Nos. 03-22-00420-CV & 03-22-00587-CV

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

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,

friend of TOMMY ROE, a minor; ADAM BRIGGLE and AMBER BRIGGL
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

BRIEF OF AMICI CURIAE AMERICAN ACADEMY OF PEDIATRICS AND ADDITIONAL NATIONAL AND STATE MEDICAL AND MENTAL HEALTH ORGANIZATIONS IN SUPPORT OF APPELLEES

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Other Authorities

Christal Achille et al., *Longitudinal Impact of Gender-Affirming Endocrine Intervention on The Mental Health and Wellbeing of Transgender Youths: Preliminary Results*, 8 INT'L J PEDIATRIC ENDOCRINOLOGY 1 (2020) 18, 19

Stewart L. Adelson, *Practice Parameter on Gay, Lesbian, or Bisexual Sexual Orientation, Gender Non-Conformity, and Gender Discordance in Children and Adolescents*, 51 AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 957 (2020) 24

Zoe Aldridge et al., *Long Term Effect of Gender Affirming Hormone Treatment on Depression and Anxiety Symptoms in Transgender People: A Prospective Cohort Study*, 9 ANDROLOGY 1808 (2021) 20

Luke R. Allen et al., *Well-Being and Suicidality Among Transgender Youth After Gender-Affirming Hormones*, 7(3) CLINICAL PRAC. PEDIATRIC PSYCH. 302 (2019) 19, 20, 21

Am. Psychiatric Ass'n, *Diagnostic and Statistical Manual of Mental Disorders: DSM-5–TR* (2022) 9

Am. Psychological Ass'n, *APA Resolution on Gender Identity Change Efforts* (Feb. 2021) 9

Am. Psychological Ass'n, *Guidelines for Psychological Practice with Transgender and Gender Nonconforming People*, 70(9) AMERICAN PSYCHOLOGIST 832 (2015) 8

Australian Standards of Care and Treatment Guidelines for Trans and Gender Diverse Children and Adolescents, ROYAL CHILDREN'S HOSP. MELBOURNE (Oct. 2021) 26

Greta R. Bauer et al., *Transgender Youth Referred to Clinics for Gender-Affirming Medical Care in Canada*, 148(5) PEDIATRICS 1 (2021) 26

Susan D. Boulware et al.,

Gender Incongruence: National Academic Guideline, NORWEGIAN DIRECTORATE OF HEALTH (2021)..27

Amy E. Green et al., Association of Gender-Affirming Hormone Therapy with Depression, Thoughts of Suicide, and Attempted Suicide Among Transgender and Nonbinary Youth, J. ADOLESCENT HEALTH (2021)..19

Guidelines on Healthcare Concerning Gender Identity Matters, DANISH STATE LEGAL INFORMATION SYSTEM (2018)..26

Gordon Guyatt et al., GRADE Guidelines: 1. Introduction-GRADE Evidence Profiles and Summary of Findings Tables, 64 J. CLINICAL EPIDEMIOLOGY 383 (2011)..17

Gordon H. Guyatt et al., GRADE: An Emerging Consensus on Rating Quality of Evidence and Strength(v)39 (l)1.goce C ergin 336 B (i)1 /w 17 9 (nce)4 (9 (L

STATEMENT OF INTEREST OF AMICI CURIAE

Amici curiae are the American Academy of Pediatrics, the Academic Pediatric Association, the American Academy of Child & Adolescent Psychiatry, the Association of American Medical Colleges,

optimal medical and mental health care they need and deserve. *Amici* represent thousands of healthcare providers who have specific expertise with the issues raised in this brief. The Court should consider *amici*'s brief because it provides important expertise and addresses misstatements about the treatment for transgender adolescents.

INTRODUCTION

On February 18, 2022, Attorney General Paxton released Opinion No. KP-0401 ("Paxton Opinion"), incorrectly concluding that certain evidence-based medical treatments that are critical for many adolescents with gender dysphoria constitute "child abuse."[2] In a letter dated February 22, 2022, incorporating the Paxton Opinion, Governor Abbott directed the Texas Department of Family and Protective Services ("DFPS") to investigate "any reported instances" of the use of those treatments as child abuse ("Abbott Letter").[3] On the same day, DFPS announced that it would comply with the Abbott Letter.[4] In actuality, the medical treatments characterized as "child abuse" in the Abbott Letter are part of the widely accepted treatment guidelines for adolescents with gender dysphoria, and are supported by the best available scientific evidence. Denying these treatments to adolescents who need them would irreparably harm their health. Additionally, the Abbott Letter and DFPS announcement place healthcare providers in Texas in an

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[2] 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.

[3] Greg Abbott, Letter to Hon. Jaime Masters, Commissioner, Tex. Dep't of Fam. & Protective Servs., at 1 (Feb. 22, 2022), https://gov.texas.gov/uploads/files/press/O-MastersJaime202202221358.pdf.

[4] *See* 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.

impossible position. These providers are required to falsely report adolescent patients receiving these treatments as victims of child abuse even though such reporting would inflict serious harm on their patients, thereby violating these providers' professional codes of ethics. On the other hand, if Texas providers do not report their patients, they face severe legal consequences, including potential civil and criminal penalties and the loss of their professional licenses.[5] Thus, if the temporary injunctions are not upheld, action taken pursuant to the Abbott Letter and DFPS announcement will irreparably harm both transgender adolescents and healthcare providers in Texas.

Below, *amici* provide the Court with an accurate description of the relevant treatment guidelines for gender dysphoria, including the medical treatments mischaracterized by the Abbott Letter; summarize the scientific evidence supporting gender-affirming medical care for adolescents; analyze inaccurate claims the State makes to support the Abbott Letter and DFPS announcement; and detail the severe consequences that patients and providers will face if action is taken pursuant to the Abbott Letter and DFPS announcement.[6]

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[5] *See* Abbott, Letter to Hon. Jaime Masters, *supra* note 3, at 1.

[6] In this brief, the term "gender-affirming medical care" refers to the use of gonadotropin-releasing hormone (GnRH) analogues and/or hormone therapy to treat gender dysphoria. Because this brief focuses primarily on adolescents, it does not discuss surgeries that are typically available to transgender adults.

Gender dysphoria G

ineffective and harmful.[9] For adolescents with persistent gender dysphoria that worsens with the onset of puberty, gender-affirming care may include medical care to align their physiology with their gender identity. Empirical evidence indicates that gender-affirming care, including gender-affirming medical care provided to carefully evaluated patients who meet diagnostic criteria, can alleviate clinically significant distress and lead to significant improvements in the mental health and overall well-being of adolescents with gender dysphoria.[10]

The Abbott Letter, however, disregards this medical evidence by mischaracterizing gender-affirming medical care as child abuse and directing DFPS to investigate healthcare providers who treat adolescent patients with gender dysphoria in accordance with widely accepted treatment guidelines. As such, enforcement of( ) [illegible] ntd0.5 (a)-1hori(hori31 (of( )0.5 (p4.2 (c (of(n9 (d t)un9 (s)0.5

obligation to do no harm to patients.[11] It is for these reasons, among others, that pediatricians, endocrinologists, psychiatrists, nurse practitioners, medical experts in diagnosing child abuse and neglect, and other medical professionals practicing in Texas oppose DFPS' enforcement of the Abbott Letter.[12] Accordingly, amici support affirmance of the temporary injunctions.

ARGUMENT

This brief first provides background on gender identity and gender dysphoria. It then describes the professionally accepted medical guidelines for treating gender dysphoria as they apply to adolescents, the scientifically rigorous process by which

inaccuracies regarding the professionally

12 months.[24]

II. The Widely Accepted Guidelines for Treating Adolescents with Gender Dysphoria Provide for Gender-Affirming Medical Care When Indicated.

The widely accepted view of the professional medical community is that gender-affirming care is the appropriate treatment for gender dysphoria and that, for some adolescents, gender-affirming medical care is necessary.[25] This care greatly reduces the negative physical and mental health consequences that result when gender dysphoria is untreated.[26]

A. The Gender Dysphoria Treatment Guidelines Include Thorough Mental Health Assessments and, for Some Adolescents, Gender-Affirming Medical Care.

The treatment protocols for gender dysphoria are laid out in established, evidence-based clinical guidelines: (i) the Endocrine Society Clinical Practice Guideline for Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons, and (ii) the WPATH Standards of Care for the Health of Transgender and

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[24] *See* Michelle M. Johns et al., *Transgender Identity and Experiences of Violence Victimization, Substance Use, Suicide Risk, and Sexual Risk Behaviors Among High School Students—19 States and Large Urban School Districts, 2017*, U.S. Dep't of Health and Human Servs., Centers for Disease Control & Prevention, 68 MORBIDITY & MORTALITY WKLY. REP. 67, 70 (2019), https://perma.cc/7ZKM-F4SS.

[25] *See, e.g.*, Endocrine Soc'y, *Transgender Health: An Endocrine Society Position Statement* (2020), https://perma.cc/7L4P-VWME.

[26] *See id.*

Gender-Diverse People (together, the "Guidelines").[27] The Guidelines have been developed by expert clinicians and researchers who have worked with patients with gender dysphoria for many years.

The Guidelines provide that all youth

2. A Robust Diagnostic Assessment Is Required Before Gender-Affirming Medical Care Is Provided.

In contrast to prepubertal children, the Guidelines do contemplate the possibility that transgender adolescents with gender dysphoria could receive gender-affirming medical care, provided certain criteria are met. According to the Guidelines, gender-affirming medical care should be provided only after a thorough evaluation by a HCP who: (1) is licensed by their statutory body and holds a master's degree or equivalent in a relevant clinical field; (2) has expertise and received theoretical and evidence-based training in child, adolescent, and family mental health; (3) has expertise and received training in gender identity development, gender diversity in children and adolescents, can assess capacity to consent, and possesses knowledge about gender diversity across the life span; (4) has expertise and received training in autism spectrum disorders and other neurodevelopmental presentations, or collaborates with a developmental disability

consent for treatment; (4) any coexisting psychological, medical, or social problems that could interfere with diagnosis, treatment, or the adolescent's ability to consent have been addressed; (5) the adolescent has been informed of the reproductive effects of treatment in the context of their stage in pubertal development and discussed fertility preservation options; and (6) the adolescent has reached Tanner stage 2 of puberty to initiate pubertal suppression.[35] Further, a pediatric endocrinologist or other clinician experienced in pubertal assessment must (7) agree with the indication for treatment ,

the Adam's apple or breast growth.[39] Puberty blockers have well-known efficacy and side-effect profiles.[40] Their effects are generally reversible, and when a patient discontinues their use, the patient resumes endogenous puberty.[41] In fact, puberty blockers have been used by pediatric endocrinologists for more than 40 years for the treatment of precocious puberty.[42] The risks of any serious adverse effects from puberty blockers are exceedingly rare when provided under clinical supervision.[43]

Later in adolescence—and if thiteria below are met —hormone therapy may be used to initiate puberty consistent with the patient's gender identity.[44] Hormone therapy involves using gender-affirming hormones to allow adolescents to develop secondary sex characteristics consistent with their gender identity.[45] Hormone therapy is only prescribed when a qualified mental health professional has

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[39] See AAP Policy Statement, supra note 7, at 5.

[40] See Martin, supra note 10, at 2.

[41] See id.

[42] See F. Comite et al., Short-Term Treatment of Idiopathic Precocious Puberty with a Long-Acting Analogue of Luteinizing Hormone-Releasing Hormone — A Preliminary Report

confirmed the persistence of the patient's gender dysphoria, the patient's mental capacity to consent to the treatment, and that any coexisting problems have been addressed.[46] A pediatric endocrinologist or other clinician experienced in pubertal induction must also agree with the indication, and the patient and their parents or guardians must be informed of the potential effects and side effects and give their informed consent.[47] Although some of the changes caused by hormone therapy become irreversible after those secondary sex characteristics are fully developed, others are partially reversible if the patient discontinues use of the hormones.[48]

The Guidelines contemplate that the prescription of puberty blockers and/or hormone therapy be coupled with education on the safe use of such medications and close monitoring to mitigate any potential risks.[49] Decisions regarding the appropriate treatment for each patient with gender dysphoria are made in consultation with the patient, their parents or g-3.6 (tde)3.9 4ipw 0.23 a 5.0Ead.9 (of t)11.1 (r)]T

transgender care guideline

therapy to treat adolescents with gender dysphoria.[60] These studies find positive mental health outcomes for those adolescents who received puberty blockers or hormone therapy, including statistically significant reductions in anxiety,

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et al., *Short-Term Outcomes of Pubertal Suppression in a Selected Cohort of 12 to 15 Year Old Young People With Persistent Gender Dysphoria in the UK*, 16(2) PLOS ONE e0243894 (2021), https://doi.org/10.1371/journal.pone.0243894; Rosalia Costa et al., *Psychological Support, Puberty Suppression, and Psychosocial Functioning in Adolescents with Gender Dysphoria*, 12(11) J. SEXUAL MED. 2206–2214 (2015), https://pubmed.ncbi.nlm.nih.gov/26556015; Annelou L.C. de Vries et al., *Puberty Suppression In Adolescents With Gender Identity Disorder: A Prospective Follow-Up Study* 8(8) J. SEXUAL MED. 2276–2283 (2011), https://pubmed.ncbi.nlm.nih.gov/20646177; Annelou L.C. de Vries et al., *Young Adult Psychological Outcome After Puberty Suppression And Gender Reassignment*, 134(4) PEDIATRICS 696–704 (2014), https://pubmed.ncbi.nlm.nih.gov/25201798; Laura E. Kuper, et al., *Body Dissatisfaction and Mental Health Outcomes of Youth on Gender-Affirming Hormone Therapy* 145(4) PEDIATRICS e20193006 (2020), https://perma.cc/2HAT-GGFV; Jack L. Turban et al., *Pubertal Suppression For Transgender Youth And Risk of Suicidal Ideation*, 145(2) PEDIATRICS e20191725 (2020), https://perma.cc/B2UZ-YR3Q; Anna I.R. van der Miesen, *Psychological Functioning in Transgender Adolescents Before and After Gender-Affirmative Care Compared With Cisgender General Population Peers*, 66(6) J. ADOLESCENT HEALTH 699–704 (2020); Diana M. Tordoff et al., *Mental Health Outcomes In Transgender And Nonbinary Youths Receiving Gender-Affirming Care*, 5(2) JAMA NETWORK OPEN e220978 (2022), https://perma.cc/SBF4-B4D4.

[60] *See, e.g.*, Achille, *supra* note 59, at 1–5; Luke R. Allen et al., *Well-Being and Suicidality Among Transgender Youth After Gender-Affirming Hormones*, 7(3) CLINICAL PRAC. PEDIATRIC PSYCH. 302 (2019), https://psycnet.apa.org/record/2019-52280-009; Diane Chen et al., *Psychosocial Functioning in Transgender Youth after 2 Years of Hormones*, 388(3) NEW ENG. J. MED 240-50 (2023), https://www.nejm.org/doi/10.1056/NEJMoa2206297; Diego Lopez de Lara et al., *Psychosocial Assessment in Transgender Adolescents*, 93(1) ANALES DE PEDIATRIA 41–48 (English ed. 2020), https://perma.cc/AQ4G-YJ85; de Vries, *Young Adult Psychological Outcome After Puberty Suppression and Gender Reassignment*, *supra* note 59; Rittakerttu Kaltiala et al., *Adolescent Development And Psychosocial Functioning After Starting Cross-Sex Hormones For Gender Dysphoria*, 74(3) NORDIC J. PSYCHIATRY 213 (2020), https://doi.org/10.1080/08039488.2019.1691260; Kuper, *supra* note 59; Amy E. Green et al., *Association of Gender-Affirming Hormone Therapy with Depression, Thoughts of Suicide, and Attempted Suicide Among Transgender and Nonbinary Youth*, J. ADOLESCENT HEALTH (2021), https://doi.org/10.1016/j.jadohealth.2021.10.036; Jack L. Turban et al., *Access To Gender-Affirming Hormones During Adolescence and Mental Health Outcomes Among Transgender Adults*, J. PLOS ONE (2022), https://doi.org/10.1371/journal.pone.0261039.

depression, and suicidal ideation.[61]

For example, a 2020 study analyzed survey data from 89 transgender adults who had access to puberty blockers while adolescents and from more than 3,400 transgender adults who did not.[62] The study found that those who received puberty blocking treatment had lower odds of lifetime suicidal ideation than those who wanted puberty blocking treatment bu2o(i)-4vp g tgde sui5eg tgde sui5ec 0.02 i5ec 0. tgde, e demographic variables and level of family support.[63]

As another example, a prospective two-year follow-up study of adolescents with gender dysphoria published in 2011 found that treatment with puberty blockers was associated with decreased depression and improved overall functioning.[67] A six-year follow-up study of 55 individuals from the 2011 study found that subsequent treatment with hormone therapy followed by surgery in adulthood was associated with a statistically significant decrease in depression and anxiety.[68] "Remarkably, this study demonstrated that these transgender adolescents and young adults had a sense of well-being that was equivalent or superior to that seen in age-matched controls from the general population."[69]

As scientists and researchers, *amici* always welcome more research, including on this crucial topic. However, the available data indicate that the gender-affirming medical care mischaracterized by the Abbott Letter is effective for the treatment of gender dysphoria. For these reasons, and consistent with the clinical experience of healthcare providers, the use of the gender-affirming medical care specified in the

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[67] *See* de Vries, *Puberty Suppression in Adolescents with Gender Identity Disorder: A Prospective Follow-Up Study*, *supra* note 59.

[68] de Vries, *Young Adult Psychological outcome After Puberty Suppression and Gender Reassignment*, *supra* note 59.

[69] Stephen M. Rosenthal, *Challenges in the Care of Transgender and Gender-Diverse Youth: An Endocrinologist's View*, 17(10) NATURE REV. ENDOCRINOLOGY 581, 586 (Oct. 2021), https://pubmed.ncbi.nlm.nih.gov/34376826.

Guidelines is supported by all mainstream pediatric organizations.[70] As the president of the Texas Pediatric Society explained, "[e]vidence-based medical care for transgender and gender diverse children is a complex issue that pediatricians are uniquely qualified to provide."[71]

III. The State Makes Factually Inaccurate Claims To Support the Abbott Letter and DFPS Statement

The State makes a number of inaccurate claims to support the Abbott Letter and DFPS Statement. Contrary to the State's assertion that gender dysphoria is often outgrown, the evidence indicates that an adolescent with gender dysphoria will very likely be a transgender adult. The State also calls into question the quality of evidence supporting gender-affirming medical care while ignoring that the available evidence supports that such care is effective. Finally, the State incorrectly suggests that there is international support for its assertion that gender-affirming medical care

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[70] See, e.g., AMA, Advocating for the LGBTQ community, https://www.ama-assn.org/delivering-care/population-care/advocating-lgbtq-community (American Medical Association stating "Improving access to gender-affirming care is an important means of improving health outcomes for the transgender population"); An Endocrine Society Position Statement, supra note 25 (Endocrine Society and Pediatric Endocrine Society position paper stating "Youth who are able to access gender-affirming care […] experience significantly improved mental health outcomes over time, similar to their cis-gender peers"); 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 ("The American Academy of Child and Adolescent Psychiatry (AACAP) supports the use of current evidence-based clinical care with minors.").

[71] AAP, Texas Pediatric Society Oppose Actions in Texas Threatening Health of Transgender Youth, supra note 11.

is harmful, but countries around the world provide youth with access to this medical care.

A. The Vast Majority of Adolescents Diagnosed with Gender Dysphoria Will Persist Through Adulthood.

The State asserts that "children with gender dysphoria 'outgrow this condition in 61% to 98% of cases by adulthood.'"[72] However, the State improperly conflates prepubertal children with adolescents, which is an important distinction. Prepubertal children are *not* eligible under the Guidelines for any of the gender-affirming medical care prohibited by the Abbott Letter and DFPS announcement.[73] The Guidelines endorse the use of gender-affirming medical care only to treat *adolescents* and *adults* with gender dysphoria, and only when the relevant criteria are met.[74] There are *no* studies to support the proposition that adolescents with

they receive treatment or not.[75]

On the contrary, "[l]ongitudinal studies have indicated that the emergence or worsening of gender dysphoria with pubertal onset is associated with a very high likelihood of being a transgender adult."[76] Moreover, while detransitioning may occur for many reasons, detransitioning is not the same as regret. An individual who detransitions—the definition of which varies from study to study[77]—does not necessarily do so because they have come to identify with their sex assigned at birth. Instead, the most common reported factors that contribute to a person's choice to detransition are pressure from parents and discrimination.[78]

B. The State Mischaracterizes the Scientific Evidence Supporting Gender Affirming Care

The State asserts that *amici* AAP and Endocrine Society "have described the limited research on the effects of the drugs on trans youth as 'low-quality.'"[79] While

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[75] *See, e.g.*, Stewart L. Adelson, *Practice Parameter on Gay, Lesbian, or Bisexual Sexual Orientation, Gender Non-Conformity, and Gender Discordance in Children and Adolescents*, 51 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 957, 964 (2020),

with gender dysphoria who receive puberty blockers or hormone therapy.[83] This evidence supporting gender-affirming medical care is consistent with the type of evidence relied on in other clinical practices throughout the medical community.

C. Gender-Affirming Medical Care Is Provided Internationally.

The State attempts to rely on a report from "one [U.K.] physician" to wrongly suggest that there is international support for its assertion that puberty blockers and hormone therapy "have [a] high risk of harm."[84] However, the State ignores that transgender youth have access to gender-affirming medical care in developed nations across the world, including Australia,[85] Canada,[86] Denmark,[87] Finland,[88]

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[83] *See* discussion in Section II.C *supra*.

Germany,[89] Mexico,[90] New Zealand,[91] Norway,[92] Spain,[93] and Sweden,[94] among others including the United Kingdom.[95] Although some of these countries have debated how best to care for transgender patients, none have come close to banning gender-affirming medical care for all minors. Enforcement of the Abbott Letter and DFPS Announcement would make Texas an outlier in the international medical community, not the norm.

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[89] See Ethics Council Publishes Ad Hoc Recommendation on Transgender Identity in Children and Adolescents,GERMAN ETHICS COUNSEL (Feb. 20, 2020), https://www.ethikrat.org/en/press-releases/press-releases/2020/ethics-council-publishes-ad-hoc-recommendation-on-transgender-identity-in-children-and-adolescents/.

[90] SeeProtocolo para el Acceso sin Discriminación a la Prestación de Servicios de Atención
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IV. Enforcement of the Abbott Letter and DFPS Announcement Would Irreparably Harm Many Adolescents With Gender Dysphoria By Denying Them the Treatment They Need.

If enforced, the Abbott Letter and DFPS announcement will prevent

even higher risk of anxiety, depression, self-harm, and suicide."[98]

In addition, action taken pursuant to the Abbott Letter and DFPS announcement would increase the likelihood that adolescents with gender dysphoria will seek out dangerous, non-medically supervised treatments. When medically supervised care is available, patients are less likely to seek out "harmful self-prescribed hormones, use of construction-grade silicone injections, and other interventions that have potential to cause adverse events."[99] The use of hormones purchased on the street or online "may [cause] s3 (i)1 1 (p)([)-3.8 (1 (py(h e)3.9 (nt)1 hre)3

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V. Enforcement of the Abbott Letter and DFPS Announcement Would Irreparably Harm Healthcare Providers in Texas By Forcing Them to Either Risk Civil and Criminal Penalties or Endanger Their Own Patients.

The Abbott Letter and DFPS announcement put healthcare providers in Texas in an impossible situation. Providers who do not comply with the Abbott Letter would face civil penalties, criminal prosecution, and possibly the loss of their ability to practice. Complying with the Abbott Letter, however, would force providers to endanger their own patients and contravene their professional ethics. Falsely reporting that adolescents who receive gender-affirming medical care are experiencing child abuse would violate the most foundational ethical responsibility of all healthcare providers: to do no harm to their patients.[102] Making such a report would subject patients to immense and irreversible harm, including the possible discontinuation of vital medical treatments as well as investigation by the DFPS and possible family separation—all of which would only exacerbate the risks of depression, self-harm, and suicide among transgender adolescents. Furthermore,

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[102] See, e.g., Council on Medical Sub Specialties (CMSS) Ethics Statement, https://cmss.org/policies-positions/ethics-statement/ ("The physician's primary, inviolate role is as an active advocate for each patient's care and well-being."); AMA Principles of Medical Ethics, https://www.ama-assn.org/about/publications-newsletters/ama-principles-medical-ethics ("A physician shall be dedicated to providing competent medical care, with compassion and respect for human dignity and rights."); AACAP Code of Ethical Principles, https://www.aacap.org/AACAP/Member_Resources/Ethics/Foundation/AACAP_Code_of_Ethical_Principles.aspx ("[T]he obligation to promote the optimal wellbeing, functioning and development of youth, both as individuals and as a group … should be prioritized over familial or societal pressures.").

practitioners could be subject to malpractice lawsuits for failing to adhere to ethical guidelines and confront harsh consequences for reporting “child abuse” that is anything but.

CONCLUSION

Dated: January 24, 2024

Respectfully submitted,

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<u>CERTIFICATE OF COMPLIANCE</u>

I certify that this Brief complies with the typeface requirements of Tex. R. App. P. 9.4(e) because it has been prepared in a conventional typeface no smaller than 14-point for text and 12-point for footnotes. This document also complies with the word-count limitations of Tex. R. App. P. 9.4(i), if applicable, because it contains 6,807

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