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March 15, 2023

**NINETY DAY NOTICE OF INTENT TO SUE
PURSUANT TO C.C.P. § 364**

**Via Certified Mail – Return Receipt
& Federal Express – Next Day**

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Re: *Layla Jane [REDACTED] v. Kaiser Permanente Medical Group, Inc., Kaiser Foundation Hospitals, Dr. Lisa Kristine Taylor M.D., Dr. Winnie Mao Yiu Tong M.D., Susanne E. Watson, PhD, Dr. Mirna Escalante, M.D.*

Dear Medical Providers and Institutions:

Please be advised that we represent Layla Jane [REDACTED] (“Layla”), a former patient under your care. You performed, supervised, and/or advised transgender hormone therapy and surgical intervention for Layla when she was between 12-17 years old, which constitutes a breach of the standard of care. You also performed acts that constitute intentional fraud and concealment. This letter shall serve as notice that Layla will be filing a Complaint in California Superior Court naming you as Defendants after ninety days of the date of this letter, unless this matter can be resolved prior to that time.

Introduction

Layla is a biological female who had a complex array of mental health symptoms as a child and adolescent. Her symptoms included, among other things, the following: social anxiety, general anxiety, depression, pubertal struggles associated with significantly increased negative emotions, body dysmorphia and serious self-image concerns, weight gain, eating disorders, trouble socializing, trouble with bullying, behavior trouble, school suspensions because of behavior, anger, mania symptoms including rapid cycling moods and frequent rage attacks, gender confusion, inflicting self-harm, cutting her wrists and thighs, sweating, nausea, headaches, irritability, and suicidal ideation. Layla had some gender confusion from a very young age that became more pronounced with the onset of puberty.

Layla’s family had a history of mental health issues. Layla’s mother sought mental health counseling and medication for Layla as a child and continued to request and seek mental health assistance, but never received proper care or treatment for Layla in this regard.

When Layla was 11 years old, she came out as transgender and desired to “transition” to the opposite sex. Two of Layla’s initial providers advised that per Kaiser’s official policies, Layla could not start cross-sex hormones until she was 16 and advised that surgery was not permissible until age 18.

But, soon thereafter, Layla ended up in the hands of Dr. Watson, Dr. Taylor, and Dr. Tong. These doctors immediately approved Layla for cross-sex hormones and a double mastectomy at ages 12-13, without performing an adequate evaluation and treatment of Layla’s extensive mental health co-morbidities.

These doctors also pushed Layla and her parents down this transition path engaging in intentional, malicious, and oppressive concealment of important information and false representations. This concealment included, among other things, the lack of adequate clinical research supporting this treatment, particularly for 12-year-old girls; the existence of high-quality

clinical research contra-indicating treatment; the 80-90% desistence rates for childhood gender dysphoria; and the significant possibility of detransition and regret. The fraudulent misrepresentations included, among other things, falsely representing that Layla's gender dysphoria and co-morbid mental health symptoms would not resolve without imitation sex change transition, falsely representing that Layla presented an increased risk of suicide unless she transitioned, and presenting Layla's parents with the false dilemma that: "would they rather have a live son, or a dead daughter?"

Consequently, Layla immediately started puberty blockers and testosterone at age 12, and had a double mastectomy at age 13.

Layla continued to struggle with her preexisting mental health co-morbidities, which did not resolve with this imitation sex change experiment. She received some medication treatment at this time, but this was not regularly or carefully monitored. She did not receive any regular, meaningful psychotherapy at this time either.

Eventually, Layla realized that the imitation sex change was not the solution to her mental health issues as they did not go away with "transition", but rather she continued to experience them more intensely. She also started to have sexual relationships with biological males. Therefore, she stopped taking testosterone and detransitioned. She is now treating regularly, albeit belatedly, with psychotherapy for her mood disorders and social anxiety.

The Defendant providers so-called transition "treatment" of Layla represents a gross-breach of the standard of care. This "treatment" amounted to an ill-advised, failed, and despicable sex change experiment performed on a naïve, emotionally troubled 12-year-old girl, who was struggling with puberty and serious mental health symptoms. Among other damages, Layla now has the following: permanent mutilation to her body, more masculine features and body shape, a lower voice, increased facial and body hair, lost healthy breast organs, and improperly developed sexual organs. Layla also suffered, and continues to suffer, from the following: serious emotional distress and related mental health issues, an increased risk of being infertile or having fertility issues, an increased risk for complications with pregnancy and labor, and an increased risk for other physical and mental health related issues.

Lastly, it is important to note that the relevant Kaiser Permanente facilities and institutions where Layla received treatment have failed to enact policies and procedures for preventing the grossly negligent experimental treatment that occurred in Layla's case. Indeed, the facilities and institutions appear to actively promote, encourage, and advertise the availability of these treatments on minors. They also present parents and children with a false and manipulative suicide dilemma by asking: "would you rather have a live son or a dead daughter?" They also have a continuing and chronic problem with inadequate staffing of mental health professionals. These acts and omissions, in addition to others, represent additional egregious breaches of the standard of care on the part of the institutional defendants with regard to Layla's treatment.

Background Facts

Layla is a biological female who had a complex array of mental health symptoms as a child and adolescent. From ages 6 to 11 years old, Layla had a few intermittent and irregular psychiatric/psychological counseling sessions with various different providers for the following: anxiety issues, extreme mood fluctuations, self-harm, problems at school resulting in suspensions, social issues, oppositional behavior, defiant behavior, anger, and related issues. Both of Layla's parents expressed to Layla's providers the family history of mental health issues, including Layla's mother being bi-polar. Layla's mother repeatedly expressed that she believed her daughter may also be bi-polar and sought counseling in this regard, but was never able to obtain regular counseling for her.

When Layla was 11, on or around April 26, 2016, Dr. Meridee Loomer saw Layla and reviewed her file. Dr. Loomer noted that Layla's mother had been requesting mental health services beginning in 2011, when Layla was around 6 years old, due to school issues and because Layla had written on her papers about wanting to die. Dr. Loomer also noted that there had not been any consistent psychotherapy services for Layla.

At age 11, around this same time, Layla heard about transgenderism, did extensive "research" online, and self-diagnosed that she was actually a "boy", and that transitioning would be the solution to all of her mental problems. She informed Dr. Loomer privately at her April 26, 2016, visit that she was a boy and that she preferred to be named "Kyle".

A few months later, Layla's parents discovered that Layla thought she was transgender and they wanted to do the "right thing" for Layla. In July 2016, Layla's mother called Kaiser and sought counseling and requested puberty blockers. Layla's mother naively and also erroneously believed that Layla being "transgender" explained a lot of her problems. Layla immediately started wrapping her breasts with a binder and began socially transitioning, including changing her name to Kyle. Layla's Mother felt that Layla was happier after "coming out", and tried to get an appointment with a provider who could discuss puberty blockers.

A couple of months later, around September 14, 2016, Layla had a visit with Dr. Doreen Samelson, who counseled them that since Layla was past Tanner Stage II, she was not a candidate for puberty blockers and was not ready for cross-sex hormones. Layla received a contraception shortly thereafter to reduce periods. Layla had two more follow-up visits with Dr. Loomer reporting improvement in mood since "coming out."

On October 31, 2016, Layla's mother called Kaiser about puberty blockers again and was informed that a certain Dr. Hoe would be willing to prescribe puberty blockers, although Layla was too young for cross-sex hormones.

The next day, Layla's mother also called Kaiser seeking a medication evaluation for Layla's pre-existing mental health issues. She noted that Layla had mood swings her whole life,

periods of agitation and anger, went for periods with very little sleep, and that she is not doing well in school.

Dr. Mirna Escalante M.D., an endocrinologist, reviewed this call, and noted the mental disorder running in the family and that she suspected that Kyla had a mood disorder. Dr. Escalante informed Layla and her parents that puberty blockers cannot be used indefinitely, and that testosterone cannot be started until age 16.

A couple of days later on November 3, 2016, Dr. Divina Flores saw Layla for the mood swings, anger, sadness, and lack of known triggers. The notes mention that Layla would write sad notes at age 6-7, that Layla does not get much sleep, that her sleep has been irregular since being a baby, that Layla sees figures or things passing on the side when she doesn't get enough sleep, and that she has strange reoccurring nightmares. Dr. Flores also noted symptoms of depression, mania, abuse from peers, obesity, poor social skills, and that Layla had few friends. Dr. Flores prescribed medication, but Layla had bad side effects from it. Therefore, Layla's mother wanted to stop the medication and change doctors. Dr. Flores instructed Layla to discontinue the drug.

A couple of days later on November 8th and 9th, 2016, Layla's mother called Kaiser and spoke with three different providers who had never seen Layla before. The notes of those calls included the following:

“Depression symptoms that include: depressed mood, crying spells, significant appetite change, irritability, agitation, decreased energy, problems related to social environment and Personal changes Mother stated pt is in the process of being a male from a female. **Mother stated pt has been getting up upset and unable to manage his depression sxs.**”

“Pt's moods are changing frequently, pt has been "distracted." Pt having significant anxiety as well, not calming down or listening to Mom. Pt is currently at maternal grandmother's home, and Mom intends to pick him up to bring him directly into the Stk Cpy office to be seen today. **When asked about concerns re: self/other harm, she states that he has made statements such as "what's the point," or "I should just drink bleach" recently but not today.** Mom mentions that pt reportedly had a **knife** in his hand a couple of months ago, though was not doing anything w/ it, gave it to Mom.”

“Kyle has problems with Oppositional/Defiant problems that include: oppositional, defiant, argumentative, irritable, angry, blaming of others, easily annoyed and spiteful and vindictive. Panic symptoms that include: trouble breathing, shaking and confusion”

“Patient presented to urgent services after his mother called Kaiser Psychiatry Triage yesterday and today **reporting concerns over her son's agitation/labile behavior, mood fluctuations, and potential for self-harm/harming others.** Patient's reported that her son has been having **unprovoked anger outbursts where he's been lashing out (i.e. cursing) at her mostly and others.** His mood has fluctuated in the past few months

and he's been experiencing panic attacks where he gets **shortness of breath, starts shaking, and gets confused.**”

A week later on November 15, 2016, Dr. Escalante ordered the puberty blockers, but mentions that Layla cannot start cross-sex hormones until 16 years old. After the injection, Layla had increased mood changes and severe hot flashes, and Layla’s mother called Kaiser seeking psychiatric assistance for Layla, but she did not receive any course of psychotherapy or psychiatric treatment.

Instead, Layla and her mother eventually ended up in the hands of Defendant Watson. Defendant Watson told them that there were no age limits on cross-sex hormones or a mastectomy in Kaiser’s policies and counseled them to proceed with transition. Dr. Watson had three phone calls with Layla’s mother by this point, though there had been no formal consultation or visit yet.

On March 29, 2017, Dr. Watson performed a 75-minute evaluation session of Layla, concluding that Layla was transgender and that Layla should receive chemical/surgical transition treatment. Dr. Watson also diagnosed social anxiety and recommended treating social anxiety after transitioning. Dr. Watson otherwise ignored and failed to evaluate and treat Layla’s complex pre-existing array of comorbid symptoms. Layla was then referred for a mastectomy.

On May 1, 2017, at **12 years old**, Layla consulted with Winnie Tong M.D., a plastic surgeon, who concluded after 30 minutes that Layla is a good candidate for surgery. On the same date, Watson formally approved and recommended Layla for a top surgery. In additional consultations thereafter, Dr. Escalante expressed concern for starting Layla on testosterone and noted that she has never started a child of Layla’s age on testosterone. Dr. Escalante further noted that “Kyle is still very young, and [we] have to proceed with caution.”

Layla was then transferred out of Dr. Escalante’s care to the Oakland clinic under Dr. Kristine Taylor. Dr. Taylor immediately started Layla on testosterone. On June 6, 2017, Layla had her first dose of testosterone. Two days later on June 8, 2017, Layla’s mother reported to Dr. Watson increased anger and frustration and related issues. Her mother expressed concern that this indicates bipolar illness, but said that she thought that it was more likely related to gender dysphoria.

Dr. Taylor and Dr. Watson did not evaluate or treat these mood swings. In the next few months, Layla was seen by about four different mental health providers. Layla’s mood was noted to be improved at various times, but her pre-existing complex array of mental health issues was noted to continue to include suicidal ideation, cutting, anger, depression, mood swings, and related issues. Layla was also being forced by her mother to attend pride clinic events, but she didn’t want to do so, and said she didn’t feel “pride.”

On July 11, 2017, Layla had counseling regarding fertility, and it is noted that Layla “[d]oes not know if [she] wishes to be a parent in the future.”

On September 22, 2017, after Layla just turned age 13, Dr. Tong performed a radical double mastectomy on her. Layla had no sexual relationships prior to this time, and had no concept of being a parent, and had no idea what it might mean to lose her ability to breastfeed a baby in the future. Here is a picture of Layla soon after the operation:



Layla’s mother felt that her symptoms had improved after the surgery, but Layla continued to have social anxiety, low motivation, loneliness, lack of friends, and no interest in seeing a therapist. She described herself at this time as “a loner, [who] just really [doesn’t] like anyone else” and who does not engage with other peers.

Also, gradually her anxiety and irritable mood symptoms increased so that Layla’s mother described Layla’s improvement after “top surgery” as only “slightly improved” approximately a year later. It is noted that her moods go down two days prior to each testosterone injection and then go back up. It is also noted that Layla continued to have the following symptoms: hyperventilation, nausea, nightmares, anger outbursts in which Layla would punch holes in the wall, suicidal ideation, appetite swings, energy swings, excessive anxiety or worry, excessive fear of social situations, repeated nightmares, and explosive temper outbursts. She was assessed with having “mood disorder with depressive features and social anxiety”, and that she was seeking medication management. Some medications seemed to improve Layla’s mood at various times, although the side effects of drowsiness were problematic. Prozac seemed to be the best medication for Layla at that time.

[REDACTED]

Eventually, Layla realized that her mental health issues were not related to being transgender or being “born in the wrong body.” She realized that she just had anxiety and mood disorder issues that needed to be addressed with proper mental health treatment. Layla stopped injecting testosterone around the middle of 2021. Thereafter, she stopped all contact and services with the Kaiser Proud Clinic where she had been receiving ongoing evaluation for her transition.

In August 2022, Layla sought regular psychological counseling to assist with her mental health issues, and she has been treating with two providers every 2-4 weeks from August 2022 to present. She was diagnosed with Social Anxiety Disorder and Mood Disorder with depressive features. She finally received regular psychotherapy counseling to address her depression, panic, anxiety and related symptoms, which is what she needed all along.

It was not until Layla went off the testosterone in the middle of 2021, that she was in a position to even begin appreciating the harm that she had undergone at the hands of the Defendants. Rather, until then, Layla and her parents had relied on the professed expertise of the Defendants as to her proper course of treatment. This course of transgender affirmation treatment included the integrated, conveyor-belt style, process involving puberty blockers, cross-sex hormones, and the radical double mastectomy. The drugs Defendants prescribed clouded Layla’s ability to even perceive the nature and extent of the harm being done to her.

Furthermore, the Defendants’ falsely and continuously represented that this integrated course of treatment was the only thing that would solve Layla’s serious mental health problems. These fraudulent statements by the Defendants, to this vulnerable and suggestible child, kept her from appreciating that this “treatment” was actually doing the exact opposite by causing her irreversible and permanent injury. Therefore, the Defendants are estopped from asserting that Layla and or her parents have not acted in a timely manner in asserting any of her claims.

Liability Analysis

1. Res Ipsa Loquitur Negligence

Any child Layla’s age of 12 to 13, who detransitions after cross-sex hormones and a radical double mastectomy, represents a failure of the standard of care, through the doctrine of res ipsa loquitur. The mental health care providers erroneously evaluated Layla’s symptoms and incorrectly labeled and treated her as transgender, when in fact she was suffering from multiple other conditions that instead urgently needed treatment. As a result, she suffered permanent harmful changes to her body, mutilation by the removal of healthy organs, serious emotional and psychological distress as a result of undergoing unnecessary and ill-advised experimental treatment, and prolonged years of suffering from largely untreated preexisting mental health comorbidities. After this child experimentation had done its damage and the truth became known, Layla’s mental health issues were finally correctly treated with proper mental health treatment methods of psychotherapy and medication. Layla’s providers grossly breached the standard of

care in this case by treating her with a course of egregious experimental imitation sex change when she should have just received psychotherapy and appropriate mental health medications.

2. Grossly Negligent Treatment and Evaluation

Layla's providers were also grossly negligent in that they failed to adequately assess, evaluate, appreciate, and treat Layla's extensive co-morbid pre-existing mental health and related symptoms. Layla's providers should have advised and performed an extended period of psychotherapy and/or psychiatric medication and counseling to treat Layla's extensive mental health symptoms and to establish a more stable, improved mental state. Her providers should have done this before considering and advising a permanent, invasive, unstudied, off-label, high-risk, imitation sex change experiment on a 12-year-old girl.

There has been one high quality, 30-year follow-up, population-based study of imitation sex change experiments conducted in Sweden.¹ This study evaluated gender dysphoric individuals 30 years after undergoing imitation sex change experiments through chemicals/surgery. The study found that these individuals have significantly increased psychological morbidity, increased suicidality, and a 19-fold increased completed suicide rate as compared with the general population. This study represents high quality evidence that imitation sex-change hormones and surgery does not materially improve the mental well-being of gender dysphoric individuals. They still experience extraordinarily high suicide rates and their mental health issues are not resolved. There do not appear to be any other studies of comparable quality that address the long-term mental health outcomes of patients who undergo imitation sex-change experiments making this the leading high quality study in this area.

Related to this issue, there have been eleven studies that have been conducted of desistence rates.² These studies demonstrate that on average about 80-90% of cases of childhood gender dysphoria desist by adulthood if left alone. In other words, 80-90% of childhood gender dysphoria

¹ Dhejne, C., et al., *Long-Term Follow-Up of Transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden*, PLOS ONE (Feb. 2011)

(<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0016885>)

² Buttons, C., *Finland's Leading Gender Dysphoria Expert Says 4 Out Of 5 Children Grow Out Of Gender Confusion*, THE DAILY WIRE (Feb 2023); Korte, A., et al., *Gender Identity Disorders in Childhood and Adolescence*, DTSCH ARZTEBL INT. (Nov. 2008) (DOI: [10.3238/arztebl.2008.0834](https://doi.org/10.3238/arztebl.2008.0834)); Cantor, J., *Do Trans-Kids Stay Trans- When They Grow Up?* SEXOLOGY TODAY (http://www.sexologytoday.org/2016/01/do-trans-kids-stay-trans-when-they-grow_99.html) (accessed Feb. 7, 2023)) (summarizing the eleven studies of desistence including three large scale follow-up studies and eight smaller scale studies).

American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders: Fifth Edition Text Revision DSM-5-TR™*, AMERICAN PSYCHIATRIC ASSOCIATION PUBLISHING, page 517

(<https://ebooks.appi.org/epubreader/diagnostic-statistical-manual-mental-disorders-fifth-edition-text-revision-dsm5tr>).

cases resolve with the child’s perceived mental state re-aligning with biologic sex by adulthood.³ Furthermore, of great importance, there are no diagnostic criteria and no models for predicting which cases of childhood gender dysphoria will persist and which cases will desist.⁴ This substantial risk of incorrectly labelling Layla as a persistent case of gender dysphoria materialized in Layla’s situation as she did in fact detransition with her mental state reverting to align with her biologic sex.

Also, related to this issue, the studies that purportedly support this transition “treatment” are low to very low-quality studies at best.⁵ This means the studies have an undue probability of

³ Although not applicable in Layla’s situation, it is worth noting that gender dysphoria cases that first present in later adolescence are not well studied. Nevertheless, medically significant desistence/detransition rates have been identified. Indeed, in recent years, the rate of desistence/detransition for later adolescent onset gender dysphoria is accelerating. Levine, S., et al., Reconsidering informed Consent for Trans-Identified Children, Adolescents, and Young Adults, JOURNAL OF SEX & MARITAL THERAPY (March 2022) (DOI: 10.1080/0092623X.2022.2046221).

⁴ Korte, A., et al., *Gender Identity Disorders in Childhood and Adolescence*, DTSCH ARZTEBL INT. (Nov. 2008) (DOI: [10.3238/arztebl.2008.0834](https://doi.org/10.3238/arztebl.2008.0834)); Levine, S., et al., Reconsidering informed Consent for Trans-Identified Children, Adolescents, and Young Adults, JOURNAL OF SEX & MARITAL THERAPY (March 2022) (DOI: 10.1080/0092623X.2022.2046221).

⁵ See e.g., Hembree, W., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society* Clinical Practice Guideline*, THE JOURNAL OF CLINICAL ENDOCRINOLOGY & METABOLISM (Sept. 2017); (The endocrine society guidelines in “Section 2.0 Treatment of Adolescents” recommend the use of puberty blockers and cross-sex hormones for adolescents who meet the diagnostic criteria for gender incongruence. Each of the recommendations is designated with the symbols “⊕⊕○○” or “⊕○○○.” The section titled “Method of Development of Evidence-Based Clinical Practice Guidelines” explains that the recommendations/suggestions designated by the symbol “⊕⊕○○” means that the recommendation is based on **low quality evidence** and the recommendations designated with the symbol “⊕○○○” are based on **very low-quality evidence**. So, the endocrine society acknowledges that the supporting studies for these guidelines are low to very low quality studies). See also Buttons, C., *Finland’s Leading Gender Dysphoria Expert Says 4 Out Of 5 Children Grow Out Of Gender Confusion*, THE DAILY WIRE (Feb 2023); Abbruzzese, E., *The Myth of “Reliable Research” in Pediatric Gender Medicine: A critical evaluation of the Dutch Studies—and research that has followed* JOURNAL OF SEX & MARITAL THERAPY (2022) (<https://doi.org/10.1080/0092623X.2022.2150346>).

It is worth noting that the 2009 version of the endocrine society guidelines **did not recommend treatment with cross-sex hormones until at least the age of 16 and did not recommend a mastectomy until at least age 18**. See e.g. Hembree, W., *Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline*, THE JOURNAL OF CLINICAL ENDOCRINOLOGY & METABOLISM (Sept. 2009). This change in the clinical guidelines did not reflect a change in scientific knowledge, but instead reflected a downgrade in the quality of the supporting evidence. The 2009 guidelines are identified as being based on low to moderate quality evidence, whereas the 2017 guidelines are identified as being based on low to very low-quality evidence. In order for the endocrine society to modify its guidelines to allow for chemical and surgical transition of younger age groups, the endocrine society shifted away from higher quality evidence relying instead on lower quality evidence. Essentially, they ignored the higher quality evidence in favor of the lower quality evidence.

In Layla’s case, had she not undergone any of this “treatment” until she was 16-18, the serious and permanent harm that she suffered would never have occurred because she would have desisted from her gender dysphoria

containing erroneous conclusions and represent an undue risk that the patient will not experience the desired effect of “treatment.”⁶

Furthermore, the “Dutch Model” is the most studied but still grossly inadequately studied experimental transition model. This model did not allow hormone treatment before age 16 and did not allow surgical intervention before adulthood.⁷ This Dutch Model experiment is problematic from a standard of care perspective for numerous reasons including, among others, the following: (1) it involved primarily boys, unlike most cases today which involve young girls such as Layla; (2) it involved only cases where there were no co-morbid psychological symptoms, unlike today where most cases include other psychological co-morbidities such as Layla; (3) it self-selected the best outcomes for reporting in the study; and (4) it did not involve children under age 16, unlike today where many children such as Layla, who are well under 16, are receiving this so-called “treatment.”⁸

Additionally, the Dutch Model experiment is seriously problematic by current medical standards of practice. In the 1990s, the medical practice standards of care shifted from empirical based practice to evidenced based practice. Prior to the 1990s, medical practitioners relied primarily on their own judgement and expertise in recommending treatment. This shifted in the 1990s to evidenced based practice which relied primarily upon quality comparison of clinical research to determine the best treatment options. The Dutch Model experiment was premised upon an empirical approach, not an evidenced based approach, and so is not permissible under current standards of practice. In order for the Dutch Model to be adequately brought up to today’s standards of practice, it would need to be corroborated by high-quality clinical research. Since it does not comply with current clinical research standards, following the Dutch Model represents a breach of the appropriated standards of care for clinical practice. It is further worth noting that at least two of Layla’s providers, prior to Dr. Watson, did not want to perform any cross-sex hormone treatment, and certainly not any surgery, until Layla was at least 16 years old.

In addition to the foregoing, Layla’s providers failed to address some very basic aspects of Layla’s mental health and related issues. Layla’s providers did not try to address Layla’s body dysmorphia and self-image issues. They did nothing to try to help her feel comfortable in her own body. Her providers never addressed the bullying that she experienced and never taught her skills for coping with these issues. They did nothing to advise Layla that puberty can be a difficult

without permanent alteration to her body. Layla’s case is a prime example demonstrating the higher quality of the prior clinical guidelines.

⁶ Levine, S., et al., *Reconsidering informed Consent for Trans-Identified Children, Adolescents, and Young Adults*, JOURNAL OF SEX & MARITAL THERAPY (March 2022) (DOI: 10.1080/0092623X.2022.2046221).

⁷ Abbruzzese, E., *The Myth of “Reliable Research” in Pediatric Gender Medicine: A critical evaluation of the Dutch Studies—and research that has followed* JOURNAL OF SEX & MARITAL THERAPY (2022) (<https://doi.org/10.1080/0092623X.2022.2150346>).

⁸ Ibid.

change for many people, particularly girls. They did not advise or discuss that it is normal to experience increased negative emotions, confusion regarding bodily changes, increased social trouble, and related issues with the onset of puberty. Instead, they essentially handed Layla the prescription pad, and allowed Layla's naïve, emotional, childish, rollercoaster feelings to dictate the so-called "treatment" that Layla would receive.

3. Grossly Negligent and Intentionally Fraudulent Informed Consent

Layla's providers grossly breached the standard of care by failing to providing Layla with proper informed consent and by intentionally, fraudulently, oppressively, and maliciously concealing and obscuring relevant information while falsely representing opposite information to be true.

First, Layla's providers failed to engage in a sufficient number of regular psychotherapy therapy sessions of adequate duration. This failure undermined informed consent in at least two ways. First, it prevented Layla's providers from adequately understanding and appreciating the full scope of Layla's mental health issues for purposes of properly assessing and advising her and her parents regarding the risks, benefits, and options for treatment. Second, in the limited amount of time that was spent with Layla, it was impossible for Layla's providers to have adequately discussed transition treatment with Layla and its incumbent risks. Informed consent is a process that takes time and requires multiple sessions and confirmation that the patient is understanding the information conveyed. This process is especially important in this scenario where a naïve, suggestible, and vulnerable minor is involved, especially one who has had no prior sexual relationships, no concept of having and rearing children, no concept of what it would mean to breastfeed their children, no concept of fertility loss, and no other relevant life experience that would provide them with the capacity to understand and give informed consent in these extreme circumstances.

Second, Layla's providers should have, but did not, inform Layla and her parents, among other things, of the following: (1) the possibility of desistence/detransition; (2) the 80%-90% desistence rate for childhood who are gender dysphoric; (3) the significant risk that Layla would detransition and come to regret her decision; (4) the lack of accurate models for predicting desistence and detransition; (5) the existence of only low to very low quality studies purportedly supporting chemical/surgical sex transition; (6) the fact that low quality studies have a significant risk of containing erroneous conclusions translating to a significant risk that transition would not achieve the purported benefits; (7) the complete lack of studies for 12 year old girls; (8) the experimental nature of this so called "treatment"; (9) the option of performing an extensive period of psychotherapy counseling and psychiatric medication; and (10) the high quality evidence finding significantly increased mental health morbidity and 19-fold increased suicide risk for transgender individuals who undergo chemical/surgical sex change.

Instead of fully disclosing this important relevant information, Layla's providers automatically affirmed that Layla was transgender without any meaningful evaluation and then provided her with false opposite information. They told her that her mental health and gender dysphoria symptoms would not resolve without chemical/surgical transition, which was contrary to important and reliable clinical research regarding desistence. They falsely stated that she presented an increased suicide risk if she did not transition, contrary to important and reliable clinical research demonstrating the poor mental health outcomes with transition; and further failed to inform her of the drastically increased suicide risk that would follow with the completed transition. Furthermore, they coerced Layla and her parents to undergo this treatment regimen by indicating that "it is better to have a live son than a dead daughter." These coercive statements had the desired effect of scaring Layla and her parents, further undermining the informed consent process.

Third, Layla's providers should have and did not adequately disclose or discuss many known health risks associated with puberty blockers and cross-sex hormone treatment including, but not limited to, the following: *permanent fertility loss, painful intercourse, impairment of orgasm, stopped or stunted widening and growth of the pelvic bones for reproductive purposes, increased risk of osteoporosis and debilitating spine and hip fractures as an adult, increased morbidity and death in older age due to increased risk of hip fracture, negative and unknown effects on brain development, emotional lability such as crying, irritability, impatience, anger, and aggression, and reports of suicidal ideation and attempt.*

They also failed to identify and discuss risks noted in the testosterone drug labeling including, but not limited to, the following: "*serious cardiovascular and psychiatric adverse reactions,*" "*increased or decreased libido, headache, anxiety, depression, and generalized paresthesia,*" "*pulmonary embolism*" (i.e. blood clots in the lungs). There is a study of transgender men in which all of the individuals who reported adverse drug reactions reported *cardiovascular events, and of those reports 50% of cases involved pulmonary embolism.* The labeling also notes "*risk of liver disfunction*" stating that "*prolonged use of high doses of androgens ... has been associated with development of hepatic adenomas [benign tumors], hepatocellular carcinoma [cancer], and peliosis hepatis [generation of blood-filled cavities in the liver that may rupture] – all potentially life-threatening complications.*"

Specifically for females, studies of transitioned females (i.e., trans males) taking testosterone have shown *a nearly 5-fold increased risk of myocardial infarction. Females can also develop unhealthy, high levels of red blood cells (occurring in Chloe's case) which create an increased risk for cardiovascular disease, coronary heart disease, and death due to both. Additional risks that were not discussed include, polycystic ovaries, atrophy of the lining of the uterus, and increased risks of ovarian and breast cancer.*

There do not appear to be any written informed consent forms concerning Layla's treatment, which although inadequate to established informed consent alone, are still necessary to ensure and document that the extensive risks were discussed and addressed.

4. Institutional Defendants

The Kaiser Permanente medical groups, hospitals, entities, and facilities, including those named in this letter and those whose names are unknown by Layla at this time, are vicariously liable for the foregoing acts of their providers. These institutions are additionally liable for allowing such radical, inadequately studied, off-label, and essentially experimental treatment to occur on minors, including Layla, at their facilities. They are also liable for failing to have adequate policies and procedures prohibiting and preventing the acts, omissions, failures of informed consent, fraudulent concealment, fraudulent misrepresentation, below the standard of care treatment, and other acts and omissions that occurred in Layla's case, and as described in this letter. Indeed, the institutional Defendants not only have inadequate policies and procedures in place to prevent such treatment, but they actively promote, encourage, and advertise on their website that their facilities and providers offer transgender treatment, including for minors. They also actively promote, through misleading advertising, the false and manipulative idea that those with gender dysphoria who do not transition are at an increased risk for suicide. Consequently, these institutional Defendants are jointly liable with the providers, but also have additional and separate bases for incurring liability for Layla's damages.

It is also important to note that for over a decade, since 2013, the California Department of Managed Healthcare has conducted an ongoing investigation of Kaiser's inability to adequately staff mental health professionals. The American Psychological Association has even sent a letter to the Kaiser Foundation Health discussing how Kaiser's lack of availability of follow-up mental health care falls below professional standards of care in this area. Remarkably, there have been multiple protests wherein thousands of mental health professionals affiliated with Kaiser went on strike at various times, including in Oakland, California. Also, hundreds of practitioners have left for private practice, apparently due to Kaiser's unethical practice of intentionally understaffing the mental health division. Yet, Kaiser turned a record \$8.1 billion profit in 2021 alone.

Layla's case occurred during this time when Kaiser was inadequately staffed with mental health care providers. It appears that this purposeful inadequate staffing, to make more profits, was a contributing factor to Layla's providers giving an inadequate mental health evaluation and psychotherapy treatment of Layla. It also appears that this inadequate staffing and profit motive contributed to the apparent favoritism towards easier chemical/surgical treatment, rather than the critically needed psychotherapy in Layla's case.

Damages

As a result of the grossly negligent treatment performed, Layla has permanent irreversible mutilation and damage to her body, particularly the female characteristics of her body. The full

scope and extent of her physical damage is currently being investigated. Nevertheless, a non-exhaustive summary of her past symptoms and ongoing issues is summarized here.

Layla had an induced state of endocrine disease for a period of time which likely included the following: (1) Hypogonadotropic Hypogonadism, (2) Hyperandrogenism, (3) Hypoestrogenemia, (4) Erythrocytosis (leading to increased cardiovascular risk), and (5) an abnormal Complete Blood Count (CBC). As a result, she has at a higher risk of having various health complications as an adult. She also did not have the opportunity to develop as a female according to normal pubertal milestones. She is at an increased risk for being infertile or having fertility issues in the future. She has at an increased risk with regard to carrying a child to term and having a natural, non-surgical delivery. She is at an increased risk for having bone related problems in the future including fractures, which in late adulthood creates a significant risk for premature death. She has incorrectly developed reproductive organs.

She suffered from serious pre-existing and inadequately treated mental health comorbidities that continued throughout the period of her so-called “transition” and caused her great emotional distress and turmoil.

Layla has a lower voice, increased body and facial hair, more masculine features and body shape, and other changes. She has lost both of her breasts and will never be able to breastfeed a child. Although this issue was inadequately discussed, Layla was only 12 at the time, with very little life experience. She did not have, and should not have been expected to have had, any sexual relationships at the time. She had not meaningfully considered, nor did she have the psychological capability to meaningfully consider, having children and a family. She did not consider, and did not have the psychological ability to understand, how the inability to breastfeed could impact her life or the life of her potential children. She did not know anything about parenting, nor had she considered how she might want to rear and nurture her own potential children. She has permanent scars on her chest and has lost the erogenous sensation in her breast area.

Layla bound her breasts before the mastectomy constantly, and without a break except for brief showers. She wore the tight binder even at night and had panic attacks when her mother tried to get her to take the binder off at night. She had skin irritation and severe mental distress as a result. Layla’s mother was constantly worried that Layla would stop breathing while sleeping with the binder on.

Monitoring and treatment for fertility issues will also be required, the full scope of which is unknown at this time. Layla may need additional corrective surgery, and she may need further corrective hormone treatment. Monitoring and future treatment for osteoporosis is medically indicated. She may have trouble conceiving at some point in the future. Psychological monitoring and treatment pertaining to her regret over this experimental and disastrous transition treatment is also indicated.

The full extent of Layla's damages is being investigated and is not fully known at this time. The foregoing statement is intended to be a partial summary of Layla's medical issues and general damages resulting from the grossly negligent experimental treatment that was performed on Layla. She will seek the full extent of her damages in litigation, including special damages in an unknown amount at this time and general damages equal to the full MICRA-cap of \$350,000 against each of Layla's various health care providers, and an additional \$350,000 MICRA-cap against each of Layla's various health care institutions, and punitive damages against all of her providers and health care institutions, pursuant to Civil Code Section 3294.

Please be advised that as of January 1, 2023, the MICRA-cap limitations on general damages have increased from \$250,000 to \$350,000, and that multiple MICRA-caps may now be recovered against each group listed in Civil Code Section 3333.2(b)(1)-(3). Specifically, a \$350,000 cap may be recovered against health care providers, a separate \$350,000 cap may be recovered against health care institutions, and a separate \$350,000 cap may be recovered against unaffiliated health care providers and institutions for a total potential general damage recovery of \$1,050,000. We are currently in the process of evaluating whether there are unaffiliated providers under section 3333.2(b)(3), against which the third damage cap may be recovered. Currently, we expect that at least two damage caps will be recoverable, one against the Kaiser affiliated providers and one against the Kaiser affiliated health care institutions, for a total general damage cap of \$700,000, which our client will seek to recover in full.

The punitive damages will be based on clear and convincing evidence of "malice" (Defendants' conscious disregard for Layla's health and safety), "oppression" (Defendants' exaggerating the suicide risk to Layla's parents to coerce them into agreeing to a treatment that was extremely harmful to their minor daughter, but very lucrative for Defendants), and "fraud" (Defendants concealing the serious aforementioned risks of this reckless course of treatment from both the patient and her parents). These experimental and despicable procedures are very dangerous, especially to young patients, but also very lucrative for the Defendants. Therefore, the Defendants were motivated to place their profits above these vulnerable patients' physical and mental health and well-being. This despicable conduct on the part of the Defendants justifies a substantial award to Plaintiff of both compensatory and punitive damages, pursuant to California Civil Code Section 3294.

Conclusion

In sum, Layla's providers grossly and recklessly breached the standard of care in this case as discussed above, by among other things, failing to adequately assess and treat Layla's complex array of mental health symptoms. Instead, the defendants coerced Layla and her parents with the threat of suicide and false information, into an ill-advised experimental course of chemical/surgical imitation sex change treatment that was contraindicated by high-quality clinical research. This so-called "treatment" of Layla by her providers represents a despicable, failed medical experiment that grossly breached the standard of care.

The Permanente Medical Group, & Kaiser Foundation Hospitals
Dr. Taylor, Dr. Tong, Dr. Watson, Dr. Escalante
Re: *Layla v. Kaiser Foundation Hospitals, et al.*
March 14, 2023
Page 17

Please contact us at your earliest convenience if you are interested in discussing an early resolution of this matter. If we do not hear from you within the 90-day statutory time period, we will promptly proceed with litigation. Alternatively, we look forward to working with you to resolve this claim without the time and expense of litigation.

Very truly yours,

LiMANDRI & JONNA LLP

DHILLON LAW GROUP, INC.

Charles S. LiMandri

Harmeet K. Dhillon, Co-Counsel

CSL/REW
Enclosure

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Included below is a preliminary, partial, list of references consulted with regard to the liability and damages issues discussed above, which will be supplemented in more detail if/when the case proceeds to litigation:

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