

The Honorable Lauren King

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States of America, *et al.*,

Defendants.

Case No. 2:25-cv-00244

[PROPOSED] BRIEF OF THE STATE OF
ALABAMA AS *AMICUS CURIAE* IN
OPPOSITION TO PLAINTIFFS' MOTION
FOR TEMPORARY RESTRAINING
ORDER

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1 **INTRODUCTION AND INTEREST OF *AMICUS CURIAE***

2 Alabama has seen this playbook before. In 2022, shortly after the State legislature
 3 prohibited pediatric sex-change procedures, plaintiffs brought a carefully curated evidentiary
 4 record to federal court and asked for an emergency injunction. They promised that “gender-
 5 affirming care” is “lifesaving” and that the “World Professional Association for Transgender
 6 Health” (WPATH) used the “best available science” to develop the “standard of care.” See Plfs’
 7 PI Mem., *Boe v. Marshall*, No. 2:22-cv-184 (M.D. Ala. 2022), Doc.8 at 12-13, 16. The district
 8 court believed them. While acknowledging that “[k]nown risks” of transitioning treatments
 9 “include loss of fertility and sexual function,” the court preliminarily enjoined enforcement of
 10 Alabama’s law because “WPATH recognizes transitioning medications as established medical
 11 treatments and publishes a set of guidelines for treating gender dysphoria in minors with these
 12 medications.” *Eknes-Tucker v. Marshall*, 603 F. Supp. 3d 1131, 1139, 1151 (M.D. Ala. 2022),
 13 *rev’d sub nom. Eknes-Tucker v. Governor of Ala.*, 80 F.4th 1205 (11th Cir. 2023), *reh’g en banc*
 14 *denied*, 114 F.4th 1241 (11th Cir. 2024).

15 Alabama then sought and obtained court-ordered discovery from WPATH to test the
 16 court’s deference.¹ Doing so unveiled a tragic medical scandal. Internal documents from WPATH
 17 showed that the organization crafted its Standards of Care 8 as “a tool for our attorneys to use in
 18 defending access to care.”² Its evidence-review team “found little to no evidence about children
 19 and adolescents.”³ Some SOC-8 authors opted *out* of the evidence-review process entirely due to
 20 “concerns, echoed by the social justice lawyers we spoke with, ... that evidence-based review
 21

22 ¹ See Order, *Boe*, 2:22-cv-184 (M.D. Ala. Mar. 27, 2023), Doc.263.

23 ² Defs’ Ex. 181 at 75, *Boe*, 2:22-cv-184 (M.D. Ala.), Doc.700-10.

24 Throughout this brief, Alabama will reference evidence it submitted to the court in *Boe*. Citations
 25 will be by exhibit number followed by the docket entry in parenthesis and the internal page number
 26 following the colon. E.g., Ex.181(Doc.700-10):75. Exhibits are available online:
<https://www.alabamaag.gov/boe-v-marshall/>.

³ Ex.173(Doc.560-23):22.

1 reveals little or no evidence and puts us in an untenable position in terms of affecting policy or
2 winning lawsuits.”⁴ And Admiral Rachel Levine, the former Assistant Secretary for Health at
3 HHS, demanded that WPATH remove *all* age limits for chemical treatments, chest surgeries, and
4 even surgeries to remove children’s genitals from SOC-8. After some initial consternation “about
5 allowing US politics to dictate international professional clinical guidelines,”⁵ WPATH obliged.

6 Plaintiffs tell the Court none of this, even though their experts Dr. Shumer and Dr.
7 Antommaria are also witnesses in Alabama’s case. Nor do they mention the independent review
8 commissioned by England’s National Health Service to study the safety and efficacy of pediatric
9 transitioning treatments.⁶ The verdict? Dr. Hilary Cass, the pediatrician who led the review, put it
10 this way: “I can’t think of another area of paediatric care where we give young people a potentially
11 irreversible treatment and have no idea what happens to them in adulthood.”⁷ No wonder countries
12 in the UK and Europe are restricting minors’ access to the “treatments.” *See* Laviertes, *Britain Bans*
13 *Puberty Blockers for Transgender Minors*, NBC NEWS (Dec. 11, 2024),
14 <https://perma.cc/3Q4SNV8E>; Ghorayshi, *Scotland Pauses Gender Medications for Minors*, N.Y.
15 TIMES (Apr. 18, 2024), <https://perma.cc/4YV6-FCX5> (reporting that Scotland became “the sixth
16 country in Europe to limit” access).

17 Nor do Plaintiffs tell the Court what every systematic evidence review has found: only low
18 or very-low quality evidence yielding “considerable uncertainty.”⁸ That conclusion is not likely to
19 change soon. In October, the head of a large, NIH-funded study admitted to finding that “[p]uberty
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21 ⁴ Ex.174(Doc.560-24):1-2.

22 ⁵ Ex.186(Doc.700-15):32.

23 ⁶ *Cass Review* (2024), <https://perma.cc/3QVZ-9Y52>.

24 ⁷ Abbasi, “*Medication is Binary*,” *BMJ* (Apr. 2024), <https://perma.cc/KUM3-XL2S>.

25 ⁸ *See* Miroshnychenko et al., *Puberty Blockers for Youth Experiencing Gender Dysphoria*,
26 ARCH. OF DISEASE IN CHILDHOOD (Jan. 24, 2025), <https://perma.cc/U3CC-MNCX>;
Miroshnychenko et al., *Gender-Affirming Hormone Therapy for Individuals With Gender*
Dysphoria, ARCH. OF DISEASE IN CHILDHOOD (Jan. 24, 2025), <https://perma.cc/6SUU-GZ7D>.

1 blockers did not lead to mental health improvements”— then told the *New York Times* that she has
2 not published the results because she does not want the findings “to be weaponized.”⁹

3 Annelou de Vries, a seminal researcher in the field who both Dr. Antommaria and Dr.
4 Shumer cite throughout their reports, went further. Tacitly admitting the truth of “the critique that
5 there is insufficient evidence,” she recently wrote to “question” the “normative assumption” that
6 the interventions “must necessarily result in ‘effective’ outcomes in order to be considered
7 legitimate and essential care.”¹⁰ She suggested that the care instead be “provided and justified on
8 the basis of personal desire and autonomy,” “effectiveness” be measured by how well the
9 interventions “help individuals achieve their embodiment goals,” and any “experience of regret”
10 be welcomed as “inherent to all lives.”¹¹

11 Plaintiffs echo the recasting, carefully emphasizing self-reported “rates of satisfaction”
12 rather than claiming what evidence reviews disprove: that transitioning treatments significantly
13 improve psychological health and overall functioning. *See* Mot.4. They also rely on the misleading
14 claim that “[p]uberty blockers do not permanently impair fertility,” *id.*, without informing the
15 Court that nearly all children who start on puberty blockers to treat gender dysphoria then take
16 cross-sex hormones—and the combination *can* permanently impair fertility, as Dr. Shumer
17 admits.¹² And how could it not? As Dr. Shumer said, “progressing through natural puberty is a
18 requirement for fertility.”¹³

19 Then there is the risk of suicide, which Plaintiffs wield as a cudgel: grant the injunction or
20 “transgender children will die.” Mot.1. As the lead attorney challenging Tennessee’s restrictions
21

22 ⁹ Ghorayshi, *U.S. Study on Puberty Blockers Goes Unpublished Because of Politics*, N.Y. TIMES
(Oct. 23, 2024), <https://perma.cc/8M5A-4M3W>.

23 ¹⁰ Oosthoek, de Vries, et al., *Gender-affirming Medical Treatment for Adolescents*, 25 BMC
24 MEDICAL ETHICS 154 (2024), <https://perma.cc/8W4R-CEG7>.

25 ¹¹ *Id.*

26 ¹² *See* Ex.39(Doc.564-25):121:5-20, 153:13–158:15.

¹³ Ex.39(Doc.564-25):150:1-7.

1 on pediatric sex-change procedures recently told the Supreme Court, “there is no evidence ... that
 2 this treatment reduces completed suicide.” Tr.88, *United States v. Skrmetti*, No. 23-477 (U.S. Dec.
 3 4, 2024).¹⁴ But too many parents are familiar with the threat, having “consented” to sex-change
 4 procedures after being told that “You can either have a living son or a dead daughter.”¹⁵ Given the
 5 vulnerability of this young patient population, it’s a wonder these suggestions haven’t already
 6 become self-fulfilling prophecy—which cynical advocates would then use to further “affect[]
 7 policy” and “win[] lawsuits.”

8 Minors suffering from gender dysphoria deserve better. Alabama submits this brief to tell
 9 the Court just some of what it learned about WPATH after peeking behind the curtain. Plaintiffs’
 10 reliance on WPATH is reason to reject their request for emergency relief, not reason to grant it.

11 ARGUMENT

12 I. WPATH Crafted SOC-8 As A Political And Legal Document.

13 WPATH published Standards of Care 8 (SOC-8) in September 2022. Dr. Eli Coleman, a
 14 sexologist at the University of Minnesota, chaired the guideline committee, and WPATH hired an
 15 outside evidence-review team, led by Dr. Karen Robinson at Johns Hopkins University, to conduct
 16 systematic evidence reviews for authors to use in formulating their recommendations.¹⁶ Two
 17 WPATH presidents, Dr. Walter Bouman, a clinician at the Nottingham Centre for Transgender
 18 Health in England, and Dr. Marci Bowers, a surgeon in California who has performed over 2,000
 19 transitioning vaginoplasties, oversaw development and publication of the guideline.

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 23 ¹⁴ See also *Cass Review*, *supra* note 6, at 33 (“It has been suggested that hormone treatment
 24 reduces the elevated risk of death by suicide in this population, but the evidence found did not
 25 support this conclusion.”).

26 ¹⁵ Affidavit of Jamie Reed ¶39 (Feb. 7, 2023), <https://perma.cc/QE9Q-K2QP>.

¹⁶ WPATH, *SOC8 Contributors*, <https://perma.cc/X48V-9T8K>; E. Coleman et al., *Standards of Care for the Health of Transgender & Gender Diverse People, Version 8*, 23 INT’L J. OF TRANSGENDER HEALTH S248-49 (2022), <https://perma.cc/Y9G6-TP3M>.

1 **A. WPATH Used SOC-8 to Advance Political and Legal Goals.**

2 WPATH selected 119 authors—all existing WPATH members—to contribute to SOC-8.¹⁷
 3 According to Dr. Bowers, it was “important” for each author “to be an advocate for [transitioning]
 4 treatments before the guidelines were created.”¹⁸ Many authors regularly served as expert
 5 witnesses to advocate for sex-change procedures in court; Dr. Coleman testified that he thought it
 6 was “ethically justifiable” for those authors to “advocate for language changes [in SOC-8] to
 7 strengthen [their] position in court.”¹⁹ Other contributors seemed to concur. One wrote: “My hope
 8 with these SoC is that they land in such a way as to have serious effect in the law and policy
 9 settings that have affected us so much recently; even if the wording isn’t quite correct for people
 10 who have the background you and I have.”²⁰ Another chimed in: “It is abundantly clear to me
 11 when I go to court on behalf of TGD [transgender and gender-diverse] individuals” that “[t]he
 12 wording of our section for Version 7 has been critical to our successes, and I hope the same will
 13 hold for Version 8.”²¹

14 Perhaps for this reason—and because it knew that “we will have to argue it in court at some
 15 point”²²—WPATH commissioned a legal review of SOC-8 and was in regular contact with
 16 movement attorneys.²³ Dr. Bouman noted the oddity: “The SOC8 are clinical guidelines, based on
 17 clinical consensus and the latest evidence based medicine; [I] don’t recall the Endocrine Guidelines
 18 going through legal reviews before publication, or indeed the current SOC?”²⁴ The WPATH
 19 Executive Committee discussed various options for the review—“ideas; ACLU, TLDEF, Lambda
 20

21 _____
 22 ¹⁷ SOC-8, *supra* note 16, at S248-49; *see* Ex.21(Doc.700-3):201:2–223:24.

23 ¹⁸ Ex.18(Doc.564-8):121:7-11.

24 ¹⁹ Ex.21(Doc.700-3):158:17-25.

25 ²⁰ Ex.184(Doc.700-13):24.

26 ²¹ Ex.184(Doc.700-13):15.

²² Ex.182(Doc.700-11):152.

²³ Ex.4(Doc.557-4):vi.

²⁴ Ex.182(Doc.700-11):151.

1 Legal...”²⁵—before apparently settling on the senior director of transgender and queer rights at
 2 GLAD to conduct the review.²⁶

3 Authors were explicit in their desire to tailor SOC-8 to ensure coverage for an “individual’s
 4 embodiment goals,”²⁷ whatever they might be. As Dr. Dan Karasic, one of the plaintiffs’ experts
 5 in Alabama’s case, explained to other contributors: “Medical necessity is at the center of dozens
 6 of lawsuits in the US right now”;²⁸ “I cannot overstate the importance of SOC 8 getting this right
 7 at this important time.”²⁹

8 WPATH thus included a whole section in SOC-8 on “medical necessity.”³⁰ It also made
 9 sure to sprinkle the “medically necessary” moniker throughout the guideline, even when doing so
 10 revealed it had put the cart before the horse. The adolescent chapter, for instance, notes that “[a]
 11 key challenge in adolescent transgender care is the quality of evidence evaluating the effectiveness
 12 of medically necessary gender-affirming medical and surgical treatments,”³¹ but WPATH never
 13 paused to ask (or answer) how such treatments can be considered “medically necessary” if the
 14 “quality of evidence” supporting their use is so deficient. At least some authors tacitly
 15 acknowledged the question and made sure they wouldn’t have to answer it—by following the
 16 advice of “social justice lawyers” to avoid conducting systematic evidence reviews.³²

17 **B. WPATH Changed Its Treatment Recommendations Based on Political**
 18 **Concerns.**

19 Outside political actors also influenced SOC-8. Most notably, Admiral Levine, the former
 20 Assistant Secretary for Health, met regularly with WPATH leaders, “eager to learn when SOC 8

21 ²⁵ Ex.184(Doc.700-13):14.

22 ²⁶ SOC-8, *supra* note 16, at S177.

23 ²⁷ Ex.180(Doc.700-9):11.

24 ²⁸ *Id.* at 64.

25 ²⁹ Ex.181(Doc.700-10):43.

26 ³⁰ SOC-8, *supra* note 16, at S18.

³¹ *Id.* at S45-46.

³² Ex.174(Doc.560-24):1-2.

1 might be published.”³³ A few months before SOC-8 was to be published in September 2022 (and
2 long after the public comment period had closed that January³⁴), WPATH sent Levine an
3 “Embargoed Copy – For Your Eyes Only” draft of SOC-8 that had been “completed” and sent to
4 the publisher for proofreading and typesetting.³⁵ The draft included a departure from Standards of
5 Care 7, which, except for so-called “top surgeries,” restricted transitioning surgeries to patients
6 who had reached the “[a]ge of majority in a given country.”³⁶ The draft SOC-8 relaxed the age
7 minimums: 14 for cross-sex hormones, 15 for “chest masculinization” (i.e., mastectomy), 16 for
8 “breast augmentation, facial surgery (including rhinoplasty, tracheal shave, and genioplasty),” 17
9 for “metoidioplasty, orchiectomy, vaginoplasty, hysterectomy and fronto-orbital remodeling,” and
10 18 for “phalloplasty.”³⁷

11 After reviewing the draft, Levine’s office contacted WPATH with a political concern: that
12 the listing of “specific minimum ages for treatment,” “under 18, will result in devastating
13 legislation for trans care.”³⁸ WPATH leaders met with Levine to discuss the age
14 recommendations.³⁹ Levine’s solution was simple: “She asked us to remove them.”⁴⁰

15 WPATH initially told Levine that it “could not remove [the age minimums] from the
16 document” because the recommendations had already been approved by SOC-8’s “Delphi”
17 consensus process.⁴¹ (Indeed, Dr. Coleman said that consensus was “[t]he only evidence we had”
18 for the recommendations.⁴²) But, WPATH continued, “we heard your comments regarding the

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20 ³³ Ex.184(Doc.700-13):54.

21 ³⁴ See Ex.187(Doc.700-16):4-5.

22 ³⁵ Ex.170(Doc.700-4):61-64.

23 ³⁶ Coleman, *Standards of Care, Version 7*, 13 INT’L J. OF TRANSGENDERISM 1, 25-27 (2012),
24 <https://perma.cc/T8J7-W3WC>.

25 ³⁷ Ex.170(Doc.700-4):143.

26 ³⁸ Ex.186 (Doc.700-15):28.

³⁹ See Ex.186 (Doc.700-15):11, 17; Ex.21(Doc.700-3):287:5–288:6.

⁴⁰ Ex.186 (Doc.700-15):11.

⁴¹ *Id.* at 17.

⁴² *Id.* at 57.

1 minimal age criteria” and, “[c]onsequently, we have made changes to the SOC8” by downgrading
 2 the age “recommendation” to a “suggestion.”⁴³ Unsatisfied, Levine immediately requested—and
 3 received—more meetings with WPATH.⁴⁴

4 Following Levine’s intervention, and days before SOC-8 was to be published, pressure
 5 from the American Academy of Pediatrics (AAP) tipped the scales when it threatened to oppose
 6 SOC-8 if WPATH did not remove the age minimums.⁴⁵ WPATH leaders initially balked. One of
 7 the co-chairs of SOC-8 complained that “[t]he AAP guidelines ... have a very weak methodology,
 8 written by few friends who think the same.”⁴⁶ But the political reality soon set in: AAP was “a
 9 MAJOR organization,” and “it would be a major challenge for WPATH” if AAP opposed SOC-
 10 8.⁴⁷ WPATH thus “remove[d] the ages.”⁴⁸

11 That is concerning enough. But perhaps even more worrisome is what the episode reveals.
 12 *First*, it shows that politicians and AAP sought, and WPATH agreed, to make changes in a clinical
 13 guideline recommending irreversible sex-change procedures *for kids* based purely on political
 14 considerations. Dr. Coleman was clear in his deposition that WPATH removed the age minimums
 15 “without being presented any new science of which the committee was previously unaware.”⁴⁹

16 *Second*, as soon as WPATH made the change, it treated the decision as “highly, highly
 17 confidential.”⁵⁰ Dr. Bowers encouraged contributors to submit to “centralized authority” so there
 18 would not be “differences that can be exposed.”⁵¹ “[O]nce we get out in front of our message,”
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 20

21 ⁴³ *Id.* at 17.

22 ⁴⁴ See Ex.18(Doc.564-8):226:8–229:18; Ex.186 (Doc.700-15):73, 88-91.

23 ⁴⁵ Ex.187(Doc.700-16):13-14, 109.

24 ⁴⁶ *Id.* at 100.

25 ⁴⁷ *Id.* at 191.

26 ⁴⁸ *Id.* at 338.

⁴⁹ Ex.21(Doc.700-3):293:25–295:16.

⁵⁰ Ex.188(Doc.700-17):152.

⁵¹ Ex.177(Doc.700-6):124.

1 Bowers urged, “we all need to support and reverberate that message so that the misinformation
2 drone is drowned out.”⁵²

3 Having decided the strategy, Bowers then crafted the message, circulating internally the
4 “gist of my[] response to Reuters” about the missing age minimums: “[S]ince the open comment
5 period, a great deal of input has been received and continued to be received until the final release.
6 [I] feel the final document puts the emphasis back on individualized patient care rather than some
7 sort of minimal final hurdle that could encourage superficial evaluations and treatments.”⁵³
8 Another leader responded: “I like this. Exactly—individualized care is the best care—that’s a
9 positive message and a strong rationale for the age change.”⁵⁴ Apparently, it didn’t matter that the
10 explanation itself was “misinformation”; as Dr. Bowers explained in a similar exchange, “it is a
11 balancing act between what i feel to be true and what we need to say.”⁵⁵

12 **II. WPATH Did Not Follow The Principles Of Evidence-Based Medicine It Said It**
13 **Followed.**

14 At the back of SOC-8 is an appendix with the methodology WPATH said it employed.⁵⁶ It
15 proclaims that WPATH managed conflicts of interest, used the GRADE framework to tailor
16 recommendation statements based on strength of evidence, and engaged an evidence-review team
17 to conduct systematic literature reviews for SOC-8.⁵⁷ Discovery revealed a different story.

18 **A. WPATH Failed to Properly Manage Conflicts of Interest.**

19 WPATH cites two standards it said it used to manage conflicts of interest: one from the
20 National Academies of Medicine and the other from the World Health Organization.⁵⁸ Both
21 standards generally recognize that the experts best equipped for creating practice guidelines are

22 ⁵² *Id.* at 119.

23 ⁵³ Ex.188(Doc.700-17):113.

24 ⁵⁴ *Id.*

25 ⁵⁵ Ex.177(Doc.700-6):102.

26 ⁵⁶ *See* SOC-8, *supra* note 16, at S247-51.

⁵⁷ *Id.*

⁵⁸ *Id.* at S247.

1 those at arm’s length from the services at issue—sufficiently familiar with the topic, but not
2 professionally engaged in performing, researching, or advocating for the practices under review.⁵⁹

3 At the same time, the standards recognize that a guideline committee typically benefits
4 from *some* involvement by clinicians who provide the services at issue.⁶⁰ Accordingly, they
5 suggest ways for committees to benefit from conflicted clinicians while limiting their involvement.
6 The standard from the National Academies recommends that “[m]embers with [conflicts of
7 interest] should represent *not more than a minority* of the [guideline development group].”⁶¹

8 WPATH largely ignored these standards. From the get-go, it expressly limited SOC-8
9 authorship to existing WPATH members—clinicians and other professionals (and non) who were
10 *already* enthusiastic about transitioning treatments.⁶² As Dr. Bowers testified, it was “important
11 for someone to be an advocate for [transitioning] treatments before the guidelines were created.”⁶³

12 Dr. Bowers’s involvement in SOC-8 offers a good illustration of the lack of real conflict
13 checks. According to the National Academies, a “conflict of interest” is “[a] divergence between
14 an individual’s private interests and his or her professional obligations such that an independent
15 observer might reasonably question whether the individual’s professional actions or decisions are
16 motivated by personal gain, such as financial, academic advancement, clinical revenue streams, or
17 community standing.”⁶⁴ Bowers should have been subject to that standard, serving not only as a
18 member of the Board that oversaw and approved SOC-8 but as an author of the chapter tasked
19 with evaluating the evidence for transitioning surgeries.

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22 ⁵⁹ *Id.*; Institute of Medicine (National Academies of Medicine), *Clinical Practice Guidelines We*
23 *Can Trust* 81-93 (2011), <https://perma.cc/7SA9-DAUM>; World Health Organization, *Handbook*
for Guideline Development 19-23 (2012).

24 ⁶⁰ Institute of Medicine, *supra* note 59, at 83.

25 ⁶¹ *Id.* (emphasis added).

26 ⁶² SOC-8, *supra* note 16, at S248; *see* Ex.21(Doc.700-3):201:2–223:24.

⁶³ Ex.18(Doc.564-8):121:7-11.

⁶⁴ Institute of Medicine, *supra* note 59, at 78.

1 So it is notable that Bowers made “more than a million dollars” in 2023 from providing
 2 transitioning surgeries, but said it would be “absurd” to consider that a conflict worth disclosing
 3 or otherwise accounting for as part of SOC-8.⁶⁵ That was WPATH’s public position as well: It
 4 assured readers that “[n]o conflicts of interest were deemed significant or consequential” in
 5 crafting SOC-8.⁶⁶

6 Privately, WPATH leaders knew everything was not up to par. Dr. Coleman admitted that
 7 “most participants in the SOC-8 process had financial and/or nonfinancial conflicts of interest.”⁶⁷
 8 Dr. Robinson, the chair of the evidence-review team, said the same: She “expect[ed] many, if not
 9 most, SOC-8 members to have competing interests.”⁶⁸ She even had to inform WPATH—
 10 belatedly—that “[d]isclosure, and any necessary management of potential conflicts, should take
 11 place *prior* to the selection of guideline members.”⁶⁹ “Unfortunately,” she lamented, “this was not
 12 done here.”⁷⁰ No matter: SOC-8 proclaims the opposite (“Conflict of interests were reviewed as
 13 part of the selection process”⁷¹), and Dr. Coleman testified that he did not know of any author
 14 removed from SOC-8 due to a conflict.⁷²

15 **B. WPATH Was Not Transparent in How It Used GRADE.**

16 WPATH boasted that it used a process “adapted from the Grading of Recommendations,
 17 Assessment, Development and Evaluations (GRADE) framework” for “developing and presenting
 18 summaries of evidence” using a “systematic approach for making clinical practice
 19 recommendations.”⁷³ According to WPATH, Dr. Robinson’s evidence-review team was to

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 21 ⁶⁵ Ex.18(Doc.564-8):37:1-13, 185:25–186:9.

22 ⁶⁶ SOC-8, *supra* note 16, at S177.

23 ⁶⁷ Ex.21(Doc.700-3):230:17-23.

24 ⁶⁸ Ex.166(Doc.560-16):1.

25 ⁶⁹ *Id.* (emphasis added).

26 ⁷⁰ *Id.*

⁷¹ SOC-8, *supra* note 16, at S177.

⁷² Ex.21(Doc.700-3):232:13-15.

⁷³ SOC-8, *supra* note 16, at S250.

1 conduct systematic evidence reviews, “assign[] evidence grades using the GRADE methodology,”
 2 and “present[] evidence tables and other results of the systematic review” to SOC-8 authors.⁷⁴

3 Chapter authors were then to grade the recommendation statements based on the
 4 evidence.⁷⁵ Per WPATH, “strong recommendations”—“we recommend”—were only for
 5 situations where “the evidence is high quality,” “a high degree of certainty [that] effects will be
 6 achieved,” “few downsides,” and “a high degree of acceptance among providers.”⁷⁶ On the other
 7 hand, “[w]eak recommendations”—“we suggest”—were for when “there are weaknesses in the
 8 evidence base,” “a degree of doubt about the size of the effect that can be expected,” and “varying
 9 degrees of acceptance among providers.”⁷⁷ To “help readers distinguish between
 10 recommendations informed by systematic reviews and those not,” recommendations were to “be
 11 followed by certainty of evidence for those informed by systematic literature reviews”:

12	++++	strong certainty of evidence
13	+++	moderate certainty of evidence
14	++	low certainty of evidence
15	+	very low certainty of evidence ^[78]

16 The reality did not match the promise. To begin, as Dr. Coleman wrote, “we were not able
 17 to be as systematic as we could have been (e.g., we did not use GRADE explicitly).”⁷⁹ Dr. Karasic,
 18 the chair of the mental health chapter, testified that rather than relying on systematic reviews, some
 19 drafters simply “used authors ... we were familiar with.”⁸⁰

22 ⁷⁴ *Id.* at S249-50.

23 ⁷⁵ *Id.* at S250.

24 ⁷⁶ *Id.*

24 ⁷⁷ *Id.*

25 ⁷⁸ WPATH, *Methodology for the Development of SOC8*, <https://perma.cc/QD95-754H>.

25 ⁷⁹ Ex.190(Doc.700-18):8; *see* Ex.182(Doc.700-11):157-58.

26 ⁸⁰ Ex.39(Doc.592-39):66:2–67:5.

1 WPATH also decided not to differentiate “between statements based on [literature reviews]
 2 and the rest,”⁸¹ and ordered the removal of all notations disclosing the quality of evidence for each
 3 recommendation. A draft of the hormone chapter illustrates the change. The chapter had initially
 4 offered a “weak recommendation” (“we suggest”) based on low-quality evidence (“++”) that
 5 clinicians prescribe cross-sex hormones to gender dysphoric adolescents, “preferably with
 6 parental/guardian consent.”⁸²

7 At first, WPATH seemed to just remove the evidence notations. But then the
 8 recommendations themselves appeared to morph from weak (“we suggest”) to strong (“we
 9 recommend”). So it was in the adolescent chapter, where all but one recommendation is now
 10 “strong”⁸³—even as those recommendations are surrounded by admissions that “[a] key challenge
 11 in adolescent transgender care is the quality of evidence,” with “the numbers of studies ... still [so]
 12 low” that “a systematic review regarding outcomes of treatment in adolescents” is purportedly “not
 13 possible.”⁸⁴ And so it was in the hormone chapter, where the final version of the above statement
 14 transformed into a strong “we recommend.”⁸⁵

15 While this mismatch may not seem like a big deal, the difference between a “strong” and
 16 “weak” recommendation is important, particularly when it comes to life-altering interventions like
 17 cross-sex hormones. Under GRADE, “low” or “very-low” quality evidence means, respectively,
 18 that the true effect of the medical intervention may, or is likely to be, “substantially different” from
 19 the estimate of the effect based on the evidence available.⁸⁶ Thus, given that the estimated effect
 20 is therefore likely to be *wrong* for very low-quality evidence, it is imperative for clinicians to know
 21 the quality of evidence supporting a treatment recommendation—and why, with certain exceptions

22 ⁸¹ Ex.182(Doc.700-11):62; *see* Ex.9(Doc.700-2):¶¶29-36, 43-47.

23 ⁸² Ex.182(Doc.700-11):5; *see id.* at 1-40; Ex.9(Doc.700-2):¶¶29-36, 43-47.

24 ⁸³ SOC-8, *supra* note 16, at S48.

25 ⁸⁴ *Id.* at S46-47.

26 ⁸⁵ *Id.* at S111.

⁸⁶ Balshem, *GRADE Guidelines*, 64 J. CLINICAL EPIDEMIOLOG. 401, 404 (2011), <https://perma.cc/2KDY-6BW5>.

1 not applicable here, evidence-based medicine warns against “strong” recommendations based on
 2 low-quality evidence.⁸⁷ WPATH promised clinicians that it followed this system when it actually
 3 eschewed transparency and made “strong” recommendations regardless of the evidence.

4 **C. WPATH Hindered Publication of Evidence Reviews.**

5 Though the SOC-8 authors and their advocacy allies didn’t seem to have much use for
 6 them, the Johns Hopkins evidence-review team “completed and submitted reports of reviews
 7 (dozens!) to WPATH” for SOC-8.⁸⁸ The results were concerning. In August 2020, the head of the
 8 team, Dr. Robinson, wrote to the Agency for Healthcare Research and Quality at HHS about their
 9 research into “multiple types of interventions (surgical, hormone, voice therapy...).”⁸⁹ She
 10 reported: “[W]e found little to no evidence about children and adolescents.”⁹⁰

11 Dr. Robinson also informed HHS that she was “having issues with this sponsor”—
 12 WPATH—“trying to restrict our ability to publish.”⁹¹ Days earlier, WPATH had rejected
 13 Robinson’s request to publish two manuscripts because her team failed to comply with WPATH’s
 14 policy for using SOC-8 data.⁹² Among other things, that policy required the team to seek “final
 15 approval” of any article from an SOC-8 leader and then from the WPATH Board of Directors.⁹³

16 WPATH justified its oversight by reasoning that it was of “paramount” importance “that
 17 any publication based on WPATH SOC8 data [be] thoroughly scrutinized and reviewed to ensure
 18 that publication does not negatively affect the provision of transgender healthcare in the broadest
 19 sense” (as WPATH defined it).⁹⁴ But to make the process *appear* neutral, WPATH imposed one

21 ⁸⁷ Yao, *Discordant and Inappropriate Discordant Recommendations*, BMJ (2021),
 22 <https://perma.cc/W7XN-ZELX>.

23 ⁸⁸ Ex.173 (Doc.560-23):22-25.

24 ⁸⁹ *Id.* at 24.

25 ⁹⁰ *Id.* at 22.

26 ⁹¹ *Id.*

⁹² Ex.167(Doc.560-17):86-88.

⁹³ *Id.* at 37-38, 75-81.

⁹⁴ *Id.* at 91.

1 last requirement: Authors had to “acknowledge[]” in their manuscript that they were “solely
2 responsible for the content of the manuscript, and the manuscript does not necessarily reflect the
3 view of WPATH.”⁹⁵

4 WPATH eventually allowed the Johns Hopkins team to publish two of its manuscripts.
5 (It’s still unclear what happened to the others.⁹⁶) The team dutifully reported that the “authors”—
6 not WPATH—were “responsible for all content.”⁹⁷

7 * * *

8 These vignettes are necessarily incomplete. Much, much more could be said. But the point
9 is simply this: Plaintiffs have come to this Court seeking emergency relief based on a carefully
10 constructed narrative that is, in fact, not true. If, as Plaintiffs say, provision of “gender-affirming
11 care” “is governed by” WPATH’s Standards, Mot.2, it is time for that governance to end.

12 **CONCLUSION**

13 The Court should deny Plaintiffs’ motion.

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24 ⁹⁵ *Id.* at 38.

25 ⁹⁶ *Cf.* Ex.167(Doc.560-17):91.

26 ⁹⁷ Baker, *Hormone Therapy, Mental Health, and Quality of Life*, 5 J. ENDOCRINE SOC’Y 1, 3 (2021); Wilson, *Effects of Antiandrogens on Prolactin Levels Among Transgender Women*, 21 INT’L J. OF TRANSGENDER HEALTH 391, 392 (2020).

1 DATED: February 11, 2025

Respectfully submitted,

2 I certify that this brief contains 4,199 words, in
3 compliance with the Local Civil Rules. See Local
4 Civil Rule 7(e)(3).

5 s/ Simon Peter Serrano
Simon Peter Serrano, WSBA No. 54769
6 s/ Brett Rogers
Brett Rogers, WSBA No. 39985
7 SILENT MAJORITY FOUNDATION
5238 Outlet Dr.
8 Pasco, WA 99301
(509) 567-7086
9 pete@smfjb.org
brett@smfjb.org

10 Steve Marshall
11 *Attorney General of Alabama*
Edmund G. LaCour Jr. (*pro hac vice* forthcoming)
12 *Solicitor General*
A. Barrett Bowdre (*pro hac vice* forthcoming)
13 *Principal Deputy Solicitor General*
STATE OF ALABAMA
14 OFFICE OF THE ALABAMA ATTORNEY GENERAL
501 Washington Avenue
15 Montgomery, AL 36130
(334) 353-2196
16 edmund.lacour@AlabamaAG.gov
barrett.bowdre@AlabamaAG.gov

17 *Counsel for State of Alabama as amicus curiae*

CERTIFICATE OF SERVICE

1
2 I hereby certify that on this 11th day of February 2025, I electronically filed the foregoing
3 document with the Clerk of the United States District Court using the CM/ECF system
4 which will send notification of such filing to all parties who are registered with the CM/
5 ECF system.

6
7 DATED this 11th day of February 2025.

8
9 /s/ Brett Rogers
10 Brett Rogers