to subject Texas children to a wide variety of elective procedures for gender transitioning, including reassignment surgeries that can cause sterilization, mastectomies, removals of otherwise healthy body parts, and administration of puberty-blocking drugs or supraphysiologic doses of testosterone or estrogen. *See* TEX. FAM. CODE § 261.001(1)(A)–(D) (defining "abuse"). Texas law imposes reporting requirements upon all licensed professionals who have direct contact with children who may be subject to such abuse, including doctors, nurses, and teachers, and provides criminal penalties for failure to report such child abuse. *See id.* §§ 261.101(b), 261.109(a-1). There are similar reporting requirements and criminal penalties for members of the general public. *See id.* §§ 261.101(a), 261.109(a).

Texas law also imposes a duty on DFPS to investigate the parents of a child who is subjected to these abusive gender-transitioning procedures, and on other state agencies to investigate licensed facilities where such procedures may occur. *See* TEX. FAM. CODE § 261.301(a)–(b). To protect Texas children from abuse, DFPS and all other state agencies must follow the law as explained in OAG Opinion No. KP-0401.

Sincerely,

Greg Abbott
Governor

EXHIBIT

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GA:jsd

Enclosure

cc: Ms. Cecile Young, Executive Commissioner, Health and Human Services Commission
Mr. Stephen B. Carlton, Executive Director, Texas Medical Board
Ms. Katherine A. Thomas, Executive Director, Texas Board of Nursing
Dr. Tim Tucker, Executive Director, Texas State Board of Pharmacy
Mr. Darrell Spinks, Executive Director, Texas Behavioral Health Executive Council
Mr. Mike Morath, Commissioner, Texas Education Association
Ms. Cristina Galindo, Chair, Texas State Board of Educator Certification
Ms. Camille Cain, Executive Director, Texas Juvenile Justice Department

PLAINTIFFS' EXHIBIT NO. 3

Commissioner Masters Statement

1:40

AG Opinion Statement

DOCX - 13 KB

Statement on Governor's Letter/AG Opinion

In accordance with Governor Abbott's directive today to Commissioner Masters, we will follow Texas law as explained in Attorney General opinion KP-0401.
At this time, there are no pending investigations of child abuse involving the procedures described in that opinion. If any such allegations are reported to us, they will be investigated under existing policies of Child Protective Investigations.

Open Office

PLAINTIFFS' EXHIBIT NO. 15

Agenda for Leadership Meeting - DFPS - February 24, 2022

Agenda for Leadership Meeting 2.24.2022

1. Random Moment Time Studies
   A. Meet our RMTS Coordinator for the Region, Monica Perez
   B. RMTS Communication Expectations- we must respond to Monica when she is reaching out. The worker will be the first contact and then she will within a few hours be following up with the supervisor and then a few hours with the PD and up the chain. Every RMTS that we complete is equivalent to $40k for our agency.
2. Specific Cases
   A. When you get a case that involves the specific allegation we talked about you need to immediately send an email to your PD, your PA, Lisa Guyton, and Gabina DeHoyoz for tracking and to possibly schedule a staffing. We want to be involved to help guide staff and provide assistance as we know these can be difficult.
   B. Any communication you have regarding these cases needs to be done in a Teams meeting, telephone call, or face to face. Do not send text messages or emails in regards to these specific cases.
   C. Our General Counsel for the agency is going to be working on disposition guidelines. We will be working closely with her in the beginning on dispositioning these specific cases.
   D. PA meeting discussion- specific workers? Worker V?
3. Worker V
   A. The audit has been approved and I am hopeful our Worker V position will be posted in the next week. If you have ideas how we can utilize this position in our region please let your PD and PA know.
4. Master Investigator Assistance
   A. Good News in April we will be getting 30 MI's deployed to our region to assist us in case resolution.
   B. They will be paired one on one with our high workloads.
   C. They will be in our region for approximately 3 months.
   D. PD's, PA's and I will meet weekly to discuss progress being made.
   E. Weekly meetings will start in March for planning.
   F. This is a great opportunity for us to really get our region back in a good place. We need to really take full advantage of it.

EXHIBIT
exhibitsticker.com

VERIFICATION

STATE OF TEXAS §

TRAVIS COUNTY §

Before me the undersigned notary, on this day personally appeared Maddy R. Dwertman, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

1. My name is Maddy (Madeleine) R. Dwertman. I am over the age of 18 years, of sound mind, and capable of making this verification. I am co-counsel of record for Plaintiff/Appellee Mirabel Voe, individually and as parent and next friend of Antonio Voe, a minor, and Plaintiff/Appellee Wanda Roe, individually and as parent and next friend of Tommy Roe, a minor (collectively, "Plaintiffs" or "Appellees") in *PFLAG, Inc., et al. v. Gregory Abbott, et al.,* Cause No. D-1-GN-22-002569, pending before the 201st Judicial District Court in Travis County, Texas ("District Court Case"). I am also co-counsel of record for Plaintiffs/Appellees in this appeal. I have personal knowledge of the proceedings and the pleadings and other papers on file in the District Court Case and in this case.

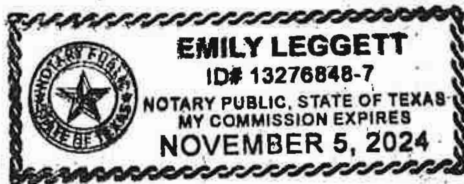
2. Appendices A through D in the foregoing Appendix to Appellees' Emergency Motion for Temporary Injunctive Relief Pursuant to Rule 29.3 are true and correct copies of filings and orders in the underlying District Court Case.

Additionally, Appendix E is a true and correct copy of excerpts of the Reporter's Record of the July 6, 2022 hearing in the District Court on Plaintiffs' Application for Temporary Injunction that counsel for Plaintiffs/Appellees requested, paid for and received from the court reporter who transcribed that hearing.

FURTHER AFFIANT SAYETH NOT.

Maddy (Madeleine) R. Dwertman

Subscribed and sworn to before me by Maddy R. Dwertman, on this 18th day of July 2022.



Notary Public, State of Texas

Name: Emily Leggett

Commission Expires: November 5, 2024

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Stacey Benson on behalf of Derek McDonald
Bar No. 00786101
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Status as of 7/19/2022 4:15 PM CST

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